Service Date: May 16, 2024

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*) ORDER 32
In the Matter of the Petition of PUGET SOUND ENERGY For an Order Authorizing Deferred Accounting Treatment for Puget Sound Energy's Share of Costs Associated with the Tacoma LNG Facility	DOCKET UG-210918 ORDER 18 GRANTING PETITION; AMENDING FINAL ORDER 24/10, SUBJECT TO CONDITIONS

BACKGROUND

1 On December 22, 2022, the Washington Utilities and Transportation Commission (Commission) entered Final Order 24/10, Rejecting Tariff Sheets; Approving Settlements, with Conditions; Authorizing and Requiring Compliance Filing (Final Order 24/10). By this Order, the Commission approved three partial multi-party settlements that, considered together, resolved all of the outstanding issues in the general rate case filed by Puget Sound Energy (PSE or Company). This included the Revenue Requirement Settlement (Revenue Requirement Settlement), which the Commission adopted subject to conditions.

2 Relevant here, in paragraph 40 of the Revenue Requirement Settlement, the Settling Parties agreed to the following: "PSE agrees to continue its existing credit and collection processes until the conclusion of the proceeding currently being conducted in Docket U-210800." The Commission accepted this particular settlement term without condition.

3 On August 10, 2023, PSE filed a Petition to Amend Final Order (Petition), requesting the Commission allow the Company to change its credit and collection practices prior to the conclusion of the rulemaking in Docket U-210800. PSE's Petition raises concerns that arrearages had ballooned since the Revenue Requirement Settlement and asserts that without reinstatement of PSE's pre-settlement dunning practices the ballooning debt would likely be borne by all other residential ratepayers. The Petition requests that the Commission amend Final Order 24/10 and grant relief from paragraph 40 of the Revenue Requirement Settlement.

4 On August 29, 2023, Commission staff (Staff)[1] filed a response to the Petition, urging the Commission to deny the petition. Staff asserted that there had been no change in circumstances or unanticipated harm that would be grounds to modify the Revenue Requirement Settlement.[2] Further, Staff suggests that if the Commission grants the Petition and amends a settlement term, then it would only take one party rejecting the term to return the matter to the litigation process under WAC 480-07-750(2)(b)(ii), (c). In Staff's view, this could unwind the tariffs adopted in the Revenue Requirement Settlement.[3]

5 On August 30, 2023, the Public Counsel Unit of the Washington Attorney General's Office (Public Counsel), The Energy Project (TEP), and the Joint Environmental Advocates (JEA), comprised of the NW Energy Coalition, Front and Centered, and the Sierra Club, all filed responses to the Petition.

6 Public Counsel submits that, at the time the parties signed the Revenue Requirement Settlement, it was evident that there was no clear end-date for the rulemaking in Docket U-210800. The fact that the rulemaking has not concluded does not constitute a change in circumstance.[4] Public Counsel submits further that PSE may conduct outreach to customers advising those customers with a past-due balance of options available to them to mitigate any arrearages. Public Counsel notes this outreach could be conducted

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[1] In formal proceedings such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

[2] Staff Resp. to Pet. To Amend Final Order, ¶ 11 (August 29, 2023).

[3] *Id*. ¶ 16 n. 33.

[4] Public Counsel Resp. to Pet. To Amend Final Order, ¶ 4 (August 30, 2023).

without violating the Revenue Requirement Settlement.[5] Public Counsel therefore recommends against amending Final Order 24/10 or amending the terms of the Revenue Requirement Settlement.[6]

7 In its response, TEP submits that PSE has failed to meet its burden of showing either new harms or changed circumstances. TEP further posits that PSE's petition is insufficient because it does not address whether the proposed change in Revenue Requirement Settlement terms would correct or perpetuate inequalities experienced by people of color. TEP concludes that the absence of an equity analysis makes granting the petition "inconsistent with the public interest."[7]

8 JEA also opposes the petition. JEA emphasizes that PSE did not consult with the parties to this proceeding, or its Low-Income Advisory Committee ("LIAC"), prior to filing the Petition.[8] JEA disputes PSE's claim that a failure to grant the petition could cause a 4.8 percent rate increase for electric customers and a 3.2 percent increase for gas customers.[9]

9 On September 15, 2023, the Commission issued a Notice of Intent to Amend Final Order and Notice of Prehearing Conference. The Commission explained:

> Pursuant to WAC 480-07-875(1), the Commission indicates its intent to amend Final Order 24/10 to grant PSE's Petition in part, and to deny the Petition in part, so that the Company may modify its credit and collection practices prior to the conclusion of the rulemaking in Docket U-210800. The growing arrearage balances described in the Petition likely constitute a harm that was not fully anticipated at the time of the settlement and its subsequent approval by the Commission. The most fair, just, reasonable, and sufficient result may be to allow the Company to resume certain credit and collection processes subject to stipulations.

10 On September 29, 2023, the Commission convened a virtual pre-hearing conference. The Commission took appearances from PSE, Staff, Public Counsel, the Association of Western Energy Consumers (AWEC), TEP, Federal Executive Agencies (FEA), and

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[5] Public Counsel Resp. to Pet. To Amend Final Order, ¶ 7{August 30, 2023).

[6] Public Counsel Resp. to Pet. To Amend Final Order, ¶ 10{August 30, 2023).

[7] TEP Resp. to Pet. To Amend Final Order, ¶ 6 (August 30, 2023).

[8] JEA Resp. to Pet. To Amend Final Order, ¶ 4 (August 30, 2023).

[9] JEA Resp. to Pet. To Amend Final Order, ¶ 12 (August 30, 2023).

JEA. The parties in attendance proposed a stipulated procedural schedule to the presiding administrative law judge.[10]

11 On October 6, 2023, the Commission entered Order 29, Prehearing Conference Order and Notice of Hearing, noticing an evidentiary hearing on Thursday, January 18, 2024, at 9:30 a.m.

12 On November 17, 2023, the Company filed direct testimony from Carol L. Wallace, Director of Customer Solutions for PSE, with supporting exhibits. Wallace explains that the rulemaking in Docket U-210800 had gone on longer than the Company anticipated, and it was not evident when the rulemaking would conclude.[11] Wallace explains that despite the distribution of over $80 million of emergency arrearage assistance, PSE's total arrearage balance has increased to $140 million as of October 2023.[12] Wallace estimates that if total arrearages continue to climb at their current rate that total arrearages could reach over $245 million by April 2024.[13] Wallace submits that writing off the arrearages as bad debt could result in a one-time rate increase of 4.2 percent for electric customers and 3.0 percent for gas customers.[14]

13 Wallace submits that "[b]ecause customers with past due balances are not in the dunning process until those balances reach $1000, these customers are not receiving urgent, targeted, and direct outreach" while their outstanding balances continue to grow.[15] The Company is continuing to provide outreach, but customers with past due balances who are not in dunning "do not receive urgent or final notices."[16]

14 The Company therefore proposes a phased approach to resuming dunning. Wallace notes that the Company presented an earlier version of this phased approach to its Low-Income

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[10] The presiding administrative law judge indicated that other parties granted intervenor status in the underlying rate case proceeding, including Walmart and Nucor Steel Seattle, Inc., were excused from participating further in this docket.

[11] Wallace, Exh. CLW-13T at 2:6-14.

[12] Wallace, Exh. CLW-13T at page 7, Figure 1.

[13] Wallace, Exh. CLW-13T at page 8, Figure 2.

[14] Wallace, Exh. CLW-13T at 20:8-20.

[14] Wallace, Exh. CLW-13T at 11:8-11.

[15] Wallace, Exh. CLW-13T at 9:7-11.

[16] *Id.* at 13:10-12.

Advisory Committee (LIAC).[17] The Company proposes to resume dunning first for customers with balances above $1000, then balances above $750, and concluding with balances above $150, over a period of several months.[18] Under this approach, disconnection remains a "last resort."[19] Based on a review of past collection actions, Wallace explains that "most customers who enter the dunning process act to address their bill."[20]

15 Wallace next discusses equity considerations. Wallace notes, for instance, that the Company presented an earlier version of the phased approach to resuming dunning to the LIAC and that the Company has expanded outreach efforts to enroll customers in its Bill Discount Rate (BDR) program.[21]

16 Staff filed response testimony from Jacque Hawkins-Jones, with supporting exhibits. Hawkins-Jones recommends that the Commission allow a more limited return to dunning than proposed by the Company.[22] Hawkins-Jones recommends that the Company be allowed to provide notice to customers for current arrearages, provided that the Company does not "send disconnection notifications or threaten disconnection" for customers who have been identified as being: (1) deepest need; (2) estimated low-income; (3) known low-income; or (4) a member of a named community.[23] Hawkins-Jones asserts these four groups should continue to enjoy the protections created by the Revenue Requirement Settlement, but dunning and disconnection should continue for all other customers.[24] Hawkin-Jones describes the size of the various named communities and discusses how

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[17] *Id.* at 17:11-12. *See also* Wallace, Exh. CLW-26.

[18] *Id.* at 19 (Table 2).

[19] *Id.* at 19:4.

[20] *Id.* at 20:5-6. *See also* Wallace, Exh. CLW-28.

[21] *Id.* at 25:6-27:15.

[22] Hawkins-Jones, Exh. JHJ-1T at 2:17-3:3.

[23] Hawkins-Jones, Exh. JHJ-1T at 3:6-11. *See also id.* at 9:9-10:2 (explaining that Staff uses the term named communities to refer to both "vulnerable populations" as defined by RCW 19.405.020(40) and "highly impacted communities" as defined by RCW 19.405.020(23)).

[24] Hawkins-Jones, Exh. JHJ-1T at 3:12-16.

they overlap.[25] Hawkins-Jones raises concerns that resuming the dunning process without adequate safeguards will result in racially disparate outcomes.[26]

17 Corey J. Dahl, Regulatory Analyst, provided response testimony on behalf of Public Counsel.[27] Dahl recommends that the Commission reject PSE's request and order PSE to conduct targeted outreach to all past-due customers.[28] In the alternative, Dahl recommends "that the Commission condition any pre-pandemic credit and collection activities on establishing strong protections for particularly vulnerable customers."[29] Dahl advocates for targeted outreach, as opposed to the more general outreach conducted by the Company recently, that does not mention the possibility of disconnection.[30]

18 Dahl raises concerns that PSE did not collaborate with interested parties before bringing this Petition.[31] Dahl submits that it is premature to return to past dunning methods when new programs like BDR and Arrearage Management Plans (AMPs) have not had an opportunity to provide consistently affordable bills and arrearage reductions.[32]

19 Dahl also notes that PSE admits, in discovery, that it "has not performed an equity analysis to evaluate the impacts of requested amendment to Order 24."[33] To the extent Wallace discusses equity impacts in their testimony, Dahl submits that the Company's efforts have been insufficient and fail to address the impacts of disconnections on vulnerable populations.[34]

20 David Konisky, Ph.D., professor and sole proprietor of DMKY Consulting, LLC, also provides response testimony on behalf of Public Counsel.[35] Dr. Konisky explains that disconnections are the "most severe" form of energy insecurity and can have several

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[25] Hawkins-Jones, Exh. JHJ-1T at 12:5-7.

[26] Hawkins-Jones, Exh. JHJ-1T at 13:9-14.

[27] Dahl, Exh. CJD-1T at 1:2-4.

[28] Dahl, Exh. CJD-1T at 4:2-5.

[29] *Id.* at 4:7-9.

[30] *E.g.*, *id.* at 11:5-8.

[31] Dahl, Exh. CJD-1T at 12-16.

[32] *Id.* at 18:9-16.

[33] *Id.* at 23:5-8.

[34] *See id.* at 24:6-27:2.

[35] Konisky, Exh. DK-1T at 1:3-12.

negative impacts, such as forcing households to decide whether to "heat or eat."[36] Dr. Konisky explains that the U.S. Energy Information Administration provides national-level data showing that 20 percent of households reported reducing food or medicine to pay energy costs; 10 percent reported leaving their home at unhealthy temperatures; and 10 percent reported receiving a disconnection or delivery stop notice.[37] Dr. Konisky acknowledges the absence of state specific data but submits that Washington's levels of energy insecurity are likely similar.[38]

21 While the Energy Justice Lab indicates that there were 2.66 million disconnections of electric and gas service in the United States in 2022, Dr. Konisky submits that this likely falls far short of the true number.[39] Dr. Konisky notes that disconnection rates vary dramatically among utilities, "from as low as less than 0.1 percent to more than 10.0 percent."[40] Dr. Konisky discusses a national study of low-income Americans,[41] during the course of the 2020 pandemic, which found a correlation among population groups with regards to the frequency of disconnections.[42] Specifically, households that identified as Black experienced over three times as many disconnections as white households, and households that identified as Hispanic experienced four times as many disconnections as white households.[43] Low-income households with at least one child under the age of five were three times more likely to be disconnected.[44] Dr. Konisky explains that households facing these challenges may take out high-interest loans, use space heaters, or take other risky measures.[45]

22 TEP filed response testimony from Shaylee N. Stokes, Director, with supporting exhibits. Stokes submits that PSE's proposal is unacceptable because the Company did not engage

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[36] *Id.* at 4:2-7.

[37] Konisky, Exh. DK-1T at 4:13-5:5.

[38] *Id.* at 5:2-5.

[39] *Id.* at 7:5-12.

[40] Konisky, Exh. DK-1T at 7:9-12.

[41] Konisky, Exh. DK-1T at 15:15-17 ("The survey research described above was designed to be nationally representative, not representative of either the state of Washington or PSE customers.").

[42] Konisky, Exh. DK-1T at 9-12.

[43] Konisky, Exh. DK-1T at 11:3-7.

[44] *Id.* at 12:1-3.

[45] *See id.* at 14:15-15:12.

in an analysis of the equitable impacts of its proposal.[46] Stokes challenges the impacts of arrearages claimed by PSE, arguing that the bill impact to customers would be less than half of what PSE proposed.[47] Stokes recommends that PSE be required to perform targeted outreach to past due residential customers, and that PSE not communicate to customers about the potential outcome of disconnection.[48] Stokes further recommends that "[a]ny future proposal to change credit and collection practices must demonstrate a comprehensive understanding of the ways in which conventional residential disconnection practices perpetuate systemic racism and other inequities . . . ."[49]

23 Stokes disagrees with PSE's characterization of the phased approach as a product of collaboration with the LIAC.[50] Stokes submits that PSE "simply informed" the LIAC of its proposal and did not use a collaborative process or modify its proposals in response to feedback.[51]

24 Stokes discusses several studies that indicate a correlation between disconnection and race.[52] Stokes offers TEP's alternative proposal, in consultation with JEA, that would (1) allow PSE to communicate with all residential customers, provided that the communication does not mention disconnection; (2) provide protections for named communities; and (3) allow qualified individuals to file self-declarations, so as to be removed from communications that mention disconnection, and which would shift the burden of proof to PSE to prove that the individuals do not qualify.[53] Stokes explains that she was "not aware of any reasonable way for PSE to estimate or identify customers with these vulnerable characteristics" and as a result recommends a self-declaration process that created a rebuttable presumption.[54]

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[46] Stokes, Exh. SNS-1T at 4:5-10; 17:9-11.

[47] Stokes, Exh. SNS-1T at 5:4-5.

[48] Stokes, Exh. SNS-1T at 8:11-12.

[49] Stokes, Exh. SNS-1T at 30:21-25.

[50] Stokes, Exh. SNS-1T at 14:13-17.

[51] *Id.* at 14:13-17.

[52] Stokes, Exh. SNS-1T at 17-19.

[53] Stokes, Exh. SNS-1T at 33-34.

[54] Stokes, Exh. SNS-1T at 39:7-9.

25 Alex Pfeifer-Rosenblum, Senior Consultant with Strategen Consulting, also provides response testimony on behalf of TEP.[55] Pfeifer-Rosenblum submits that PSE's estimated rate impacts are inflated and that the Company's proposal would disproportionately harm the most vulnerable customers.[56] Pfeifer-Rosenblum submits further that "[i]ncreased dunning expenditures would be recovered from all customers, disproportionately burdening low-usage customers, who also tend to be low-income."[57] Because collection charges are fixed costs, these costs disproportionately affect lower-usage customers, who tend to be lower-income.[58]

26 Pfeifer-Rosenblum argues that PSE's equity analysis is insufficient and that even the limited data presented by the Company shows that vulnerable customers would be disproportionately harmed.[59] Members of named communities also tend to owe more than the average customer.[60]

27 Pfeifer-Rosenblum submits that it is more appropriate to compare arrearages among investor-owned utilities (IOUs) on a per-customer basis and that PacifiCorp d/b/a Pacific Power & Light Company actually has the highest arrearages per customer, while also having the lowest disconnection threshold among IOUs in the state.[61] Pfeifer-Rosenblum argues further that it is unlikely that arrearage balances will continue to grow at the same rate and that the Company's forecasted arrearages were 15 percent higher than reality in October 2023.[62]

28 Mariel Thuraisingham, Clean Energy Policy Lead for Front and Centered, provides response testimony on behalf of JEA. Thuraisingham notes that this docket was the first time their organization intervened in a general rate case before the Commission, and Thuraisingham explains their frustration that an element of the Revenue Requirement Settlement may be altered.[63] Thuraisingham asserts that if PSE is allowed to amend

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[55] Pfeifer-Rosenblum, Exh. APR-1T at 1:7.

[56] *See* Pfeifer-Rosenblum, Exh. APR-1T at 2:7-26.

[57] Pfeifer-Rosenblum, Exh. APR-1T at 11:3-5.

[58] Pfeifer-Rosenblum, Exh. APR-1T at 14:16-19.

[59] Pfeifer-Rosenblum, Exh. APR-1T at 16:20-18:9.

[60] *Id.* at 18:14-19:6.

[61] *Id.* at 22:8-14.

[62] Pfeifer-Rosenblum, Exh. APR-1T at 23:1-24:14.

[63] Thuraisingham, Exh. MFT-1T at 2:13-20.

settlement commitments, this would affect their ability to participate in rate cases and other proceedings.[64] If the Commission grants the Petition, at least in part, Thuraisingham supports the recommendations put forward by witnesses for NWEC and TEP.[65]

29 Charlee Thompson, Policy Associate at NWEC, also provides testimony on behalf of JEA. Thompson recommends that the Commission deny the Petition or, in the alternative, adopt TEP's more limited proposal.[66]

30 Thompson argues that PSE can, and should, conduct additional targeted, direct outreach for customers with arrearages below $1,000.[67] Thompson recommends that the targeted, direct outreach inform customers of relevant energy assistance programs.[68] The outreach should be conducted in "multiple media and languages, at a sixth-grade reading level, and, when possible, in the customer's preferred language."[69]

31 Thompson does not agree with PSE's characterization of developing its phased approach with its LIAC.[70] Thompson notes, "Informing the LIAC of a tentative plan is not the same as collaborative design."[71]

32 Finally, Thompson testifies that the BDR and temporary AMP programs went into effect on October 1, 2023, and that it is "premature" for the Company to dismiss these programs as having limited effect on arrearages.[72] Thompson also disagrees with the Company's assessment of the core tenets of energy justice, noting that the phased approach merely delays harm and does not provide real protections for named communities.[73]

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[64] Thuraisingham, Exh. MFT-1T at 4:18-21.

[65] *Id.* at 6:18-21.

[66] Thompson, Exh. CIT-1T at 2:15-19.

[67] *See* Thompson, Exh. CIT-1T at 4:14-5:20.

[68] *Id.* at 6:6-8.

[69] Thompson, Exh. CIT-1T at 6:8-10.

[70] Thompson, Exh. CIT-1T at 7.

[71] *Id.* at 7:11-12.

[72] Thompson, Exh. CIT-1T at 10:18-21.

[73] *E.g.*, *id.* at 13:19.

33 Wallace also provides rebuttal testimony on behalf of PSE. Wallace testifies that the non-Company parties' recommendations would not sufficiently address growing arrearages.[74] Wallace proffers that only "PSE's proposal strikes a reasonable balance between financial concerns and the protection of vulnerable customers."[75] She explains that Staff's recommendation to exclude all members of named communities and customers who are in deepest need, estimated low-income, and known low-income, would effectively prevent addressing a majority of customers in arrears (estimated at $67.2 million),[76] and would prevent PSE from referring to disconnections in communications to these groups.[77] Wallace emphasizes that the Company would not assess late fees or disconnection fees and that it would provide long-term payment arrangements, among other protections.[78] Wallace explains that past data demonstrates that the majority of customers who enter dunning exit this process prior to receiving a disconnection notice, and that a majority of those that receive a disconnection notice take action to avoid being disconnected.[79]

34 Wallace argues that Public Counsel's focus on consultation with the LIAC is a tangential issue.[80] She also argues that Public Counsel fails to consider the costs and risks associated with Public Counsel's proposal to collect, retain, and act on demographic data of customers.[81]

35 With regards to TEP, Wallace submits that TEP's proposed terms would increase rates by 4.2 percent for residential electric customers and 2.1 percent for residential gas customers,[82] but the costs could in fact be higher.[83] Wallace does not agree with TEP's

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[74] Wallace, Exh. CLW-31Tr at 1, 10, 15.

[75] Wallace, Exh. CLW-31Tr at 2:12-14.

[76] Wallace, Exh. CLW-31Tr at 5:6-9.

[77] Wallace, Exh. CLW-31Tr at 3:6-10.

[78] Wallace, Exh. CLW-31Tr at 6:4-7.

[79] Wallace, Exh. CLW-31Tr at 8:17-19.

[80] *Id.* at 11:4-11.

[81] Wallace, Exh. CLW-31Tr at 11:2-11.

[82] *Id.* at 26:9 (Table 5).

[83] *Id.* at 27:3-28:10.

position that energy-burdened households use less energy. PSE's data suggests the opposite.[84]

36 Wallace submits that JEA's proposals fail to consider the costs of allowing arrearages to continue to grow.[85] Wallace then highlights the various assistance programs available to those in arrears.[86] The Company also defends its consideration of equity in developing its proposal, describing, for instance, the number of customers from named communities, energy burdened customers, and customers in deepest need who have received energy assistance since 2020.[87]

37 On January 18, 2024, the Commission held an evidentiary hearing in this matter.

38 On February 8, 2024, the Commission convened a virtual public comment hearing. Many commenters noted that they were retired and/or living on a fixed income.[88] The wide majority of commentors emphasized individual customers' responsibility for their bills and did not believe they should be responsible for costs created by other ratepayers.[89]

39 On February 15, 2024, Public Counsel submitted its Offer of Public Comment Exhibit. This exhibit is comprised of 210 comments received from Consumer Protection staff with the Commission, 30 comments received by Public Counsel staff. In addition to these 240 comments, 13 verbal comments were submitted during the Public Comment Hearing held on February 8, 2024. This brings the total number of comments in this case to 253 overall comments. Between these 253 comments, 182 comments oppose PSE's proposal, 63 comments were in favor of the proposal, and eight were undecided.

40 PSE filed a letter to the docket the following day, February 16, 2024, disputing Public Counsel's tally and asserting that most of the 240 comments received by Public Counsel

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[84] Wallace, Exh. CLW-31Tr at 20:16-19 ("On the other hand, an analysis of PSE's customers shows the opposite result: PSE's most vulnerable – energy-burdened low-income customers – actually have higher usage than overall low-income customers, even higher than the average usage of higher-income customers.").

[85] Wallace, Exh. CLW-31Tr at 31:17-10 ("The JEAs are concerned about the resulting harm to customers due to disconnects, but they do not recognize that continuing to allow arrearages to grow also results in harm.").

[86] Wallace, Exh. CLW-31Tr at 34:4-12.

[87] *Id.* at 33:3-34:12.

[88] *E.g.*, Public Comment Hearing, TR 431:20-22, 435:3-5.

[89] *See, e.g.*, *id.* at 423:11-12, 442:1-2, 447:11-14.

actually support the Company's proposal. PSE submits that many of the commenters that denoted their opposition to the filing, are indeed in favor of the Petition. The Company argues that this discrepancy is likely due to the vague phrasing of the notice customers received, leading some commenters to declare their views incorrectly.

DISCUSSION

41 PSE requests that the Commission amend Final Order 24/10 and allow the Company to resume more extensive collection practices prior to the conclusion of the rulemaking in Docket U-210800. PSE has demonstrated good and sufficient cause to amend Final Order 24/10, though not to the extent PSE seeks. We approve PSE's request for a phased approach to the dunning process, subject to certain limitations and modifications.

A. Whether PSE has demonstrated good and sufficient cause to amend Final Order 24/10

42 Pursuant to WAC 480-07-875(1), the Commission may propose, or may act in response to a petition, to alter, amend, or rescind any order that the Commission has entered. Any such petition must comply with the requirements in WAC 480-07-870 for a petition for rehearing. A petition for rehearing requires sufficient grounds supported by substantial evidence or an offer of proof consisting of the following:

> (a) Changed conditions since the commission entered the order;
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> (b) Harm to the petitioner resulting from the order that the commission did not consider or anticipate when it entered the order;
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> (c) An effect of the order that the commission or the petitioner did not contemplate or intend; or
>
> (d) Any good and sufficient cause that the commission did not consider or determine in the order.

43 On September 15, 2023, the Commission issued a Notice of Intent to Amend Final Order, observing that "[t]he growing arrearage balances described in the Petition likely constitute a harm that was not fully anticipated at the time of the settlement and its subsequent approval by the Commission."

44 The Commission has provided notice of its intent to amend Final Order 24/10, and it has provided further process for the parties as required by WAC 480-07-875(1). It is now appropriate to consider the merits of PSE's Petition in this Order.

45 Many of the non-Company parties have raised concerns with PSE's Petition and its request to retract a commitment made in the Revenue Requirement Settlement. JEA witness Thuraisingham, in particular, questions whether Front and Centered should intervene in future Commission proceedings if PSE is allowed to amend settlement commitments after the fact.[90] We recognize Front and Centered's frustration with relitigating an issue of concern to its coalition that was previously addressed in the Revenue Requirement Settlement. As a more recent participant in our proceedings, Front and Centered's testimony on this point should be given credence.

46 Yet at the same time, compelling facts weigh in favor of amending Final Order 24/10. PSE's total arrearage balance has increased to $140 million.[91] Wallace notes that customer's arrearages "are continuing to increase, despite improving economic conditions and despite receiving assistance."[92] If total arrearages continue to climb at their current rate, the Company projects that total arrearages could reach over $245 million by April 2024.[93] Public Counsel witness Dahl acknowledges that "[l]arge past-due balances are a threat to long-term affordability and energy security."[94] This decision cannot be placed on hold pending resolution of the rulemaking in Docket U-210800.

47 Furthermore, we observe that PSE has followed the necessary process for its Petition. The Commission observed in its decision concerning PSE's 2017 general rate case that "any departure from the terms of a Commission-approved settlement" must be "supported by a Commission order amending the settlement."[95] "Unless such a motion is joined by all parties, non-moving parties can answer and avail themselves of their rights to due process."[96] To the extent that JEA and other non-Company parties have concerns with the Petition, we have provided sufficient opportunity for the parties to present these concerns.

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[90] Thuraisingham, Exh. MFT-1T at 4:18-21.

[91] Wallace, Exh. CLW-13T at page 7, Figure 1.

[92] Wallace, Exh. CLW-31Tr at 19:2-3. *See also* Wallace, Exh. CLW-13T at 8 (Table 2).

[93] Wallace, Exh. CLW-13T at page 7, Figure 2.

[94] Dahl, Exh. CJD-1T at 8:14.

[95] *WUTC v. Puget Sound Energy*, Dockets UE-170033 and UG-170034 (consolidated), Order 08 at 250 (as amended December 6, 2017).

[96] *Id.*

B. Whether PSE should be permitted to modify its credit and collection practices, resuming more extensive dunning, prior to the conclusion of the rulemaking in Docket U-210800

48 In any general rate proceeding, the Commission's ultimate goal is to set rates that are *fair* to customers and to the Company's shareholders; *just* in the sense of being based solely on the record developed in a rate proceeding; *reasonable* in light of the range of possible outcomes supported by the evidence; and *sufficient* to meet the needs of the Company to cover its expenses and attract necessary capital on reasonable terms.[97] The Commission regulates in the public interest and considers factors "including, but not limited to, environmental health and greenhouse gas emissions reductions, health and safety concerns, economic development, and equity, to the extent such factors affect the rates, services, and practices of a gas or electrical company regulated by the commission."[98]

49 In this case, PSE describes rapidly growing arrearage balances, with $140 million in past due balances as of October 2023.[99] Wallace explains that for customers with arrearages above $1000, the Company has found that "[t]he higher a customer's past-due balance gets, the less likely the customer can pay off the balance immediately, and the less likely the customer can pay off the balance even through a payment plan."[100] Given the clear increase in arrearages over time, the Company submits that efforts so far have had "marginal impact" on arrearages, warranting a phased approach to resuming dunning.[101] While we agree that more time may be needed to evaluate the impacts of the BDR and temporary AMP on arrearages, growing arrearages are a significant concern, and there is little assurance in this record that BDR and AMP will be sufficient in the context of the status quo.

50 We also recognize the many valid concerns raised by the non-Company parties about energy burdens, disconnections, and collection practices. Dr. Konisky highlights, for example, that disconnections are the "most severe" form of energy insecurity and can have several negative impacts, such as forcing households to decide whether to "heat or

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[97] *WUTC v. Avista Corporation d/b/a Avista Utilities*, Dockets UE-160227 and UG-160228, Order 06 ¶ 79 (December 15, 2016).

[98] RCW 80.28.425(1).

[99] Wallace, Exh. CLW-13T at 7 (Table 1).

[100] Wallace, Exh. CLW-13T at 9:11-13. *See also* Wallace, Exh. CLW-20, Figure 4; Wallace, Exh. CLW-21.

[101] Wallace, Exh. CLW-13T at 15:3-18.

eat."[102] Dr. Konisky also notes that households that identified as Black experienced over three times as many disconnections as white households, and households that identified as Hispanic experienced four times as many disconnections as white households.[103] These disparate outcomes deserve serious consideration, and we discuss this issue more fully below.

51 But as PSE witness Wallace explains, the dunning process motivates customers to take action. The majority of customers who enter the dunning process exit it prior to receiving a disconnection notice, and a majority of those that receive a disconnection notice take action to avoid being disconnected.[104] The process itself motivates many customers to seek out assistance. As Wallace notes, "Assistance is available for those who need it, but they must take some action to receive it."[105] The testimony and evidence provided by the Company credibly establishes that resuming dunning is an effective way to address growing arrearages.

52 Public Counsel argues that PacifiCorp's per-customer arrearages remain high despite its ability to threaten disconnection for lower past-due balances.[106] The record in this case does not allow us to accept or reject the accuracy of this observation. But in the context of this proceeding, we find the evidence specific to PSE to be sufficient. Wallace notes, for example, that PSE customer enrollment in payment arrangements and energy assistance locks *decreased* during the disconnection moratorium.[107] Dunning is efficacious for PSE. It is not necessary, or appropriate, for us to establish the same in this Order for other IOUs, as the evidence in the record concerns PSE and its customers in arrears.

53 We also take heed of the public comments in this docket. The great majority of individuals commenting expressed concern about further rate increases.[108] Some expressed concern with resuming disconnections, given customers' economic

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[102] *Id.* at 4:2-7.

[103] Konisky, Exh. DK-1T at 11:3-7.

[104] Wallace, Exh. CLW-31Tr at 8:17-19 ("Actual data through October 31, 2023, have shown over 54% of customers act on their account who enter dunning before receiving a disconnect notice and 66% exit the dunning process after receiving a disconnect notice.").

[105] Wallace, Exh. CLW-31Tr at 5:15-16.

[106] *See* Dahl, Exh. CJD-1T at 9:8-10.

[107] CLT-13T at 21:1-6.

[108] *See, e.g.*, Public Comment Hearing, TR 425, 427, 439, 442-43.

challenges.[109] However, several members of the public emphasized personal responsibility for utility bills and frustration with potentially paying for costs incurred by other customers.[110] Many other customers submitted comments to Public Counsel emphasizing their efforts to pay their own bills on time and a hesitance to take on costs incurred by other customers.[111] We take all of these public comments into consideration as being illustrative of public sentiment.

54 We accordingly determine that PSE may modify its credit and collection practices as follows.

55 First, the arrearages from the COVID-19 disconnection moratorium, from March 2020 to December 2021, shall be deemed bad debt and subject to collection in rates. PSE indicates that arrearages from this same time period currently amount to $60 million.[112] The Commission grants deferred accounting treatment for these costs on its own motion, and the Company may accrue interest on this debt, at the Company's cost of debt as authorized in Final Order 24/10, beginning on the first day of the month following the entry of this Order. The Company shall record this bad debt amount to FERC Account 182.3. We find that treating arrearages from this time period as bad debt strikes a reasonable balance among the interests of the Company, customers with past-due balances, and other PSE customers. The COVID-19 pandemic represented extraordinary circumstances that justified state-wide prohibitions on disconnections and likewise justifies spreading costs for this time period across PSE's customer base.

56 Second, the Company shall conduct targeted outreach to all customers who have an arrearage balance above $250 and more than 90 days overdue. We define targeted outreach as telephone or written communication provided to customers with past-due balances that informs the customer of bill assistance, arrearage management, and other programs for which the customer may be eligible, without threatening disconnection.[113] The Company may conduct this targeted outreach on a reasonable timeframe given limitations on staffing and resources. In its targeted outreach, the Company shall list the customer's past-due balance as of the mailing date of the outreach, the Company shall advise customers of all assistance options available to them, and the Company shall

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[109] *Id.* at 426.

[110] *E.g.*, *id.* at 426, 427, 428, 443, 447.

[111] *See generally* Exhibit BR-11 (Offer of Public Comment Exhibit).

[112] BE-12 (Response to Bench Request No. 12).

[113] *See* Dahl, Exh. CJD-1T at 29:20-30:3; Stokes, Exh. SNS-1T at 8:11-9:7.

identify Community Action Agencies (CAAs) in the customer's area. The Company shall also directly refer these same customers to CAAs. The CAA may then screen customers to help determine eligibility for other services, such as the Women, Infants, and Children (WIC) program.

57 TEP has suggested that "Targeted and direct outreach should be conducted in multiple media and languages, at a sixth-grade reading level, and, when possible, in the customer's preferred language."[114] We agree. Accessibility and the development of language access plans are an important consideration for all IOUs.

58 Third, in each phase of the Company's targeted outreach, required above in paragraph 56, if the customer at issue fails to take action with a CAA or the Company regarding their past-due balance within 30 days, the customer may be placed into the Company's proposed phased dunning program. The Commission modifies the Company's proposed phased dunning program by limiting disconnections to customers with a minimum arrearage of $250. The Company shall submit an updated Table 2 from CLW-31Tr with a reasonable, revised timeline for the phased approach as a compliance filing in this docket, within 7 business days of the entry of this Order. This compliance filing may be made either along with, or separately from, revised tariff pages submitted as a compliance filing.

59 We find that that modification of the Company's proposal is consistent with the public interest and results in fair, just, reasonable, and sufficient rates. Paragraph 268 of Final Order 24/10 is therefore amended to read as follows:

> We accept the Settlement's terms regarding low-income customer programs. As the Commission determined in the 2021 Cascade GRC Order, advancing energy justice is integral to achieving equity in Washington's energy regulation. Among other things, energy justice focuses on ensuring that individuals have access to energy that is affordable, safe, sustainable, and affords them the ability to sustain a decent lifestyle. Here, the low-income provisions of the Settlement propose that the Company work with its LIAC to make significant changes to PSE's low-income programs that will increase access to, and enrollment in, those programs. <u>However, following additional process and consideration, we grant PSE leave to resume dunning with the conditions set forth in Final Order 32/18 in this docket, and the Company is no longer required to comply with paragraph 40 of the Revenue Requirement Settlement.</u>

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[114] Thompson, Exh. CIT-1T at 6:8-10.

60 The Commission appreciates the innovative proposals from the non-Company parties. However, we pause to explain our concerns with some of the proposals and why they were not adopted.

61 TEP and JEA recommend, among other points, that PSE be required to conduct targeted outreach to residential customers that does not threaten disconnection.[115] We recognize the concern the parties raise about disconnecting customers and the impact that the threat of disconnection has on customers, in particular vulnerable customers. However, for the reasons we discussed in this Order, we allow PSE to resume the dunning process, but first require the Company to conduct such targeted outreach. If the customer does not respond to such targeted outreach, the Company may resume the dunning process.

62 The Commission recognizes that 12 percent of PSE customers entering dunning recently were disconnected,[116] which is higher than the historical average. This higher figure may reflect the fact that PSE is only placing customers with balances above $1000 in the dunning process. The Commission hopes that the phased approach to dunning will allow this figure to fall in line with lower, historical disconnection rates.

63 Further, we agree with Wallace's observation that Washington has a wide array of customer protections in place, compared to other states.[117] PSE is subject to several statutes and regulations that limit how and when it may disconnect customers. Investor-owned utilities cannot disconnect customers for nonpayment on days that the National Weather Service has issued a heat-related alert.[118] WAC 480-100-128 also provides a number of protections for customers faced with disconnections and limits disconnections during inclement weather. The utility may not disconnect a customer for nonpayment from November 15 to March 15 without advising the customer of their options for a payment plan.[119]

64 Further, WAC 480-100-123(3) prevents utilities from refusing to reconnect a customer with a "prior obligation." Even if a customer is disconnected and is subject to collections efforts, this rule still requires PSE to reconnect the customer for electricity service. Washington's "prior obligation" rule significantly lessens the harms of disconnection.

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[115] Stokes, Exh. SNS-1T at 30:18-20.

[116] *Id*. at 20:1–2.

[117] Wallace, Exh. CLT-31Tr at 13:14-16.

[118] RCW 80.28.010(8)(a).

[119] WAC 480-100-128(4)(b)(iv).

65 Several programs are available to help customers avoid disconnection or further minimize its harms. The Company provides extended 18-month payment arrangements, PSE HELP, LIHEAP, a Bill Discount Rate tariff, and several other programs aimed at assisting customers struggling with energy bills.[120] The Company has also extended protections agreed-upon in Docket U-210800, eliminating late fees, reconnection fees, disconnection fees, and not requiring deposits upon reconnection.[121] All of these legal protections and programs provide support to customers when they experience difficulties paying their utility bills, and help assure the Commission that resuming dunning is consistent with the public interest by allowing the Company to recover the cost of service to customers.

66 In the alternative, TEP and JEA recommend, among other points, that PSE should not be permitted to disconnect or threaten to disconnect customers that are known low-income, in deepest need, estimated low-income, or in Highly Impacted Communities.[122] They propose that customers may also follow a self-declaration process to indicate that they have a child under five years old, are a vulnerable senior as defined in RCW 74.34.020(21)(a), are a renter at risk of becoming homeless, or have a medical need for utility service.[123] We appreciate TEP and JEA's innovative proposals on this issue, all of which directly seek to address groups of customers subject to statutory protections or who are otherwise vulnerable. We also note Stokes' testimony that the burden should not be placed on TEP in this proceeding and take this into account.

67 However, TEP's alternative proposal raises difficult policy decisions about who might be exempted from the disconnection process and under what conditions. These policy decisions should be reserved for the rulemaking docket U-210800. As TEP itself acknowledges, it is difficult for the Commission to design a complex, novel program in the context of an adjudicatory proceeding.[124] There are also significant questions with the

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[120] Wallace, Exh. CLT-13T at 22:10-24:23.

[121] *Id.* at 24:20-24.

[122] *Id.* at 33:19-23.

[123] *Id.* at 33:24-31.

[124] *See* Stokes, Exh. SNS-1T at 32:11-13 ("The Commission should not allow PSE to pass this responsibility to others, and the Commission is not obligated to develop a solution in the isolation of its chambers during an adjudication.").

workability and cost of such a self-declaration process, which still need to be considered.[125]

68 We also share PSE's concerns that it does not have access to much of this data, such as the terms of a customer's lease or customer's medical status. To the extent a process would require PSE to rebut a customer's self-attestation to a medical condition, lease agreement, or income level, this would imply the Company collects the same data itself. There are significant concerns with the Company storing sensitive customer data.[126] Currently, PSE customers may seek payment plans due to a medical condition, but this is a customer-initiated request.[127] We are hesitant to adopt any proposals that require IOUS to more extensively track sensitive, personally-identifiable customer data.

69 Many of the non-Company parties also raise concerns that PSE did not consult with them prior to filing the Petition. As Dahl explains, PSE informed LIAC members of the possibility of a phased approach and then informed them again after the fact.[128] Although PSE discussed a phased dunning approach with the LIAC prior to signing the Revenue Requirement Settlement, the Company did not discuss the Petition with the LIAC prior to filing it with the Commission or seek more detailed input on program design.[129] We share Dahl's concerns. Such consultation would have made PSE's Petition more persuasive and could have allowed for a productive discussion among the parties about the details of PSE's request. The core tenets of energy justice require a more honest dialogue about the societal impacts of utility programs. It is more difficult to have this honest dialogue if the public service company denies that there are any equitable impacts to its proposal in a data request response,[130] only to justify its actions in light of equitable principles in testimony filed the following month.[131]

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[125] *See generally* Exh. BE-9 (TEP's Response to Bench Request 9).

[126] Wallace, Exh. CLW-31Tr at 12:13-18.

[127] *See* Exhibit BE-8 (Response to Bench Request 8).

[128] Dahl, Exh. CJD-1T at 13:5-14:13.

[129] *See generally* Wallace, Exh. CLW-33 (PSE's Response to Public Counsel Data Request No. 436 and Notes from Low Income Advisory Committee Meetings).

[130] *See* Dahl, Exh. CJD-1T at 23:5-8. *Accord* Dahl, Exh. CJD-10 (PSE Response to WUTC Staff Data Request 313) ("No, Puget Sound Energy ("PSE") has not performed an equity analysis to evaluate the impacts of the requested amendment to Order 24 because the requested amendment to Order 24 does not have any immediate equity impacts.").

[131] *See* Wallace, Exh. CLW-13T at 25:6-27:15.

70 In conclusion, while we have concerns about PSE's failure to consult with non-Company parties prior to filing this Petition, we ultimately find that granting the Petition subject to conditions is necessary to address rapidly growing arrearages that pose a threat to long-term affordability and energy security for all customers.

71 Going forward, we emphasize the critical importance of applying an "equity lens" to customer credit and collection issues.[132] The disparate impacts of disconnections and unaffordable arrearages on vulnerable communities and historically disadvantaged groups cannot be ignored. As this Order discusses, data shows disturbing disparities in disconnection rates across racial groups and heightened risks for the most vulnerable customers. We expect PSE and all other utilities to prioritize principles of energy justice, afford meaningful opportunities for public participation, and conduct thorough equity analyses when developing credit and collections policies that could disproportionately harm already vulnerable populations. Achieving equitable access to essential utility services is a vital public interest that must be central to our evaluation of customer arrearages, disconnections, and affordability programs. While this Order allows a limited resumption of the dunning process, based on the evidence in the record in this proceeding, and due to the need to consider the impact on all customers of the settlement provision continuing in effect, we continue our work to advance energy justice and equitable utility practices.

FINDINGS AND CONCLUSIONS

72 (1) The Commission is an agency of the state of Washington vested by statute with the authority to regulate rates, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including electric companies.

73 (2) PSE is a "public service company" and an "electrical company" as those terms are defined in RCW 80.04.010 and used in Title 80 RCW.

74 (3) PSE's arrearages are continuing to increase despite improving economic conditions and energy assistance programs.

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[132] *WUTC v. Cascade Natural Gas Corporation*, Docket UG-210755 Order 10 ¶ 58 (August 23, 2022) ("So that the Commission's decisions do not continue to contribute to ongoing systemic harms, we must apply an equity lens in all public interest considerations going forward.").

75 (4) PSE's growing arrearages constitute a harm that was not fully anticipated at the time of Final Order 24/10.

76 (5) The dunning process motivates customers to take action on their past-due balances.

77 (6) Customer enrollment in energy assistance programs and payment arrangements decreased during the COVID-19 disconnection moratorium.

78 (7) PSE customers benefit from several legal protections, including limitations on disconnections during certain seasons and hot weather, the "prior obligation" rule in WAC 480-100-123(3), and the Company's waiving of late, disconnection, and reconnection fees, which help ameliorate the potential harms caused by disconnection.

79 (8) PSE should be permitted to carry out its phased approach for resuming dunning subject to the conditions set forth in paragraphs 55-58 of this Order.

80 (9) Final Order 24/10 should be amended as set forth in paragraph 59 of this Order.

81 (10) PSE should be required to submit an updated Table 2 for Wallace, Exhibit CLW-31Tr, as a compliance filing within seven days of the entry of this Order, in addition to any revised tariff sheets effectuating the Commission's decisions in this Order.

ORDER

THE COMMISSION ORDERS THAT:

82 (1) Puget Sound Energy's Petition to Amend Final Order 24/10 is GRANTED subject to the conditions set forth in paragraph 55-58 of this Order.

83 (2) Puget Sound Energy is required to submit an updated Table 2 for Wallace, Exhibit CLW-31Tr, as a compliance filing within seven days of the entry of this Order, in addition to any revised tariff sheets effectuating the Commission's decisions in this Order

84 (3) The Commission retains jurisdiction over the subject matters and parties to this proceeding to effectuate the terms of this Order.

DATED at Lacey, Washington, and effective May 16, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner

NOTICE TO PARTIES: This is a Commission Final Order. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.