

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKET NOS. UE-170033
and UG-170034 (*Consolidated*)

POST-HEARING BRIEF OF
NW ENERGY COALITION, RENEWABLE NORTHWEST,
AND NATURAL RESOURCES DEFENSE COUNCIL

October 16, 2017

TABLE OF CONTENTS

INTRODUCTION 1

ARGUMENT..... 3

 I. THE COMMISSION SHOULD MAKE PSE’S DECOUPLING MECHANISM PERMANENT..... 3

 A. The Commission’s History and Support for Decoupling.3

 B. Independent Reviews Concluded that PSE’s Decoupling Mechanism Works as Intended.5

 C. The Opponents of Decoupling Provided No Evidence To Substantiate Their Concerns.....6

 II. THE COMMISSION SHOULD REJECT PSE’S AND STAFF’S PROPOSALS TO INCREASE BASIC MONTHLY CUSTOMER CHARGES..... 9

 A. PSE and Staff Concede That No Increase in Monthly Charges Is Necessary If the Commission Adheres To Long-Standing Precedent that Line Transformers Are Not Customer-Related Costs.9

 B. PSE and Staff Proposals Would Disproportionately Harm Low-Income Customers and Reduce Customers’ Incentives To Save Energy.....13

 III. THE COMMISSION SHOULD REJECT PSE’S PROPOSAL TO INCREASE THE ELECTRIC RATE TEST CAP TO 5%..... 14

 IV. THE COMMISSION SHOULD CONVENE A TECHNICAL WORKSHOP ON THREE-TIER RATE DESIGN. 16

 V. THE COMMISSION SHOULD APPROVE THE MULTI-PARTY SETTLEMENT AGREEMENT IN FULL..... 17

CONCLUSION..... 22

TABLE OF AUTHORITIES

	Page(s)
STATUTES	
RCW 80.28.010	21
RCW 80.28.020(1).....	9
RCW 80.84.020(2).....	19
RCW 81.28.010	21
COMMISSION PROCEEDINGS	
Docket No. UE-892688-T, Third Supp. Order (Jan. 17, 1990)	11
Docket No. UE-901183-T, Third Supp. Order (Apr. 10, 1991)	3
Docket No. UE-920499, Ninth Supp. Order on Rate Design (August 17, 1993).....	11, 13
Docket No. UE-950618, Third Supp. Order (Sept. 21, 1995)	4
Docket No. UE-090704, Order 11 (Apr. 2, 2010)	15
Docket No. UE-100522, Report and Policy Statement on Regulatory Mechanisms, Including Decoupling, to Encourage Utilities to Meet or Exceed Their Conservation Targets (Nov. 4, 2010).....	4
Docket No. UE-111048, Order 08 (May 7, 2012)	4
Docket No. UE-121697, Order (June 25, 2013)	passim
Docket No. UE-141368, Order (Jan. 29, 2015)	2, 16, 17
Docket No. UE-140762, Order 08 (Mar. 25, 2015).....	12, 14

INTRODUCTION

1 NW Energy Coalition, Renewable Northwest, and Natural Resources Defense Council (collectively “NWEC”) respectfully request that the Commission issue an order (1) approving Puget Sound Energy’s (“PSE”) request to make decoupling permanent; (2) rejecting proposals by PSE and Washington Utility and Transportation Commission staff (“Staff”) to increase the basic customer charge and impose a new minimum bill; (3) rejecting PSE’s request to increase the soft cap for the electric decoupling mechanism from 3% to 5%; and (4) convening a technical workshop on three-tier rate design for residential electric customers. The Commission held a contested case hearing on these issues on August 30, 2017; substantial evidence in the record supports each of these requests.

2 The remaining issues initially raised in this case have been proposed for resolution through a multi-party settlement agreement. *Multiparty Settlement and Stipulation Agreement* (filed Sept. 15, 2017). The Commission held a settlement hearing to address the agreement and opposition by Public Council on September 29, 2017; NWEC urges the Commission to approve the Settlement in full.

3 In deciding the issues not covered by the Settlement, the Commission faces a choice between maintaining current policies that encourage customers to conserve energy and proposals that would send the wrong price signals to PSE and its customers. Three years after the Commission approved a decoupling mechanism for PSE, independent, third-party reviews demonstrate that the Company is meeting its energy efficiency targets with small rate impacts and a decline in the growth of PSE’s operating and maintenance costs. Based on the demonstrated success of the program, and the absence of any evidence of harm from decoupling, the Commission should approve PSE’s request to make decoupling permanent.

4 For residential electric customers, PSE and Staff have proposed significant increases in basic monthly charges that would be neither fair nor reasonable as required by Washington law. Both PSE's and Staff's proposals ask this Commission to do something unprecedented in Washington and across the country: reclassify line transformer costs as customer-related costs. In addition to asking this Commission to overrule an unbroken line of Commission precedent, the proposals are antithetical to the policies animating decoupling, because high monthly charges discourage customers from conserving energy, and they represent a regressive rate design that disproportionately harms low-income customers. For these reasons, the Commission should reject PSE's proposal to increase the basic charge and Staff's proposal to increase the basic charge and impose a new minimum bill.

5 The Commission should also reject PSE's request to increase the soft cap for the electric decoupling mechanism from 3% to 5%. PSE has presented no evidence of financial harm to PSE or customers from the current, 3% cap, and instead bases its request on speculation about problems that may never materialize. Additionally, NWEC asks that the Commission approve a temporary increase to the soft cap for the gas decoupling mechanism from 3% to 5% and direct Puget Sound Energy to improve its weather forecasting methodology before making such an increase permanent.

6 Finally, the Commission should convene a technical workshop on three-tier rate design for residential electric customers. Pursuant to the settlement in Docket No. UE-141368, PSE presented a three-tier rate design in its application. However, as PSE recognizes, the rate structure did not conform to the inclining block rate structure that the parties agree would send the proper price signal to customers. Given that PSE does not oppose a three-tier rate structure, and other parties, including Staff, support a three-tier rate structure, the Commission should

convene a technical workshop so that the parties can explore how best to design such a rate structure and what data needs to be collected to calculate such rates.

ARGUMENT

I. THE COMMISSION SHOULD MAKE PSE'S DECOUPLING MECHANISM PERMANENT.

7 NWEC witness Ms. Amanda Levin's testimony addressed decoupling,¹ highlighting independent, third-party reviews that concluded the decoupling mechanism was working as intended with no identifiable downsides. Yet despite its success, and the Commission's long-standing support of decoupling, parties continue to raise the same unsubstantiated objections to decoupling previously rejected by this Commission. Continuing to litigate parties' ideological opposition to decoupling wastes the resources of parties and the Commission; it is time for the Commission to order that it will not revisit the merits of electric decoupling for PSE unless and until a party presents concrete evidence of a material change in circumstances.

A. The Commission's History and Support for Decoupling.

8 "The Commission has a long history with decoupling," stretching back to the 1990s.² Time and again, evidence before the Commission has shown that decoupling removes disincentives for utilities to conserve energy. In 1991, the Commission approved a three-year, experimental decoupling mechanism for Puget Sound Power & Light Company, the predecessor to PSE.³ "The Commission monitored the program closely and, in 1993, determined it was achieving its primary goal of removing disincentives to the Company's acquisition of energy

¹ Levin, Exh. AML-1T at 15:21-24 to 19:4; Levin, Exh. AML-13T at 4:16 to 7:7.

² Docket No. UE-121697, Order at ¶ 81 (June 25, 2013).

³ Docket No. UE-901183-T, Third Supp. Order at p. 10 (Apr. 10, 1991).

efficiency.”⁴ Nonetheless, in 1995, the Commission approved the parties’ stipulation to discontinue the decoupling program, largely because of concerns with the revenue adjustment mechanism.⁵

9 Efforts to revive decoupling for PSE began in earnest in 2010. In response to inquiries from the Legislature, the Commission released a Policy Statement on regulatory mechanisms that could give utilities incentives for energy conservation.⁶ Prior to releasing the 2010 Decoupling Policy, the Commission received formal comments and testimony from the public and conducted extensive research.⁷ The Commission concluded that “a properly constructed full decoupling mechanism that is intended, between general rate cases, to balance out both lost and found margin from any source can be a tool that benefits both the company and its ratepayers.”⁸

10 Following the release of the Commission’s Policy Statement, NW Energy Coalition proposed a decoupling mechanism for PSE in 2011.⁹ In light of PSE’s opposition to the Coalition’s proposal at that time, the Commission declined to require a decoupling mechanism, but indicated that it would reconsider the issue if PSE changed its position.¹⁰

11 After the Commission’s 2012 decision, NW Energy Coalition collaborated with PSE to develop a decoupling mechanism. PSE and the Coalition consulted with the Commission and

⁴ Docket No. UE-121697, Order at ¶ 81 (June 25, 2013).

⁵ Docket No. UE-950618, Third Supp. Order at p. 6 (Sept. 21, 1995).

⁶ Docket No. UE-100522, Report and Policy Statement on Regulatory Mechanisms, Including Decoupling, to Encourage Utilities to Meet or Exceed Their Conservation Targets (Nov. 4, 2010) (“2010 Decoupling Policy”).

⁷ *Id.* at ¶ 2.

⁸ *Id.* at ¶ 27.

⁹ Docket No. UE-111048, Direct Testimony of Ralph Cavanagh, Exh. RCC-1T.

¹⁰ Docket No. UE-111048, Order 08 at ¶ 456 (May 7, 2012).

other stakeholders and convened two technical workshops on decoupling.¹¹ In 2013, the Commission approved a revised decoupling proposal submitted by PSE and NW Energy Coalition.¹²

B. Independent Reviews Concluded that PSE’s Decoupling Mechanism Works as Intended.

12 Empirical evidence shows that the decoupling program has performed as intended. The primary goal of decoupling is to remove the utility’s financial disincentive to pursuing energy efficiency. Specifically, decoupling removes the so-called throughput incentive, which rewards a utility with higher revenues when it increases energy sales.¹³ Two independent reviews of the performance of PSE’s decoupling mechanism concluded that PSE’s program is working as intended, with no identifiable problems.¹⁴

13 In both the Second- and Third-Year Reports, the consultants concluded that “[t]here is overall stability of good performance (energy efficiency and conservation achievement) in decoupling as compared with the time just prior to decoupling.”¹⁵ The independent reviews found no evidence that decoupling had harmed customer service, as only one of 22 customer

¹¹ See UE-121697, Order at ¶ 135 (June 25, 2013) (“PSE and the Coalition worked intensively together to craft a decoupling proposal that is consistent with the Coalition’s proposal in PSE’s 2011 general rate case and the Commission’s Decoupling Policy Statement, and that better addresses PSE’s concerns....”).

¹² *Id.* at ¶ 136.

¹³ Docket No. UE-121697, Order at ¶¶ 24, 85 (June 25, 2013).

¹⁴ Docket No. UE-121697, “Puget Sound Energy Electric and Natural Gas Decoupling Second Year Evaluation” by H. Gil Peach & Associates LLC with Forefront Economics, Inc. & Joseph Associates, Inc. (Apr. 14, 2016) [“*Second-Year Report*”]; Exh. JAP-29, “Puget Sound Energy Electric and Natural Gas Evaluation: Three Years of Decoupling” by H. Gil Peach & Associates LLC with Forefront Economics, Inc. & Joseph Associates, Inc. (Dec. 31, 2016) [“*Third-Year Report*”].

¹⁵ *Second-Year Report* at 5; see also *Third-Year Report* at 20, 87-88, 94.

service indicators declined in the years after decoupling—and even for the one declining indicator, PSE’s performance remained within the target values.¹⁶ The overall revenue impacts of decoupling have been small (*i.e.*, less than 2% of total revenues), and annual average O&M costs have grown at a lower rate after decoupling than historically.¹⁷

14 PSE’s implementation of decoupling is consistent with the performance of decoupling in other jurisdictions. For example, a recent study concluded that decoupled utilities achieve greater levels of energy efficiency than non-decoupled utilities, even compared to utilities with regulatory mechanisms other than decoupling, such as a lost revenue adjustment mechanism.¹⁸

C. The Opponents of Decoupling Provided No Evidence To Substantiate Their Concerns.

15 In the face of independent, third-party reviews demonstrating the success of decoupling, Federal Executive Agency (“FEA”) witness Mr. Ali Al-Jabir and Industrial Customers of Northwest Utilities (“ICNU”) witness Mr. Michael Gorman repeat unsubstantiated objections to decoupling, many of which this Commission has rejected previously. Mr. Al-Jabir opposes the extension of decoupling on the ground that it discourages customer investments in energy efficiency.¹⁹ But when asked to substantiate these claims, Mr. Al-Jabir responded that he had no supporting evidence.²⁰ On the other hand, the Third-Year Report noted that in general, the financial benefits to customers from implementing energy efficiency measures exceed the

¹⁶ *Second-Year Report* at 6.

¹⁷ *Second-Year Report* at 2; *Third-Year Report* at 14-16, 55-57, 114.

¹⁸ Levin, Exh. AML-1T at 16:22 (citing Molina, M., “Policies Matter: Creating a Foundation for an Energy-Efficient Utility of the Future,” (June 2015), *available at* <http://aceee.org/sites/default/files/policies-matter.pdf>).

¹⁹ Al-Jabir, Exh. AZA-1T at 5:17, 7:3-7.

²⁰ Exh. AML-14 (FEA Response to NWECC-RNW-NRDC Data Request No. 001).

decoupling adjustments, and the decoupling adjustments have been too small to discourage customer investments in energy conservation.²¹

16 Similarly, while Mr. Al-Jabir claimed that decoupling reduces PSE's incentive to control costs, the Third-Year Report undermines Mr. Al-Jabir's claim by showing that O&M costs grew at a slower rate after decoupling than before decoupling.²² Likewise, when asked to provide evidence to support his claim that decoupling reduces PSE's incentive to provide quality customer service, Mr. Al-Jabir could provide no such evidence.²³ Mr. Al-Jabir's claim is refuted by the record evidence, which shows that only one of 22 customer service indicators declined in the years after decoupling.²⁴

17 ICNU witness Mr. Gorman also opposed the extension of decoupling on the basis that it insulates shareholders from the impacts of fluctuating sale levels.²⁵ This is a virtue of decoupling, not a vice. Under traditional ratemaking principles, the primary way that shareholders can maximize their revenue and profits is by maximizing energy sales. By making shareholders indifferent to the level of energy sales, decoupling removes the key financial barrier to utilities pursuing energy efficiency.²⁶ Evidence shows that removing the throughput incentive works, as utilities with a decoupling mechanism achieve greater levels of energy efficiency than utilities without decoupling.²⁷

²¹ *Third-Year Report* at 138.

²² *See Third-Year Report* at 114; Piliaris, Exh. JAP-1T at 127:11-14.

²³ Exh. AML-15 (FEA Response to NWECC-RNW-NRDC Data Request No. 003).

²⁴ *Second-Year Report* at 6.

²⁵ Gorman, Exh. MPG-1T at 30:8-9.

²⁶ *See, e.g.*, Docket No. UE-121697, Order at ¶¶ 24, 85, 112 (June 25, 2013).

²⁷ Levin, Exh. AML-1T at 16:22 (citing Molina, M., "Policies Matter: Creating a Foundation for an Energy-Efficient Utility of the Future," (June 2015), *available at*

18 Mr. Gorman also argues that if decoupling is approved, the Commission should approve a lower return on equity (“ROE”) for PSE.²⁸ Mr. Gorman made the identical argument in the proceeding in which the Commission first approved decoupling for PSE, and the Commission squarely rejected Mr. Gorman’s argument there.²⁹ The Commission found that “the record does not even fully support the proposition that equity markets recognize and respond to the forms of risk reduction that accompany the implementation of decoupling mechanisms” and “absent evidence actually demonstrating the theory’s effect in practice on either the debt or equity markets there is no evidentiary basis upon which the Commission can order a reduction in the Company’s cost of capital.”³⁰ Just as in the prior proceeding, Mr. Gorman has presented no evidence that equity markets have responded to implementation of decoupling, and thus the evidentiary record on this issue remains exactly as it did in 2013. The Commission should reach the same result here as it did in 2013 and reject Mr. Gorman’s unsupported proposal.

19 In sum, FEA’s and ICNU’s opposition to extending decoupling rests on ideology, not evidence. The only evidence in the record concerning the performance of PSE’s decoupling mechanism indicates that (1) PSE is achieving significant levels of energy efficiency; (2) revenue adjustments from decoupling have been small; (3) customer service has not suffered; and (4) the growth in O&M costs has actually declined during decoupling.³¹ Given that the decoupling mechanism has performed as intended, the Commission should make it permanent.³²

<http://aceee.org/sites/default/files/policies-matter.pdf>.

²⁸ Gorman, Exh. MPG-1T at 30:10-20.

²⁹ See Docket No. UE-121697, Order at ¶¶ 104-07 (June 25, 2013).

³⁰ *Id.* at ¶ 104.

³¹ See *Second-Year Report* at 5-6; *Third-Year Report* at 14-16, 55-57, 87-88, 94, 114, 138.

³² The Multi-Party Settlement Agreement addresses the inclusion of fixed production costs in the decoupling mechanism. The settling parties agreed to Staff’s proposal to set the total Allowed

II. THE COMMISSION SHOULD REJECT PSE’S AND STAFF’S PROPOSALS TO INCREASE BASIC MONTHLY CUSTOMER CHARGES.

20 PSE’s and Staff’s proposals to increase monthly charges for residential electric customers are based on the unprecedented treatment of line transformer costs as customer-related costs. Indeed, both PSE and Staff acknowledge that if the Commission adheres to its long-standing position that line transformer costs are not customer-related, there is no basis for increasing the monthly basic charge or imposing a new minimum bill. In addition to being inconsistent with Commission decisions, the proposals to increase monthly charges are regressive rate designs that would hurt low-income customers and impose barriers to conserving energy. The Commission should reject PSE’s and Staff’s proposals, which are neither fair nor reasonable.³³

A. PSE and Staff Concede That No Increase in Monthly Charges Is Necessary If the Commission Adheres To Long-Standing Precedent that Line Transformers Are Not Customer-Related Costs.

21 PSE proposes to increase the existing monthly basic charge for residential electric customers from \$7.49 to \$9.00.³⁴ PSE witness Mr. Jon Piliaris begins from the premise that PSE should recover its customer-related costs through the monthly basic charge.³⁵ According to Mr. Piliaris, a cost is customer-related if it varies with the number of customers, as opposed to varying with peak demand or the amount of energy sold or transported.³⁶ As Mr. Piliaris explained, “[c]ustomer-related costs are those costs that would be needed to serve customers

Revenue for fixed production costs recovery per decoupled group at the level the Commission authorizes in this proceeding. *See* Settlement, para. 113. NWEAC accepts the inclusion of these costs in the decoupling mechanism with the specific method of calculation outlined in the settlement terms. Levin, Exh. AML-13T at 9:3-19.

³³ *See* RCW 80.28.020(1).

³⁴ Piliaris, Exh. JAP-1T at 59:10-11, 61:2-3, 67:9-13.

³⁵ *Id.* at 21:2-16, 68:11-12.

³⁶ *Id.* at 21:13-16, 22:1-3.

regardless of their level of energy usage.”³⁷

22 Staff largely adopts the same general approach as PSE to customer-related costs, except that Staff believes that PSE’s proposed increase does not go nearly far enough. Staff proposes a new minimum bill on top of the existing basic charge, for a total basic monthly fee of \$10.88, far above the current basic monthly charge of \$7.49.³⁸

23 No significant increase in monthly charges would be necessary if line transformer costs were not customer-related costs. Public Counsel and NWECC witnesses demonstrated that if line transformer costs are excluded, customer-related costs are well below the \$9.00 basic monthly charge proposed by PSE.³⁹ Similarly, Staff witness Mr. Jason Ball calculated that there would be no need for new monthly charges if line transformer costs are excluded from customer-related costs.⁴⁰

24 There are sound policy reasons for not treating line transformer costs as customer-related. As PSE witness Mr. Piliaris noted, customer-related costs “are those costs that would be needed to serve customers regardless of their level of energy usage.”⁴¹ Line transformer costs do not meet this criterion because line transformers are sized and installed based on customers’ expected peak load, and those line transformer costs vary with energy usage.⁴² The goal of the basic service charge is to recover the incremental cost of serving a new customer; building a new

³⁷ *Id.* at 21:18-19.

³⁸ Ball, Exh. JLB-1T at 29:3-18.

³⁹ *See* Levin, Exh. AML-13T at 2:18 to 3:3.

⁴⁰ Ball, Exh. JLB-1T at 31:23 to 32:2 (noting that in Staff’s alternative recommendation, “a minimum bill component is not necessary in this alternative because the basic charge increase would be small, and thus, sufficient to recover the customer related costs exclusive of transformers.”).

⁴¹ Piliaris, Exh. JAP-1T at 21:18-19.

⁴² Levin, Exh. AML-1T at 6:12 to 7:2.

transformer is usually not required to serve a new residential customer.

25 In addition, the cost of meter reading, billing, meters, and service drops are relatively uniform for all customers, whereas the cost of line transformers varies greatly across different classes of customers. A line transformer may serve only one customer in a rural area, but serve five to ten customers in a suburb, and twenty to one hundred customers in a city.⁴³ Recovering line transformer costs through a monthly charge would ignore this wide variation in line transformer costs attributable to the various classes of residential customers.

26 The Commission should reject PSE's and Staff's invitation to depart from the Commission's long-standing position that line transformer costs are not customer-related costs. The Commission has repeatedly held that "the only costs which should be considered customer-related are the costs of meters, services, meter reading, and billing."⁴⁴ As the Commission explained:

In this case, the only directive the Commission will give regarding future cost of service studies is to repeat its rejection of the inclusion of the costs of a minimum-sized distribution system among customer-related costs. As the Commission stated in previous orders, the minimum system method is likely to lead to the double allocation of costs to residential customers and over-allocation of costs to low-use customers. Costs such as meter reading, billing, the cost of meters and service drops, are properly attributable to the marginal cost of serving a single customer. The cost of a minimum sized system is not. The parties should not use the minimum system approach in future studies.⁴⁵

More recently, the Commission again "reject[ed] the Company's and Staff's proposals to increase significantly the basic charge to residential customers. The Commission is not prepared to move away from the long-accepted principle that basic charges should reflect only 'direct

⁴³ *Id.* at 6:3-11, 9:1-3.

⁴⁴ Exh. AML-3 at 2 (Letter from UTC to NARUC (June 11, 1992)); *see also* Docket No. UE-920499, Ninth Supp. Order on Rate Design at p. 11 (August 17, 1993).

⁴⁵ Docket No. UE-892688-T, Third Supp. Order at p. 71 (Jan. 17, 1990).

customer costs’ such as meter reading and billing.”⁴⁶

27 Classifying line transformer costs as customer-related would not only be a radical
departure from this Commission’s prior orders, it would be unprecedented for any Commission
in the country, as Staff witness Mr. Ball conceded on cross examination.⁴⁷

28 PSE’s arguments for reclassifying line transformer costs as customer-related costs do not
withstand scrutiny. PSE witness Mr. Piliaris suggested that the Company seeks to recover only
some of the line transformer costs through the monthly charge, but this is beside the point.⁴⁸ As
explained above, the Commission has already rejected the notion that *any* line transformer costs
should be included in the basic charge. Furthermore, if the Commission were to accept PSE’s
proposal here, that would open the door to PSE seeking to recover a larger share of line
transformer costs in the monthly customer charge in future rate cases.

29 Mr. Piliaris also contends that Ms. Levin misconstrues PSE’s construction standards,
which support the Company’s proposed change regarding line transformer costs.⁴⁹ The
Commission’s orders on ratemaking resolve this issue—not PSE’s construction standards.

30 Mr. Piliaris also argues that line transformer costs are “driven in part to serve customers
and in part to meet a peak load requirement.”⁵⁰ Even if this were true, PSE’s proposal contains
no explanation of how the Company determined which portion of line transformer costs are
customer-related. Instead, PSE takes the position that all line transformer costs can be included
in the basic charge, even if PSE’s proposal in this case does not do so. It is unclear whether PSE

⁴⁶ Docket No. UE-140762, Order 08 at ¶ 216 (Mar. 25, 2015).

⁴⁷ Ball, TR. 347:3-6.

⁴⁸ See Piliaris Exh. JAP-46CT at 45:15-18, 46:15-17, 47:5-13.

⁴⁹ *Id.* at 47:15 to 48:2.

⁵⁰ *Id.* at 48:1-3.

believes that only some, or all, line transformer costs should be recovered through the monthly basic charge; regardless, under Commission precedent, no portion should be recovered through the basic charge.

31 The Commission “direct[ed] the parties not to propose the Minimum System approach in the future unless technological changes in the utility industry emerge, justifying revised proposals.”⁵¹ There is no evidence in the record of technological changes relevant to classification of line transformer costs having occurred since the Commission’s last order on this subject. There is simply no basis for overturning well-settled Commission precedent that the basic charge excludes the cost of line transformers. With line transformer costs excluded from basic monthly charges, there is no basis for increasing customer charges, and the Commission should reject PSE’s and Staff’s proposals to increase the basic charge and/or impose a new minimum bill.⁵²

B. PSE and Staff Proposals Would Disproportionately Harm Low-Income Customers and Reduce Customers’ Incentives To Save Energy.

32 The Commission should reject PSE’s and Staff’s proposals to increase monthly charges for the additional reasons that they would disproportionately impact low-income customers and send the wrong signal to customers about energy conservation. Any increase in monthly charges impacts low-income customers more than other customers, because any increase is a larger

⁵¹ Docket No. UE-920499, Ninth Supp. Order on Rate Design at p.11 (Aug. 17, 1993).

⁵² Ms. Levin recommended that the Commission order PSE to conduct a study of the differences in the cost of service for categories of residential electric customers, namely, rural single-family, suburban single-family, and multi-family customers. Levin, Exh. AML-1T at 11:2-15. Ms. Levin recommended that any such PSE study include an analysis of low-income customers. *Id.* NWEC asks the Commission to instruct PSE to complete such a study prior to proposing any changes in the rate design for residential electric customers.

proportion of a low-income customer's budget.⁵³ Moreover, increasing basic monthly charges prevents customers from reducing electricity use to control the amount of their bill, which harms low-income customers disproportionately.

33 Increasing basic monthly charges also sends the wrong price signal to customers.⁵⁴ As monthly charges increase, the bill impacts of electricity use reduction decrease. Indeed, if more of PSE's costs were recovered through monthly customer charges, then the volumetric rate would be lower than it would otherwise be, which would further decrease customers' incentive to conserve electricity. The Commission rejected a proposal from PacifiCorp and Staff to increase the basic charge precisely because such proposals disincentive customers to conserve energy:

We reject the Company's and Staff's proposals to increase significantly the basic charge to residential customers. The Commission is not prepared to move away from the long-accepted principle that basic charges should reflect only "direct customer costs" such as meter reading and billing. Including distribution costs in the basic charge and increasing it 81 percent, as the Company proposes in this case, does not promote, and may be antithetical to, the realization of conservation goals.⁵⁵

34 NWEC asks the Commission to reject PSE's and Staff's proposals to increase the basic charge and/or imposes a new minimum bill because these proposals would hurt low-income customers and frustrate efforts to conserve energy.

III. THE COMMISSION SHOULD REJECT PSE'S PROPOSAL TO INCREASE THE ELECTRIC RATE TEST CAP TO 5%.

35 There is no evidence in the record that the 3% Rate Test cap in place for electric

⁵³ Collins, Exh. SMC-3T at 6:4-6.

⁵⁴ See Levin, Exh. AML-1T at 9:18 to 10:15; Watkins, Exh. GAW-1T at 49:13 to 52:2; Collins, Exh. SMC-3T at 6:6-7.

⁵⁵ Docket No. UE-140762, Order 08 at ¶ 216 (Mar. 25, 2015).

customers has caused any financial harm to PSE or customers, and therefore there is no evidentiary basis for PSE's proposal to increase the cap to 5%.⁵⁶ Under the current "true up" mechanism, authorized revenues are compared to actual revenues. If actual revenues exceed authorized revenues, the difference is credited to customers, with no limit on the amount of the credit. However, if actual revenues are less than authorized revenues, rates may increase by no more than 3% annually ("the 3% cap"). Revenue deficiencies greater than 3% are deferred to the next rate period, subject to the same 3% cap.⁵⁷

36 Here, PSE has not produced any evidence of financial harm from the 3% electric cap. While PSE noted that gas residential schedule 23 has repeatedly exceeded the 3% cap, PSE did not claim that the residential electric schedule exceeded the 3% cap in any year.⁵⁸ The only electric schedules which have exceeded the cap are electric schedules 10 and 31.⁵⁹

37 Unable to demonstrate concrete financial harm to the Company or customers from the 3% electric cap, PSE asks the Commission to increase the cap as a preventative measure, on the theory that at some point PSE will encounter the same financial problems on the electric side which it has experienced on the gas side.⁶⁰ But there is no support for that assumption, and no reason to increase the cap to 5% on the basis of problems that may never materialize. If, in a future rate case, PSE presents evidence that the 3% electric cap has caused financial difficulties,

⁵⁶ See generally Docket No. UE-090704, Order 11 at ¶ 18 (Apr. 2, 2010) (rates are just if they are "based solely on the record developed in the proceeding").

⁵⁷ See Docket No. UE-121697, Order at ¶ 27 (June 25, 2013).

⁵⁸ See Piliaris, Exh. JAP-1T at 125:14 to 126:7.

⁵⁹ *Id.*

⁶⁰ See *id.* at 139:3-6 ("While there has not been a significant historic problem with significant unamortized deferred revenue for customers within PSE's electric decoupling mechanism, the addition of fixed power cost recovery to this mechanism may create the potential for future problems.").

the Commission can consider appropriate remedies. Until then, the 3% cap should remain in place for electric customers.

38 On the gas side, NWECC does not oppose PSE's proposal to increase the cap to 5%, because, unlike the situation for electric customers, PSE has presented evidence of large deferrals on the gas side. However, the Commission's approval of an increase in the gas cap should be temporary and accompanied by an order directing PSE to review and revise its weather forecasting methodology in the next rate filing.

39 Mr. Piliaris misunderstands the relevance of accurate weather forecasting when he argues that forecasting plays no role in calculating deferrals or surcharges under the decoupling mechanism.⁶¹ Weather forecasting plays a critical role in the prior step of setting the per therm rate—not in the later step of comparing allowed revenue to actual revenue. The problems with the 3% gas cap stem largely from PSE having forecasted colder winters than recently occurred. As a result of over predicting gas sales volume, PSE set gas therm rates lower than they should have been, making gas revenues lower than PSE's gas costs.⁶² More accurate weather forecasting could help to avoid this problem.⁶³

IV. THE COMMISSION SHOULD CONVENE A TECHNICAL WORKSHOP ON THREE-TIER RATE DESIGN.

40 In accordance with the settlement in Docket UE-141368, PSE was obligated to propose an inverted three-tier rate structure in this docket.⁶⁴ PSE calculated a three-tier rate structure for residential electric customers, but the rates were not inclining; specifically, the third-tier price

⁶¹ Piliaris, Exh. JAP-46CT at 15:10-18.

⁶² Levin, Exh. AML-1T at 24:13-16, 25:8-10.

⁶³ *Id.*

⁶⁴ Docket No. UE-141368, Order at ¶ 14 (Jan. 29, 2015).

was lower than the second-tier price.⁶⁵ PSE acknowledged that a rate structure in which the price for the third block is lower than the second block “would not send the desired price signals to customers.”⁶⁶

41 There are several ways in which PSE could calculate a three-tier rate structure that would promote energy conservation by making each successive block more expensive than the preceding block. For example, NWEAC witness Ms. Levin suggested that PSE could use more granular data on the load factor and demand profile of customers, as PSE appears to have done when it calculated its original inclining block rate.⁶⁷ However, PSE does not currently have such data for residential electric customers, and it is difficult on this record to craft an appropriate three-tier rate structure. Given that Staff proposed an alternative rate structure with three tiers,⁶⁸ and “PSE is not opposed to a three-block rate structure,”⁶⁹ we urge the Commission to convene a technical workshop to consider options for a three-tier rate design. This would enable the parties to develop a more robust record on the policy and technical issues surrounding a three-tier rate design, including any data that would need to be collected and analyzed to design such a rate structure.

V. THE COMMISSION SHOULD APPROVE THE MULTI-PARTY SETTLEMENT AGREEMENT IN FULL.

42 All parties except Public Council signed and filed a *Multiparty Settlement and Stipulation Agreement* on September 15, 2017. The Settlement represents a compromise among a diverse

⁶⁵ Piliaris, Exh. JAP-1T at 59:17 to 61:3.

⁶⁶ *Id.* at 60:5-6.

⁶⁷ Levin, Exh. AML-1T at 14:9-12.

⁶⁸ Ball, Exh. JLB-1T at 44:1-2.

⁶⁹ Piliaris, Exh. JAP-1T at 60:11-15.

set of interests to obtain a fair, just, and reasonable resolution of many of the key elements in this case as they relate to the Colstrip Generating Plant.⁷⁰

43 Testimony sponsored by NWECC provided part of the foundation for the Settlement. NWECC witness Dr. Thomas Power discussed the failure to collect adequate remediation, decommissioning, and demolition costs for Colstrip Units 1 and 2, PSE's plan to address that short-fall now, the importance of avoiding a similar situation for Colstrip Units 3 and 4 by setting a realistic depreciation date, the need for community transition planning and assistance for the Colstrip, Montana region, and the need for detailed annual reporting requirements including Colstrip retirements dates and estimated costs.⁷¹

44 The Settlement reaches agreement for accounting treatment for Colstrip Units 1 and 2 to align with known agreements related to the closure of these units no later than 2022.⁷² This accounting treatment reduces intergenerational inequity by paying off balances that have been historically under-recovered from customers utilizing Production Tax Credits that have been earned over approximately the same time-period under which the plant balances were under-recovered.

45 The Settlement sets forth an agreement to accelerate the depreciation schedule for Colstrip Units 3 and 4 to December 31, 2027.⁷³ This date aligns with a more accurate estimate of the useful life of these units and will reduce the chances of repeating the mistakes made with regard to the unrecovered plant balances of Colstrip Units 1 and 2.⁷⁴ As described by Dr. Power,

⁷⁰ Gerlitz, Exh. WMG-1T.

⁷¹ Power, Exh. TMP-1T; Power, Exh. TMP-9T.

⁷² Settlement, para. 25.

⁷³ Settlement, para. 26.

⁷⁴ Hausman, Exh. EDH-1T at 24: 9-10 (using proposed retirement date of 2024 from 2007 PSE application); Hausman, Exh. EDH-10T at 7:6-15 (depreciation date of Dec. 31, 2024); Howell,

PSE failed to recover decommissioning and remediation costs for Colstrip Units 1 and 2 during their 40+ year lifetime,⁷⁵ leaving current rate payers on the hook for substantial retirements costs. The Settlement improves the alignment of the recovery of costs with the use of these assets from a customer perspective, as well as providing inter-generational equity for costs of remediation, decommissioning, and demolition.

46 The Settlement provides a plan to fund future decommissioning and remediation costs at Colstrip Units 1, 2, 3, and 4.⁷⁶ Decommissioning and remediation costs are among those that should have been collected throughout the useful life of these units, but were not adequately collected. Establishing a plan to fund these future costs with Treasury Grants, pursuant to RCW 80.84.020(2), and Production Tax Credits that have been earned but not yet collected will provide more equitable treatment to customers and ensure that the initial estimates of the costs of these important responsibilities are fully and adequately funded.

47 The Settlement establishes reporting requirements under which PSE will be required to submit annual information to the Commission to document Colstrip's status on an ongoing basis.⁷⁷ Annual reports will include PSE's most recent estimates for retirement dates and relevant discussions of consequences to customers in the event of any changes to those retirement dates. PSE's reports will also update estimates related to future decommissioning and remediation costs as well as the sufficiency of the RCW 80.84.020-related retirement account, which is comprised of hydro-related treasury grants. PSE will also include documentation of the depreciation rates for Colstrip Units 3 and 4, and any updates to decommissioning and

Exh. 1T at 5:1-8, 6:15 to 11:16.

⁷⁵ Power, Exh. TMP-1T at 9:21 to 11:3.

⁷⁶ Settlement, para. 116, 117.

⁷⁷ Settlement, para. 119.

remediation costs related to those units. Lastly, PSE will update replacement power costs in its report during those years when PSE files an Integrated Resource Plan. These reporting requirements will help the Commission and stakeholders ensure that the terms of this Settlement remain effective in understanding the costs associated with the Colstrip complex and in establishing cost recovery for Colstrip generating units in a manner that results in just and reasonable rates and provides for an earlier opportunity to take corrective action should it be needed, rather than waiting until a rate case is filed.

48 Under the Settlement, PSE agrees to participate in a community transition process and to contribute \$10 million for a community transition plan and community assistance for the Colstrip community.⁷⁸ NWEC witness Dr. Power outlined the importance of PSE's commitment to the Colstrip community.⁷⁹ It is in the public interest of the State of Washington to encourage good corporate citizenship and a responsibility to workers and communities impacted by large-scale changes in the energy industry. Other owners of Colstrip generating units will hopefully be encouraged by the terms of the Settlement to pursue similar commitments.

49 NWEC witness Mr. Cameron Yourkowski's testimony described the need for transition planning for the transmission assets of Colstrip Units 1 and 2.⁸⁰ This testimony also supports NWEC's decision to join the multi-party settlement agreement.⁸¹ Under the Settlement, PSE agrees to work with other Colstrip owners on a Colstrip Transmission Study.⁸² The Settlement

⁷⁸ Settlement, para. 118.

⁷⁹ Power, Exh. TMP-1T at 28:24 to 47:3.

⁸⁰ Yourkowski, Exh. CBY-1T at 3:2 to 17:3.

⁸¹ In addition, NWEC witness Dr. Michael O'Brien addressed the need to review post retirement system needs and supply options available to PSE in future planning. O'Brien, Exh. MHO-1T.

⁸² Settlement, para. 120, 121.

requests that the Commission convene a stakeholder workshop or series of workshops, in coordination with PSE and Commission Staff, to investigate the use of the transmission line by other resources after Colstrip Units 1 and 2 retire. Obtaining a commitment to immediately begin transmission-related studies promotes the goal of ensuring that the transmission lines utilized for Colstrip generation remain fully utilized as Colstrip generation drops off. These transmission assets are currently paid for by Washington ratepayers and are scheduled to continue as such even after Colstrip Units 1 and 2 retire. These transmission lines also offer the opportunity to bring generation from Montana wind to Washington, a renewable resource that would help further the state's clean energy goals and complement Washington's renewable resources.

50 Additionally, the Settlement includes a commitment from PSE to continue shareholder funding for low-income weatherization in the amount of \$100,000 and to provide an additional amount of \$2 million toward low-income weatherization.⁸³ This support of low income weatherization furthers state policies in support of low-income customers and energy efficiency.

51 NWEC asks the Commission approve the Settlement in full. The agreement resolves contentious issues related to the Colstrip Generating Plant in a fair, just, and reasonable outcome for customers.⁸⁴ It resolves years of under-recovery of the depreciation expense for the Colstrip units by bringing the depreciation schedules in line with more realistic end-of-life dates. The Settlement also resolves other revenue recovery issues without significantly impacting electric rates for customers. Importantly, the Settlement also provides a commitment to assist the Colstrip, Montana community with the economic transition that will occur as a result of closure

⁸³ Settlement, para. 107-110.

⁸⁴ RCW 80.28.010 and 81.28.010 require that rates approved by the Commission be "fair, just, reasonable and sufficient."

of the Colstrip Generating Plant. Additionally, through the commitment to low-income weatherization, the agreement furthers state policy that seeks to maximize energy efficiency and ensure weatherization services to low income customers.

CONCLUSION

52 In light of the demonstrated success of the decoupling mechanism, the Commission should extend decoupling for PSE and make it permanent. The Commission should reject PSE's and Staff's proposals to increase the monthly basic charge and reject Staff's proposal to impose a new minimum bill component. Given the absence of any evidence that the current 3% electric cap has caused financial harm, the Commission should reject PSE's request to raise the electric cap to 5%. While NWEAC does not oppose an increase in the Rate Test cap on the gas side, the Commission should order PSE to reevaluate the weather forecasting models it uses to forecast gas sales. The Commission should convene a technical workshop on three-tier rate design for residential electric customers. Finally, the Commission should approve and adopt the Multi-Party Settlement Agreement in full. Taken together, this resolution of issues will result in an order for PSE and the public that is fair, just, reasonable, and sufficient.

Respectfully submitted this 16th day of October, 2017.



KRISTEN L. BOYLES (WSB # 23806)
AMANDA W. GOODIN (WSB # 41312)
MATTHEW E. GERHART (WSB# 42787)
Earthjustice
705 Second Avenue, Suite 203
Seattle, WA 98104
(206) 343-7340 | Phone
(206) 343-1526 | Fax
kboyles@earthjustice.org
agoodin@earthjustice.org