Agenda Date: July 21, 2023
Item Number: D2

Docket: **UG-230470**
Company: Puget Sound Energy

Staff: Heather Moline, Section Manager, Energy Planning
Wesley Franks, Regulatory Analyst

Recommendation

Commission Staff recommends the Commission suspend UG-230470, Puget Sound Energy's revision of Tariff WN U-2, and set the tariff for adjudication.

Background

In 2021, the Washington State Legislature passed the Climate Commitment Act (CCA) through Engrossed Second Substitute Senate Bill 5126 into law, codified as Chapter 70A.65 RCW, to reduce greenhouse gas (GHG) emissions. Also referred to as "Cap and Invest," the law establishes a declining cap on GHG emissions from covered entities, and is intended to reduce emissions in the state by 95 percent by 2050.[1]

In February 2023, Puget Sound Energy (PSE or Company) began holding meetings with interested persons to discuss the CCA and associated implementation issues. The intent of these meetings was to educate listeners on the CCA, as well as obtain input on potential design considerations for tariffs that would collect and distribute costs and proceeds related to the CCA.[2]

On June 9, 2023, PSE filed with the Washington Utilities and Transportation Commission (Commission) a revision of tariff WN U-2, proposing a new tariff schedule (Schedule 111), which would allow the Company to recover allowance costs and pass back auction proceeds mandated under the CCA. The proposed tariff would be in effect between August 1, 2023, and December 31, 2023.

On June 23, 2023, the Commission served notice of a recessed open meeting on July 21 and indicated that interested persons may submit written comments on the filing no later than 5:00 p.m., July 3, 2023.

On June 28, 2023, NW Energy Coalition (NWEC) and Public Counsel filed requests to extend the deadline for written comments. NWEC outlined that a July 3, 2023, deadline would only provide six (6) business days for interested parties to review and provide comments from the initial filing on June 3, 2023. NWEC further outlined that more time was needed for interested

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[1] See Climate Commitment Act - Washington State Department of Ecology.
[2] See PSE's CCA Interested Parties Meeting #1, Meeting #2, Meeting #3, Meeting #4.

parties to conduct review because 1) interested parties had not previously reviewed the revised tariff prior to the filing, 2) interested parties need time to become aware that a filing has been made, and 3) this filing is the first of its kind since the passage of CCA, necessitating more time for interested parties to understand its complexity. In a separate letter, Public Counsel agreed with NWEC and requested an extension.

On July 3, 2023, the Commission filed a clarification, outlining that WAC 480-07-900(5)(c) provides that interested parties may submit written comments to the Commission in response to an open meeting item at least three business days in advance of the meeting. The Commission provided a revised date of July 18, 2023, for interested parties to provide written comments, but clarified that filing by July 3 would give the Commission time for significant consideration of those comments.

On July 3, 2023, the following interested persons filed comments in response to the Commission's Notice: NWEC, Climate Solutions, The Energy Project (TEP), Washington Conservation Action (WCA), and Alliance of Western Energy Consumers (AWEC). On July 5, 2023, the Public Counsel filed comments in response to the Commission's Notice. Many commenters clarified these comments were "preliminary," submitted in this state in order to meet the requested July 3 deadline, and expressed the intention to submit additional comments prior to July 18, 2023.

Summary of Filing

Under the proposed tariff revision, PSE would recover costs from allowances corresponding to projected emissions from August to December 2023, and pass back credits from allowance auction proceeds projected to be received in calendar year 2023, but proportional to the August through December timeline. Costs would be recovered through a proposed State Carbon Reduction Charge, which equals the projected amount of costs PSE needs to comply with the Cap and Invest Program, pursuant to RCW 70A.65. Credits would be distributed through a proposed State Carbon Reduction Credit, which equals the projected amount of revenues from allowance sales collected at auction, pursuant to RCW 70A.65. PSE previously mentioned in informal meetings that the proposed charge and the credit would be included as new, separate lines on customer bills and identified by their names described above.

There is a new revenue requirement *increase* of $104.8 million related to the State Carbon Reduction Charge and a new revenue requirement *decrease* of $87.9 million related to the State Carbon Reduction Credit. The result is an overall new net revenue requirement *increase* of $16.8 million, which translates to an average increase of 3.23 percent in overall bills for all customers affected by this tariff change. A typical residential customer using 64 therms per month would experience an increase of $3.71 per month or 3.89 percent, while known low-income (KLI) customers would see all increased charges offset by the credit, resulting in a $0.00 change. The tariff defines KLI customers as those currently taking service under an applicable Bill Discount Rate schedule, those receiving bill assistance under Schedule 129 – Low Income Program, or those who have received bill assistance under Schedule 129 within the last 24 months. The tariff also includes a mechanism whereby each year, the Company will estimate the amount of costs for the Company to comply with the CCA, the amount of revenues from allowances that will be received, and the amount expected to be collected in rates, and will true-up each of these amounts on a yearly basis.[3] This mechanism, as well as the tariff in general, are subject to a related accounting deferral petition (UG-230471) that is not yet approved and will be discussed during the July 27, 2023, open meeting.[4]

Public Comments

As mentioned in the Background above, NWEC, Climate Solutions, TEP, WCA, AWEC, and Public Counsel filed comments in response to the Commission's Notice of Opportunity to Comment. The details of those comments are summarized below:

NWEC and Climate Solutions' collective comments request the Commission reject the filing and direct the Company to refile the tariff with a new structure that properly balances the risk between the Company and customers, aligns regulatory incentives with state policy, and meets the purpose and intent of the CCA to reduce emissions. They maintain that by passing 100 percent of allowance costs through to customers, PSE does not assume a reasonable portion of risk associated with higher allowance costs and/or lower consignment revenues. Relatedly, NWEC and Climate Solutions express concern that PSE may be disincentivized to reduce emissions in the future if their customers pay 100 percent of allowance costs and the Commission should therefore consider ordering a cost-sharing mechanism. The comments also indicate that PSE's initial five (5) months of compliance costs are higher than expected, but because of confidentiality related to auction bidding, the Commission should use its investigatory authority to assess whether costs incurred to purchase allowances were prudent.

NWEC and Climate Solutions also share concerns with TEP (see below) that under PSE's proposed tariff, many potential low-income natural gas customers will not receive bill credits to offset CCA-related costs. The commenters also oppose PSE itemizing CCA allowance costs on natural gas customer bills, indicating line items should be reserved for core billing determinants, voluntary programs, and state and local taxes. They recommend that if CCA allowance costs are to be itemized in the interest of transparency, the Commission also require PSE disclose emissions associated with natural gas use and information on how to mitigate natural gas use. Finally, NWEC and Climate Solutions reiterate their concern that the current docket schedule does not provide an adequate amount of time to review PSE's proposed tariff and the complexity of CCA-related issues.

TEP requests the Commission order PSE, as a condition of potential approval, to work with its Low-Income Advisory Committee to agree on a way to automatically identify eligible low-income customers and provide those customers bill credits to offset all CCA-related costs no later than January 1, 2024. Automatic identification of eligible low-income customers would

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[3] Proposed Schedule 111, Sheet No. 1111-C
[4] Docket UG-230471, Petition for an Order Authorizing Accounting Treatment for the Cost Recovery and Pass Back of Natural Gas Costs and Proceeds Associated with the Climate Commitment Act in RCW 70A.65. Filed June 9, 2023.

differ from PSE's current proposal to distribute credit to KLI customers because automatic identification would conceivably involve using third-party (i.e., not from the Company) data to extrapolate which customers are experiencing lower incomes, rather than only distributing credit to customers already enrolled in existing energy assistance programs, and thus are already known to PSE to be low-income. TEP accurately states that PSE's current proposal would only capture about 10,000 of their known low-income natural gas customers, while according to PSE's presentation series on the CCA for interested groups, approximately 250,000 natural gas customers residing within PSE's service territory qualify as low-income. In response to feedback during interested persons' meetings regarding the flaws in this approach, PSE expressed concerns with the accuracy of third-party data and the potential to expend funds on customers who may not need them. Further, the Company states that it is actively working to enroll more customers in energy assistance and in doing so identify them as low-income.

WCA recommended the Commission reject the tariff and resolve the outstanding issues being discussed in the context of the ongoing CCA workshop series (U-230161) organized by the Commission, which intends to provide investor-owned utilities, their customers, and all interested persons with an opportunity to discuss and understand the impacts of CCA on utilities, including how the CCA intersects with the utility obligations under CETA.[5] Specifically, WCA has concerns with PSE's treatment of no-cost allowances, cost recovery, and passing 100 percent of the cost of allowance purchases to customers and allocating 100 percent of consigned revenue as bill credits rather than using the revenue for other allowed benefits (e.g., weatherization, decarbonization). WCA also shares TEP's concern around the drastic under-identification of low-income customers in PSE's currently proposal and supports TEP's request that the Commission order PSE to work with the Company's Low-Income Advisory Committee to increase the identification of eligible low-income customers.

AWEC declined to recommend whether the Commission should approve, reject, or suspend PSE's proposed tariff. AWEC shares concerns noted by others that the proposed tariff may not have allocated costs equitably, and that additional data is needed to fully investigate the cost and credit methodologies. AWEC does provide recommendation that potential approval of PSE's proposed tariff should be contingent on several conditions: that language should be included stating the approval is non-precedential with terms may be subject to change, and that PSE should provide in their proposed tariff language outlining the verification process necessary to confirm whether a customer is subject to the proposed CCA charges and credits.

Public Counsel recommends the Commission reject PSE's proposed tariff. Public Counsel echoes both NWEC's concerns around customer exposure to allowance market risk and separate itemization of CCA costs on customer bills, and TEPs' concerns of identifying eligible low-income customers. Public Counsel notes that the itemization of CCA-related charges and credits requires additional discussion during the Commission's CCA workshop series to fully understand whether it provides a benefit to customers or unnecessarily complicates utility

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[5] Docket U-230161, Facilitation of a Commission-led workshop series on the Climate Commitment Act. Open March 3, 2023.

billpaying. Like AWEC, Public Counsel recommends that potential approval of PSE's proposed tariff be made on an interim basis and that the Commission require PSE to refile a new revised tariff ahead of January 1, 2024, that adequately addresses all concerns.

Discussion

Commission staff (Staff) began review of this filing by following up with the Company and those who had offered written comments. On July 13, 2023, Staff met with PSE to discuss conversations held between PSE and interested parties to reconcile concerns. PSE indicated they had discussed with NWEC the possibility of a cost-sharing mechanism, but this would require additional information and the inclusion of other affected entities. PSE indicated to TEP and NWEC openness to including additional tariff language to clarify the non-precedential nature of this proposed tariff, as well as working with the low-income advisory group on better identification of low-income customers.

While Staff is uncomfortable recommending approval of the tariff given the quantity of concerns raised by filed comments, Staff is also uncomfortable recommending rejection of the tariff at this time. In contrast with many commenters, Staff believes the tariff as proposed may be in the public interest. In particular, Staff highlights the following. First, as the Company and others have suggested, approving the tariff could be conditioned to be non-precedential in nature, such that PSE and other companies do not necessarily expect to recover costs in the same way after December 2023. Second, delaying the recovery of the net compliance costs associated with the CCA even further could present significant financial risk to companies and customers. Third, the CCA workshops series may be unable to provide the type of specific and timely guidance commenters and the Company are seeking. While further conversations in this venue are no doubt likely to present valuable information that will inform further cost recovery conversations, that information may be far enough into the future that costs would be recovered well after they were incurred, or the information may be unspecific enough that a considerable number of questions will still be left to the discretion of companies and interested persons. The Commission, after all, has an ever-growing number of issues of increasing complexity to consider in the context of this workshop series.

As such and in summary, Staff is uncomfortable recommending rejection, as it would indicate that Staff believes it has enough information to indicate the filing is not in the public interest. Rather, Staff recommends suspension and adjudication, in order to set a fixed and transparent procedural schedule that would allow all interested persons enough time to explore the concerns proposed, such as the prudency of the costs and the mechanism of proposed recovery.

Staff notes that it suggested to the Company that it may be in the Company and its customers' best interests to withdraw the filing and commit to refile in the future after further conversations, as doing so might present a quicker process than suspension and adjudication. At the time of completion of this memo, however, the Company was still searching for a pathway to conditional approval.

Staff followed up individually with AWEC, Public Counsel, TEP, NWEC, WCA and Climate Solutions. At the time of finalization of this memo, the commenters who responded to Staff indicated comfort with Staff's recommendation for suspension. AWEC indicated an intention to file follow-up comments and had another conversation on the books with the Company set for after the finalization of this memo, but also indicated that the Company had responded to AWEC's data requests, which alleviated some of their concerns.

Conclusion

Staff believes the quantity of concerns that have arisen in the context of the very first tariff filed for recovery and pass-back of CCA costs require the timeline and transparent schedule and process of an adjudicated proceeding. Staff recommends the Commission issue an order suspending the tariff and establishing a procedural schedule.