



November 10, 2015

Via Electronic Filing

Mr. Steven V. King
Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250

RE: Docket No. UE-151871 & UG-151872, Puget Sound Energy proposed electric and natural gas energy equipment lease tariff filing

Dear Mr. King:

Sunrun, Inc. respectfully submits these comments for filing in the above-captioned docket in advance of the Commission's November 13, 2015 Open Meeting.

Please feel free to contact me should you have any questions regarding this filing.

Sincerely,

A handwritten signature in cursive script that reads "Blake Elder".

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Enclosure

Before the Washington Utilities and Transportation Commission

In the Matter of the Application of) Docket No. UE-151871//UG-151872
Puget Sound Energy, Inc. for)
Approval of Electric Tariff G)
Schedule No. 75:)
Equipment Lease Service Program)

Sunrun, Inc. Preliminary Comments on Puget Sound Energy, Inc. Proposed Tariff Revision to Equipment Lease Service Program

I. Introduction

Sunrun, Inc. (“Sunrun”) respectfully submits these preliminary comments in response to the above-referenced docket in which Puget Sound Energy, Inc. (“PSE”) seeks approval for revising WN U-60, Electric Tariff G to include the proposed Schedule No. 75: Equipment Lease Service (“Schedule”). Sunrun opposes the Schedule because Sunrun believes that a utility-centric distributed energy resource (“DER”) ownership model is anti-competitive, will stifle the DER marketplace in Washington State, and is not in the public interest. For the reasons stated herein, Sunrun requests that the Commission deny PSE’s application at the Open Meeting. If the Commission withholds judgment at this time, however, Sunrun submits that the issues raised in these comments, and by other parties, should be explored further through a stakeholder process to allow interested parties the opportunity to help the Commission better understand the issues presented by this proposal and build a robust record upon which to base its decision.

These comments highlight some of Sunrun’s concerns related to monopoly utility ownership of electric water heaters, heat pumps, other energy efficiency equipment, and eventually other DERs including rooftop solar.¹ PSE’s proposal to own and lease such DER equipment presents important questions about the role of rate regulated monopoly utilities participating in non-rate regulated markets and raises public interest concerns about anti-trust, unfair competitive advantage, and ratepayer subsidization of inefficient

¹ For the purposes of these comments, Sunrun defines DER to include rooftop solar and other distributed generation, distributed storage, equipment and devices related to end-use energy efficiency (including but not limited to hot water heaters and home appliances), and electric vehicle equipment.

utility programs, among others. The proposal also raises questions about the future of the DER marketplace in Washington State, the role of rate regulated electric utilities in facilitating the deployment of clean energy technologies, and how to best achieve public policy goals, such as improving consumer choice and access to DERs. These issues have been before the Commission in the past from the perspective of third-party ownership of distributed generation² and are now presented to the Commission from the perspective of utility ownership of distributed generation and other DERs.

II. The Proposed Schedule Raises Substantial Concerns Regarding its Impact on the Public Interest.

The proposed Schedule raises important questions about the participation of regulated monopoly utilities in competitive markets. PSE proposes to offer regulated products³ in non-rate regulated markets, which would allow PSE to compete against non-rate regulated market participants. Because of PSE's status as a rate regulated monopoly utility, it would have:

- The ability to earn a guaranteed rate of return on its investments,
- Enhanced marketing opportunities through a captive customer base,
- Exclusive access to certain consumer data,
- Informed interconnection opportunities,
- Information regarding the system's capacity to host DER without infrastructure upgrades, and
- The ability to include the cost of DER systems in its rate base and spread those costs among its ratepayers.

² See, *Report on the Potential for Cost-Effective Distributed Generation in Areas Served by Investor-Owned Utilities in Washington State*, Wash. Utilities & Trans. Comm., Docket No. UE-110668 (Oct. 7, 2011); *Interpretive Statement Concerning Commission Jurisdiction and Regulation of Third-Party Owners of Net Metering Facilities*, Wash. Utilities & Trans. Comm., Docket No. UE-112133 (July 2014).

³ PSE proposes in the tariff to offer heat pumps, natural gas furnaces, and natural gas and electric hot water heaters. PSE further contemplates adding additional products over time, including, solar, storage/batteries, electric vehicle equipment, and back-up generators. See Advice No. 2015-23 – Electric Tariff Filing, Cover Letter, Sept. 18, 2015 at 2.

Thus, if approved, the proposed Schedule would provide PSE a Commission-sanctioned competitive advantage over non-rate regulated market participants due to PSE's monopoly status. Sunrun believes such an outcome is contrary to the public interest.

In addition to those proposed in the Schedule, the filing contemplates covering additional utility-owned DER products over time, including distributed solar.⁴ Utilities in Washington State can already offer distributed solar without guaranteed profits through a non-rate regulated affiliate. The Schedule proposed here, however, would allow PSE to participate in a competitive market without the risks associated with participating in a competitive market. Thus, the proposal raises important public interest issues that warrant rejection of the schedule, or at least, warrant the Commission's scrutiny. Those issues include, but are not limited to, the following:

a) Anti-trust concerns

Allowing PSE to leverage its monopoly power to participate as a rate regulated entity in competitive markets to lease and sell DER products raises anti-trust concerns. Electric utility monopoly status is not intended to help PSE engage in, nor help PSE discourage, private competitive enterprise. While PSE claims that utility-owned DER will stimulate additional market activity, PSE offers no analysis or data to support this claim. Approving the proposed tariff would open the door to PSE exercising its monopoly power against private competitive enterprises in competitive markets creating the appearance of impropriety and the potential for discrimination, and provide PSE an unfair advantage in competition against non-rate regulated market participants.

b) Used and useful and prudent investment test

The Schedule proposes to offer DER products as regulated products,⁵ which may subject these investments to the used and useful and prudent investment tests in future rate cases. However, PSE does not offer evidence of how the proposed Schedule will be cost-effective in helping to meet the utility's obligation to provide electric service at just

⁴ See Advice No. 2015-23 – Electric Tariff Filing, Cover Letter, Sept. 18, 2015 at 2.

⁵ See Puget Sound Energy Cover Letter for Advice No. 2015-23, Utilities and Transportation Commission, Sept. 18, 2015 at 2 (stating “PSE believes that continuing to expand these offerings as regulated products . . .”).

and reasonable rates.⁶ Furthermore, PSE does not offer any information regarding the cost-effectiveness of DER integration under a utility-centric ownership model versus a customer-centric ownership model. Instead, PSE seeks approval of the tariff through a bifurcated filing process under which the rate methodology and the proposed costs and resulting rates would be decided separately.⁷ The separate review process proposed by PSE is an inefficient use of Commission and other party resources and prevents important cost comparison and associated considerations from review in conjunction with the issues raised at this stage of the proposal. If the Commission determines that additional process is needed to further evaluate the proposed Schedule, PSE should be required to provide cost projections and other data and information necessary to determine if the proposed Equipment Lease Service program would be cost-effective.⁸

- c) The tariff would allow PSE to spread potentially higher costs over a captive rate base and unfairly compete with non-rate regulated market participants.

PSE states in its filing that “with the proposed expansion of service in Schedule 75, PSE believes it can now provide these services under the terms and conditions at rates that are cost effective.”⁹ PSE provides no information or data, however, on the costs of program equipment or vendor contracts for distribution, installation, or maintenance of the proposed program products to support this claim. Furthermore, PSE acknowledges that “[g]iven the scope of the initial product portfolio, it will be necessary for PSE to develop comprehensive distribution and installation channels” and if implemented, the lease service will necessitate partnerships with vendors to “facilitate equipment distribution . . . installation, repair and maintenance.”¹⁰

The structure of the proposed Equipment Lease Service program appears to insert PSE as a middleman in a private competitive marketplace, adding another layer of costs that would be financed by PSE ratepayers.¹¹ Not only does this raise anti-trust concerns

⁶ See, Rev. Code Wash. (ARCW) § 19.285.040 (directing qualifying utilities to pursue conservation that is “cost-effective, reliable, and feasible”).

⁷ Puget Sound Energy Cover Letter for Advice No. 2015-23, Utilities and Transportation Commission, Sept. 18, 2015 at 5.

⁸ See, Rev. Code Wash. (ARCW) § 19.285.040.

⁹ See *id.* at 3, footnote 1.

¹⁰ *Id.* at 6.

¹¹ See Electric Tariff G, Schedule No. 75 Equipment Lease Service Proposal, Attachment B, Rate Methodology, UE-151871, Utilities and Transportation Commission, Sept. 18, 2015.

and the cost-effectiveness issues discussed above, but the potential for PSE to finance the costs of service for this program through its rate base would provide PSE an unfair competitive advantage over non-rate regulated market participants. Sunrun is concerned that approving the tariff would foster anti-competitive behavior that would have a chilling effect on the DER market in Washington State, and set a dangerous precedent with respect to how the Commission would evaluate a future PSE proposal to include additional products under the Schedule, specifically, distributed rooftop solar.

III. The Proposed Tariff Raises Questions about the Future of the Utility Business Model and the DER Market in Washington State.

Approving the proposed Schedule would propel Washington State toward a utility-centric DER ownership model, reduce competition in DER markets, and cloak utility ownership of DER resources with the regulatory imprimatur of a preferred policy choice. Instead, this proposal should be evaluated in the context of a more fundamental question: how to best align utility investment incentives and business models with the market and technological realities that are transforming the electric industry. The answer to this question should produce outcomes that incentivize investment in a cleaner, more reliable, resilient, and cost-effective electric grid while at the same time ensuring that the public interest and private market participants are protected from discriminatory practices by monopoly utilities. Other commissions in other states are asking similar questions, and Sunrun believes these inquiries offer a useful lens through which to view this proposal.

In New York, for example, the Public Service Commission (“PSC”) is examining how regulatory reforms can be aligned with markets to meet goals similar to those referenced above. The impetus for the Reforming the Energy Vision (“REV”) initiative, and other initiatives in other states, is based on the fundamental understanding that the electric industry is in transition and regulatory and market reforms are needed to align utility investment and regulatory principles with new business and technological realities. The REV proceeding examines DERs in this context and has generated regulatory reform proposals that, in part, would incentivize distribution utilities to leverage the value of existing grid assets to facilitate private, competitive, DER markets.¹² This structure

¹² See, *Reforming the Energy Vision*, New York State Dept. of Public Service <http://www3.dps.ny.gov/W/PSCWeb.nsf/All/CC4F2EFA3A23551585257DEA007DCFE2?OpenDocument>

allows private market participants, including non-rate regulated affiliates of the utilities, to compete in a private market while ensuring that the public interest is protected and the utility provides operations and services that are best performed by a monopoly entity. While the role of the utility in facilitating greater deployment of DERs is a central question in the New York REV proceeding, the question is not unique to New York as a number of other states are considering similar issues.¹³

The proposed Schedule to allow PSE to own and lease DERs, including distributed rooftop solar, squarely presents the Commission with similar questions. Sunrun believes that the proposed Schedule should be denied because it is fundamentally anti-competitive and not in the public interest. If the Commission determines that additional information is needed to evaluate this proposal, Sunrun supports that the Commission gather information on the DER marketplace in Washington State through this proceeding to help the Commission build a robust record on the subject of DERs, and the regulatory and utility business model modifications needed to address the economic, system functionality, and resource planning opportunities made possible through distributed energy markets.

IV. Sunrun supports the Commission gathering additional information and receiving input from the diversity of interests affected by the proposed Schedule to develop a full record upon which to evaluate this proposal.

If the Commission decides not to reject the Schedule, Sunrun respectfully encourages the Commission to gather additional information on the issues presented in these comments, and others, through additional stakeholder processes. Such process will help the Commission evaluate the proposal and provide clear direction on the issue of DERs in order to preserve private markets and protect the public interest. In contrast, the stakeholder meetings held by PSE prior to this filing were not open to the public and are

(intended REV outcomes include empowering consumer choice and incentivizing investment in a more reliable, resilient and affordable electric grid through market innovation and regulatory reform. These innovations and reforms target the promotion of greater energy efficiency, deeper penetration of renewable energy, and wider deployment of storage technologies and distributed energy, including roof-top solar).

¹³ See, e.g., *Investigation by the Dept. of Public Utilities on its own Motion into Modernization of the Electric Grid*, Mass. Dept. of Public Utilities (June 12, 2014) available at <http://www.mass.gov/eea/docs/dpu/orders/dpu-12-76-b-order-6-12-2014.pdf>; *Maryland Resiliency Through Microgrids Task Force Report* (2014) available at http://energy.maryland.gov/Reports/MarylandResiliencyThroughMicrogridsTaskForceReport_000.pdf.

insufficient to address the many important issues raised by this filing. The agendas, deliberations, and minutes of those stakeholder meetings are not disclosed in the PSE filing, leaving both the record and other interested parties with no information about the concerns raised, issues discussed, or PSE's response to Commission staff or stakeholder concerns.

If the Commission reserves judgment at this time, Stakeholders not included in previous meetings, including Sunrun, should be given the opportunity to participate in the decision-making process and raise their concerns about the proposed Equipment Lease Service program. Sunrun respectfully submits that while it believes the Commission has the evidence needed to reject the proposed Schedule at the Open Meeting, Sunrun would support the development of a more robust record through stakeholder input. Additional process is in the public interest and would ensure that the Commission has the information necessary to evaluate the proposed tariff revision and the important public policy issues it invokes.

V. Conclusion

The proposed tariff revision has far-reaching implications for distributed solar and other DER markets in the PSE service territory. The outcome of this proceeding will set important precedent for future utility programs in the state. Sunrun supports expanding opportunities to access energy efficient equipment, rooftop solar, energy storage, and other home and business sited energy management equipment; but strongly opposes utility ownership and ratebasing of these assets as proposed by PSE for the reasons stated herein. In the event that the Commission does approve these tariffs without further inquiry, the Commission should clearly state that such approval does not set procedural precedent for how the Commission will consider an application by PSE to add other DER products, including solar, under the Schedule.¹⁴

Sunrun appreciates the opportunity to comment on this important proceeding and supports a process through which other interested parties may participate and help the

¹⁴ See Puget Sound Energy Cover Letter for Advice No. 2015-23, Utilities and Transportation Commission, Sept. 18, 2015 at 2 (discussing the addition of other DER products such as solar, storage/batteries, electric vehicle equipment, back-up generators, and certain HVAC equipment).

Commission develop a robust record upon which to evaluate this proposal and explore the important public policy implications raised by the proposed Schedule.

/s/

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Dated November 10, 2015.