

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES
AND TRANSPORTATION
COMMISSION,

COMPLAINANT,

V.

PUGET SOUND ENERGY,

RESPONDENT.

DOCKETS UE-190529 AND
UG-190530

**REPLY BRIEF
OF THE ENERGY PROJECT**

APRIL 10, 2020

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I. INTRODUCTION

1. The introductory section of this Reply Brief summarizes the status of the issues affecting low-income customers addressed by The Energy Project (TEP) in this case. Aspects of these issues that require additional discussion are addressed in the main section of the brief.

Recommendations for Home Energy Lifeline Program (HELP) low-income bill assistance.

2. The parties addressing this issue (Puget Sound Energy (PSE), Commission Staff (Staff), TEP and Northwest Energy Coalition (NWECC)) agree that there should be an increase in funding for low-income bill assistance. As detailed in TEP's Initial Brief, the specific amount of the recommended increase depends on the revenue awarded and the methodology used.¹

Commission Staff recommends that the increase should be a minimum amount of \$1.4 million. The Energy Project supports this recommendation.

3. The alternative methodologies for calculating the increase above the minimum level are discussed in more detail below.

4. The Energy Project's initial proposal for an increase in allowable agency HELP administrative fees has been withdrawn. The Energy Project agrees to the Staff's recommendation on this issue which allows the issue to be addressed between PSE and the agencies under current contracts, with Advisory Committee input as appropriate. Accordingly, there is no issue requiring Commission action.²

¹ TEP Initial Brief ¶¶ 10; Liu, Exh. JL-24T at 9, Table 1.

² *Id.*, ¶¶ 20-22; Liu, Exh. JL-24T at 14:16-20.

Electric Rate Design

5. Parties (PSE, Staff, TEP and Public Counsel) have agreed that any electric increase should be spread proportionally across both rate blocks. PSE has agreed to study the potential modification of the first rate block to extend to usage of 800 kWh per month as a “lifeline” rate block.³

Disconnection Issues

6. Puget Sound Energy has agreed to TEP’s proposals for annual reporting of disconnection data and for development of a Disconnection Reduction Plan.⁴ PSE does not agree to TEP’s proposal to continue premise visits at the time of disconnection. This issue is addressed in more detail below.

Other Issues Affecting Low-income Customers

7. *Attrition.* The Energy Project joins Staff, Public Counsel, Alliance of Western Energy Consumers (AWEC), and NWECA in recommending rejection of PSE’s request for an attrition adjustment.⁵
8. *Return on Equity.* The Energy Project recommends consideration of a reduced return on equity for PSE as recommended by the Staff and Public Counsel cost of capital witnesses.
9. *Get-To-Zero (GTZ).* The Energy Project supports the Staff recommendation for disallowance of certain Get-To-Zero costs in this case.⁶ The Energy Project also agrees with Public Counsel that consideration should be given to a partial disallowance of GTZ costs to

³ *Id.*, ¶ 25; Piliaris, Exh. JAP-18T at 20:1-5.

⁴ *Id.*, ¶ 32; Wappler, Exh. AW-5T at 15:11-17.

⁵ *Id.*, ¶¶ 54-57.

⁶ *Id.*, ¶¶ 66-69; Higby, Exh. ANH-1Tr at 3:1-5:3, Tables 1-3.

balance the risks borne by ratepayers and shareholders for this investment, in light of the high costs and the uneven and uncertain benefits demonstrated to date.⁷ In addition, TEP recommends that the Low-income Advisory Committee monitor and address operational GTZ concerns. Puget Sound Energy should file biannual reports with the Commission detailing GTZ deployment and addressing issues raised at the Advisory Committee and present the reports at an Open Meeting.⁸

10. *Automated Meter Infrastructure (AMI)*. The Energy Project supports the Public Counsel alternative recommendation that a portion of AMI costs be disallowed. This issue is discussed further below.

II. THE HELP FUNDING FORMULA SHOULD USE THE RESIDENTIAL BASE RATE INCREASE AS A REFERENCE

11. As noted, the only outstanding issue regarding the HELP program is the method used to calculate the funding increase. The Energy Project and PSE support calculating the increase as an amount equal to twice the percentage of the base rate.⁹ Commission Staff acknowledges that PSE now agrees with the TEP recommendation but continues to recommend that the increase be based on the twice the percentage of the bill impact.¹⁰

12. The Energy Project's Initial Brief addresses the drawbacks to Staff's approach in detail.¹¹ One of the problems identified with the "bill impact" approach is that it can be unpredictable and misleading. A good illustration of this can be found by referring to the recently issued Avista

⁷ *Id.*, ¶ 69.

⁸ *Id.*, ¶ 65.

⁹ TEP Initial Brief ¶ 13.

¹⁰ Initial Brief of Commission Staff, ¶ 104.

¹¹ TEP Initial Brief, ¶¶ 14-16.

2019 General Rate case final order.¹² In that case, the percentage increase allowed for the residential rate was 6.75 percent (electric).¹³ As a result of the pass back of certain refunds to customers (ERM, Remand), however, immediate bill increases were much smaller, with a first year billed revenue increase of only 1.2 percent, and a second year increase of 2 percent. At the same time, the previously-approved LIRAP increase formula allowed for an increase twice the percentage change in the residential base rate, or seven percent, whichever is greater. This formula was applied in the case to provide a 13.49 percent overall increase in LIRAP funding and a 6.49 net increase.¹⁴

13. By contrast, if the Staff approach had been applied in the Avista case, the LIRAP funding increase would have been much smaller, in the range of 2.4 percent for the first year, even though the effect of the refunds was temporary and the permanent long-term increase to customer base rates was 6.75 percent. The residential base rate is, therefore, a more stable reflection of the residential and low-income customer rate burden and a more reliable source of bill assistance funding.¹⁵ There remains a very substantial unmet need for bill assistance and HELP increases will help reach more customers in need.¹⁶ The Energy Project approach is designed to not only mitigate single case rate changes or bill impacts but to provide a stable

¹² *Washington Utilities & Transportation Commission v. Avista Corp.*, Dockets UE-190334/UG-190335 and UE-190222, Order 09 (Avista 2019 GRC Order).

¹³ *Id.*, Attachment A at 3.

¹⁴ The Avista LIRAP Rate Calculation is presented in the Avista 2019 GRC Order at Attachment A, p 3. The calculation was as follows: Sch. 1 base rate increase of 6.75% x 2= 13.49 % - 7 % (portion of the formula increase already implemented in October) = 6.49 %.

¹⁵ *Washington Utilities & Transportation Commission v. Avista Utilities*, Dockets UE-150204/UG-150205, Order 05, ¶ 232.

¹⁶ Liu, Exh. JL-24T at 8:9-15.

long-term source of funding growth to address the larger need. This is also consistent with the larger framework of CETA to extend the reach of bill assistance over future years.¹⁷

III. DISCONNECTION ISSUES

A. Disconnection Remains An Important Concern During The COVID-19 Pandemic.

14. With the arrival of the COVID-19 pandemic, the importance of keeping Washington customers connected to essential utility services has been thrown into strong relief. Commendably, many Washington utilities, including PSE, have announced that they will not be disconnecting customers for non-payment during the emergency. On March 18, Governor Inslee issued Proclamation 20-23 strongly encouraging all publicly and privately owned utilities in Washington to discontinue disconnection.¹⁸ Similar steps are taking place all over the country, either through utilities acting voluntarily or through governors and regulatory commissions mandating discontinuance of disconnection.¹⁹
15. In addition to disconnection moratoria, other credit and collection tools are available and are being used to assist customers in the crisis. These include reconnections, penalty and late fee waivers, deferred payment plans, flexible deposit policies, arrearage management, percentage of income payment plans, and other flexible approaches. These measures reflect a recognition of

¹⁷ RCW 19.405.120(4)(a).

¹⁸ Proclamation 20-23 UTC-Ratepayer Assistance (Proclamation By The Governor Amending Proclamation 20-05)(March 18, 2020). An amended version of Proclamation 20-23, Proclamation 20-23.1, was issued on March 24, 2020. The language regarding disconnections was unaffected.

¹⁹ See, e.g., The Energy and Policy Institute national disconnection policy tracker, <https://www.energyandpolicy.org/utilities-disconnect-coronavirus/>; National Association of Regulatory Utility Commissioners (NARUC) State Response Tracker, <https://www.naruc.org/compilation-of-covid-19-news-resources/state-response-tracker/>.

the importance of keeping customers connected as a means to avoid the serious adverse effects of service termination on household health, safety, employment, and quality of life.

16. The current situation raises new and significant concerns about the aftermath of the crisis when activity begins to return to normal. Many utility customers may emerge from the crisis with substantial arrearages due to job losses, business closures, medical costs, and other pandemic related challenges. The economy may be in recession and long-term negative economic effects may continue for many customers for extended periods. A sudden return to pre-existing disconnection, credit and collection practices would be unwise public policy with potentially serious consequences for many thousands of customers.

17. The impact of the COVID-19 pandemic and the responsive changes in disconnection, credit, and collection policies provides an unprecedented opportunity to re-evaluate existing practices and to adopt new and improved approaches to preserving universal service for utility customers. Some states have already opened dockets to begin to evaluate the best policies to employ as we emerge from the crisis.

18. In Illinois, after issuing an Emergency Interim Order requiring a moratorium on all regulated electric, gas, and water/sewer utility shutoffs in the state, as well as a waiver of all late fees and penalties, the Illinois Commerce Commission further required that the utilities file “proposed credit and collections procedures in this proceeding for the Commission’s consideration and approval” to be in place “for no less than 6 months.”²⁰ In the Order, the

²⁰ *In the Matter of Moratorium on Disconnection of Utility Services during the Public Health Emergency Declared on March 9, 2020*, Illinois Commerce Commission, Docket No. 20-0309, Emergency Interim Order at 4-5.

Commission stated;

The Commission finds that temporary implementation of revised and more flexible utility credit and collections procedures are needed to ensure that customers remain connected to essential utility services when the emergency status ends. Once the moratorium is lifted, utilities should temporarily enact more flexible credit and collections procedures than the minimum standards outlined in [citation omitted] the Commission’s Rules to remain in effect for a period of no less than six (6) months.²¹

The Illinois Commission initiated a proceeding before an Administrative Law Judge and required utilities to file proposed flexible credit and collection procedures.²²

19. The Massachusetts Department of Public Utilities (DPU) issued a directive to utilities to extend the winter moratorium, prohibiting electric, natural gas, and water utilities from shutting off service for non-payment during the health emergency.²³ In conjunction with the order, on March 31, 2020, DPU issued a “Request for Comments Regarding Best Practices During the Resumption of Shutoff Activities.”

20. This is an approach that may be worth considering for Washington. While beyond the scope of this docket, TEP would support the Commission opening a docket to review the investor-owned utilities (IOUs) transition requirements and the appropriate “aftermath” disconnection, credit, and collection policies.

B. Premise Visits Should Continue Until Further Commission Action On The Issue.

21. The Energy Project’s previous recommendation in this case was that PSE be required to continue its current “premise visit” or “last knock” practice prior to disconnection of residential

²¹ *Id.* at 4.

²² *Id.* at 7.

²³ *See, e.g.*, <https://www.mass.gov/doc/covid-19-shutoff-moratorium-eversource-and-national-grid/download>.

customers for non-payment, at least until a Disconnection Reduction Plan is presented to and approved by the Commission.²⁴ The Energy Project is not opposing the use of remote disconnection as a way to shut-off service, but is recommending that a “last knock” continue to take place, as it does today, at the time of disconnection.

22. As TEP discussed in the Initial Brief, PSE’s announced plan was to initiate remote disconnection for homes equipped with AMI, without premise visits, beginning in March 2020. This policy was apparently to be implemented even though the Commission has not yet completed its rulemaking regarding AMI consumer protections. Events have now overtaken the Company and its customers, however. Puget Sound Energy’s website currently states: “Puget Sound Energy will not be disconnecting customers during this time.” For now, with the Company voluntarily discontinuing disconnections, the issue of premise visits is temporarily on hold.

23. There is currently uncertainty, however, about how and when the hiatus for disconnections will end. There is currently no prohibition from the Governor or the Commission against disconnection. Proclamations 20-23 and 20-23.1 encourage but do not order utilities to refrain from disconnection “during the term of the statewide emergency declaration.” As noted, PSE’s announcement does not state a specific term for the moratorium.

24. To resolve this uncertainty, as noted above, TEP respectfully recommends that the Commission consider establishing a docket to provide for orderly management of disconnection,

²⁴ Collins, SMC-1T at 23:12-18.

credit, and collection policies as we emerge from the pandemic, in order to protect consumers. Resumption of disconnection would not be authorized until ordered by the Commission.

25. For purposes of this docket, TEP requests that the Commission require PSE to continue its premise visits until otherwise authorized by the Commission. Authorization could occur in the context of an approved Disconnection Reduction Plan, or consistent with a broader industry wide review of disconnection, credit and collection policies as Washington emerges from the pandemic.

IV. THE ENERGY PROJECT SUPPORTS A PARTIAL DISALLOWANCE OF AMI COSTS

26. The Energy Project supports Public Counsel's alternative recommendation to disallow the portion of AMI related to the book value of prematurely retired plant and related carrying charges.²⁵ Cost recovery is not appropriate for assets that have been stranded as a result of the Company's decision to deploy AMI before replacement appears to have been physically necessary and before comprehensive plans to derive benefit from the deployment have been presented, all at significant cost to ratepayers.

27. As noted in TEP's Initial Brief, regulatory commissions in Massachusetts, Virginia, and Kentucky have rejected AMI cost recovery while expressing concerns about the relationship between cost and benefit.²⁶ Subsequent to the filing of TEP's Initial Brief, on March 26, 2020,

²⁵ TEP Initial Brief, ¶ 71; Initial Post-Hearing Brief of Public Counsel, ¶ 140.

²⁶ *Petition of Massachusetts Electric Co. and Nantucket Electric Co. d/b/a National Grid For Approval By The Department of Public Utilities Of Its Grid Modernization Plan*, Massachusetts Dept. of Public Utilities, DPU 15-120, 15-121, and 15-122 at 2 (determining that the "benefits of a full deployment of advanced metering functionality do not currently justify the costs"); *Petition of Virginia Electric and Power Company For Approval Of A Plan For Electric Distribution Grid Transformation Projects Pursuant To Section 56-585.1 A 6 of the Code of Virginia*, Case No. PUR -2018-00100, Final Order at 6 (disallowing most elements of the plan as not "well-supported, well conceived, and cost-effective" while costing customers hundreds of millions of dollars); *In the*

the Virginia State Corporation Commission issued a final order rejecting a \$752 million smart meter plan proposed by Virginia Electric & Power Company (Dominion).²⁷ In a previous 2019 decision cited in TEP's Initial Brief, the Commission had rejected an earlier Dominion petition to recover the costs of AMI deployment, requesting a proposal from the company for time-varying rates.

28. In its March 26 order in the new Dominion case, the Commission again rejected cost recovery for Dominion's smart meter (AMI) deployment, the most costly element of a larger grid modernization plan. As a basis for its decision, the Commission repeated its conclusion from the 2019 docket that:

AMI and related technologies "are beneficial and cost-effective only to the extent the Company utilizes them to maximize the potential gains of rate optionality, energy efficiency, demand response, and DERs ..." and "[w]ithout a well reasoned plan, this expensive equipment could be under-utilized and provide little to no benefit to customers and the utility."²⁸

29. The Commission went on to find that: "[i]n its current Petition, Dominion has not submitted a comprehensive plan to maximize the potential of AMI. In particular, while Dominion wants approval to collect from its customers the substantial costs of full deployment

Matter of the Electronic Joint Application of Louisville Gas And Electric Company and Kentucky Utilities Company For A Certificate of Public Convenience and Necessity For Full Deployment of Advanced Metering Systems, Kentucky Public Service Commission, Case No. 2018-00005, Order, at 14 (the utilities failed to demonstrate "that the current meters are obsolete or that the benefits of the AMS proposal outweigh the costs here").

²⁷ <https://www.utilitydive.com/news/virginia-rejects-dominions-752m-smart-meter-plan-other-grid-mod-proposal/575007/>.

²⁸ *In re Petition of Virginia Electric & Power Company For Approval Of A Plan For Electric Distribution Grid Transformation Projects Pursuant To § 56-585.1 A 6 Of The Code Of Virginia, And For Approval Of An Addition To The Terms And Conditions Applicable To Electric Service*, Virginia State Corporation Commission, Case No. PUR-2019-00154, Final Order (March 26, 2020), at 6-7.

of AMI technology, it has failed to submit a comprehensive proposal to roll out TOU rate design across its entire territory and make such rates available to all its customers.”²⁹

30. Similarly, in this rate case, PSE does not primarily justify its substantial AMI expenditures on the basis of a detailed or well-reasoned plan to implement or achieve benefits from rate optionality, time-varying rates, energy efficiency, demand response or DERs. Given that for many years AMI deployment has been justified by industry and other AMI proponents as providing substantial benefits of this type, it is notable that the first major AMI prudence docket in Washington does not seek to make that case. Instead, PSE states that the “fundamental reason for PSE’s decision to transition to AMI: [is that] the AMR system is obsolete, failing, and replacement equipment is not available.”³⁰ Not only does this assertion appear questionable in light of the evidence, it is asking ratepayers to accept a huge price tag, and pay in full, for what is portrayed as nothing more than routine equipment replacement.

V. CONCLUSION

31. For the foregoing reasons, TEP respectfully recommends that the Commission:

- Approve a HELP increase calculated as double the percentage of the base rate increase, with a minimum increase of \$1.4 million.
- Accept the parties’ agreement to (1) apportion any increase by means of an equal percentage to each rate block, and (2) study the option of increasing the first block to 800 kWh as a “lifeline” block.

²⁹ *Id.* at 8.

³⁰ Initial Brief of PSE, ¶ 34.

- Approve disconnection data reporting.
- Approve development of a Disconnection Reduction Plan.
- Require notice and Commission approval before resumption of disconnections for non-payment. If disconnections are resumed, continue premise visits until the Commission otherwise orders.
- Consider a reduction in authorized ROE.
- Reject the request for an attrition adjustment.
- Require PSE to work with its Low-income Advisory Committee on GTZ implementation issues and to file biannual reports with the Commission to be presented at an Open Meeting.
- Disallow a portion of Get-To-Zero and AMI costs.

Respectfully submitted,

DATED this 10th Day of April, 2020.

Simon J. ffitch

/s/ Simon J. ffitch, WSBA 25977
Attorney at Law
for The Energy Project