

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION STAFF
REPLY TO RESPONSES TO BENCH REQUEST NO. 15

DATE PREPARED: May 8, 2020
DOCKETS: UE-190529, UG-190530, UE-190991, UG-190992, UE-190274, UG-190275, UE-171225, and UG-171226
(Consolidated)
REQUESTER: Bench

WITNESS: Jing Liu & Chris McGuire
RESPONDER: Chris McGuire & Jing Liu
TELEPHONE: (360) 664-1310 (Chris McGuire)

BENCH REQUEST NO. 15:

Since the conclusion of the evidentiary hearing in the above-referenced dockets, circumstances have changed significantly due to the COVID-19 pandemic and related Governor Proclamations. In response, the Commission granted Puget Sound Energy's motion to extend the suspension date of its general rate case until July 20, 2020.¹ The parties subsequently filed initial and reply briefs, several of which mentioned the economic impacts Puget Sound Energy's customers are facing due to the COVID-19 pandemic and made related proposals.

Recognizing that the situation has since evolved, and continues to evolve, the Commission seeks input from all parties regarding options to mitigate the impact in the short-term of any rate increase on customers that results from the final resolution of this case. The Commission requests the parties submit proposals that address variables such as timing, amortization periods, or the use of existing mechanisms that may not be at issue in this proceeding. In submitting proposals, **parties should not seek to re-litigate contested issues in this proceeding, including those related to their respective positions on Puget Sound Energy's level of revenue requirement or individual adjustments.**

STAFF REPLY TO PARTIES' RESPONSES TO BENCH REQUEST NO. 15:

Staff reviewed parties' responses to this bench request. All parties encouraged the Commission to consider the special circumstances of COVID-19, yet by recommending an array of different measures. Those recommendations fall into three categories:

1. Deny or delay rate increase (Public Counsel, the Energy Project, and Nucor Steel);
2. Provide additional customer protections (Public Counsel and Northwest Energy Coalition); and
3. Adjust the amortization periods for regulatory assets and liabilities (Staff and PSE).

Staff responds by category, below. However, Staff's primary focus is on PSE's response to the bench request, which falls under Category 3.

1. Deny or delay rate increase

Proposals to deny the rate increase

Public Counsel argues that, if the Commission were to authorize a rate increase, the Commission would be in violation of the standard that utility rates be fair, just, reasonable,

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and sufficient under RCW 80.28.010(1).¹ Likewise, The Energy Project argues that the record supports a final order that would deny a rate increase to PSE in this case.²

Arguing that the Commission should deny PSE a rate increase is tantamount to attempting to re-litigate PSE's revenue requirement, which the Commission explicitly disallows in its bench request. The Commission is seeking input on options to mitigate the impact of a rate increase that otherwise would result from final resolution of this case, not additional input on how the contested issues themselves should be resolved.

Proposals to delay the rate increase

Arguments to *delay* implementation of the rate increase fit within the "timing" scope of this bench request, but Staff recommends that the Commission pursue a more targeted approach to rate relief.

Public Counsel discusses Governor Inslee's Proclamation 20-23 and its extensions and asserts that it allows the Commission to delay implementation of a rate increase. While this may be true, the most recent proclamation, 20-23.3, signed May 5th, expires May 31, 2020. If it is not extended, the Commission would need to act by May 31, 2020, to implement a rate delay.

While a rate delay would reduce a customer's burden in the short-term, a prolonged delay could negatively affect the Company's finances and operation, and in turn negatively affect the rate payers. Even in a time of economic downturn, the Commission still has the obligation to set utility rates at a level sufficient for the utility to recover its costs based on the evidence presented in the case.

2. Additional Customer Protections

Although proposals to provide additional customer protections are consistent with mitigating the impact of a rate increase on customers, such proposals do not "address *variables* such as timing, amortization periods, or the use of existing mechanisms." Nevertheless, Staff feels that proposals for additional customer protections are worthy of the Commission's consideration here.

¹ Public Counsel Response, p. 3.

² The Energy Project Response, p. 1.

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Staff does not object to customer protection measures such as improving bill assistance, minimizing disconnections, potentially expanding the moratorium on disconnection and related fees and developing a debt forgiveness program. However, the Commission and PSE already have taken a number of measures in response to the Governor's Proclamation,³ and stakeholders can continue to advocate for, and the Commission can implement, more necessary measures outside the rate case proceeding.

3. Adjust Amortization of Regulatory Assets and Liabilities

Only Staff and PSE presented options for adjusting amortization periods for regulatory assets and liabilities. Therefore, the remainder of Staff's reply addresses PSE's response to this bench request.

Response to PSE's Approach

Staff's and PSE's approaches are similar in that they both focus on adjusting the amortization periods for various existing deferral balances as a means of reducing the amortization expense in the rate year. While Staff also includes as an option shortening the amortization period of unprotected Excess Deferred Income Tax (EDIT) liability, Staff and PSE both predominantly focus on extending the amortization periods for regulatory assets. Under Staff's approach, the Commission can pick and choose the combination of the deferral accounts and their amortization periods to arrive at the desired effect on rate relief. PSE's proposal aligns the amortization life of a selected group of regulatory assets with the amortization of EDIT, leaving it to the Commission to decide which regulatory assets to include in the new group of regulatory asset holding accounts and how long the amortization period for the new group should be.

Although PSE's approach is similar to Staff's approach, three distinct aspects of PSE's approach warrant further discussion, including words of caution:

- A. PSE's EDIT matching approach – merit and caution;
- B. PSE's inclusion of contested deferral balances;
- C. Length of amortization periods.

³ For example, the Commission has approved the suspension of disconnection and late fee waiver for multiple utilities during the state of emergency. The Commission also authorized PSE to directly distribute low income bill assistance fund through Crisis Affected Customer Assistance Program.

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A. EDIT Matching Approach – Merit and Caution

NOTE: PSE is NOT proposing that the Commission make a determination with respect to offsetting protected EDIT in this GRC. So, the Commission need not concern itself with EDIT offsets here. All that PSE asks the Commission to do is find a way, using whichever regulatory assets it chooses, to reduce annual amortization expense. PSE will approach the IRS at a later date regarding the potential for offsetting EDIT.

As to whether PSE's EDIT-matching approach has merit, Staff is cautiously neutral. While Staff sees modest benefit in cleaning offsetting assets and liabilities off the Company's balance sheet, such an approach comes with downsides as well.

As a threshold matter, PSE's response is ambiguous with respect to the level of amortization expenses from various regulatory assets that will be embedded in rates from this general rate case if its proposal were to be adopted. If the Commission elects PSE's approach, Staff recommends that the Commission require PSE to file an explanation with supporting accounting exhibits.

In the event that there is a balance sheet offset of assets and liabilities based on the proposed regulatory asset amortization and EDIT amortization, there is a possibility that the amortization expenses of regulatory assets and EDIT that PSE actually experiences will diverge from what is built into rates going forward. If that is the case, PSE's approach would have the potential to benefit the Company at the expense of ratepayers. While PSE reasons that ratepayers are made no worse off if what ratepayers owe PSE (i.e., regulatory assets) is exactly offset by what PSE owes ratepayers (i.e., EDIT), that is only true if rates can capture the annual *expense* effects of that offset in real time. And this might not occur. In reality, if and when the IRS allows the balance sheet offset, PSE would begin booking levels of regulatory asset amortization expense and EDIT amortization that are different than the levels embedded in the rates the Commission authorizes here. Because the amortization period for the regulatory assets is shorter than that of protected EDIT, offsetting regulatory assets with protected EDIT on the balance sheet will create a significant net reduction to the level of expense the Company books. Given that this would occur after rates from this GRC go into effect, customers would not benefit from the net reduction to annual expense. In other words, PSE will have reduced substantially the protected EDIT balance it owes to customers, but customers would not receive a commensurate reduction to the amortization expense.

Absent a modification to PSE's EDIT matching proposal such that the imbalance discussed above can be identified and rectified, PSE's proposal could become a bad deal for

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ratepayers. However, as noted above, the Commission's decision here need not hinge on an assessment of the implications of offsetting EDIT on PSE's balance sheet. That is an issue for another day. All that the Commission is deciding here is whether, and to what extent, to modify the amortization periods for regulatory assets to arrive at a targeted reduction to amortization expense.

Even if the Commission sees merit in PSE's EDIT matching proposal, the Commission need not – indeed should not – “approve” the use of protected EDIT to offset regulatory assets. Rather, if EDIT matching is an option the Commission wishes to leave open for PSE, the Commission should extend the amortization periods for regulatory assets such that the new group amortizes at \$38 million per year. The Commission also should signal to PSE that if the Company gets approval from the IRS, the Commission expects a filing that clarifies if the potential imbalance described above would exist and, if so, offer a remedy.

B. Inclusion of Contested Balances

In Table 1 of its bench request response, the Company includes the full deferral balances for AMI, GTZ and major maintenance expense, all of which are contested in this rate case. Although Staff identified the deferrals for AMI and GTZ in its initial response to this bench request, Staff was careful to point out that the deferral balances are contested in this GRC and that the Commission will determine whether any of these balances are appropriate for recovery. Some of the balances identified in Table 1 of PSE's response are not the balances Staff believed to be appropriate for recovery in this GRC. Therefore, Staff wishes to note that the combinations of regulatory assets presented in PSE's response will not necessarily lead to the reduction to amortization expense that it claimed.

C. Long Amortization Periods

Staff wishes to caution the Commission against ordering excessively long amortization periods for regulatory assets identified in responses to this bench request. While extending amortization periods will have the effect of decreasing revenue requirement, it also asks future ratepayers to pick up somebody else's tab.⁴ In its bench request, the Commission seeks input on options to mitigate the rate impact in the short-term. In Staff's view, extending the amortization of regulatory assets over longer periods of time not only begins to create serious intergenerational inequities, it is also inconsistent with the Commission's intention to consider short-term mitigation options.

⁴ For example, under PSE's proposal, rate payers over ten years from today would still be paying for storm damages that occurred in 2017. Some GTZ investments would be totally depreciated and replaced with other IT platforms.

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Under Staff's approach, the modified amortization periods for the regulatory assets and liabilities, if all are adopted, will be less than 5 years for electric and less than 4 years for gas. The amortization periods PSE proposed range between 6 and 15 years. Staff encourages the Commission to target amortization periods closer to 6, rather than 15, years. To that end, Staff prefers PSE Scenario 3 over Scenarios 1 and 2, with the caveat (as described in Section (3)(B), above) that the balances for certain regulatory assets PSE included in Scenario 3 remain contested.

In conclusion, we believe the Commission should give preferential consideration to Staff's proposal.