

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Energy Assistance in
Section 12 of the Clean Energy
Transformation Act

DOCKET UE-200629

SECOND COMMENTS OF THE
ENERGY PROJECT

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DECEMBER 18, 2020

I. INTRODUCTION

1 These Second Comments of The Energy Project (TEP) are filed in response to the Commission’s Notice of Opportunity To File Comments dated November 18, 2020, and the Addendum of December 4, 2020. The Energy Project filed Initial Comments in this docket and participated in the December 1, 2020, workshop. The Energy Project previously addressed low-income issues in the Clean Energy Transformation Act (CETA), *inter alia*, in comments filed in the Commission’s CETA/Energy Independence Act (EIA) rulemaking¹ and the Integrated Resource Plan/Clean Energy Implementation Plan Rulemaking. These comments build on the earlier comments in the docket and on the workshop discussion. We provide an overview, a discussion of selected issues, and a summary of recommendations regarding potential guidance from the Commission.

¹See, e.g., *In the Matter of the Rulemaking For the Energy Independence Act, WAC 480- 480-109, Considering Revisions To Comply With The Clean Energy Transformation Act, Docket UE-190652 (EIA Rulemaking), Initial Comments of The Energy Project.*

2 The Energy Project looks forward to continuing to work with the utilities, Staff, other
stakeholders and the Commission as the important work of Section 12 implementation moves
forward.

II. OVERVIEW

3 There are two fundamental goals of CETA. First, to establish a requirement that all
Washington utilities, whether customer-owned or investor-owned, provide energy assistance to
low-income customers.² The second goal, in recognition that the majority of low-income
customers don't receive assistance, is to demonstrate progress toward providing very
significantly increased availability of assistance over the coming years. Under CETA, these are
for the first time in Washington state established as state wide requirements.

4 On the first goal, we have a solid base to build on in the sphere of regulated utilities
under the jurisdiction of this Commission. All Washington investor-owned utilities (IOUs) have
low-income energy assistance programs in place that are available to all their eligible customers.
The primary statewide task under the first goal is the establishment of low-income programs for
the customers of consumer-owned utilities if such programs are not currently offered. For the
regulated IOUs and the Commission, the focus is on the second goal, making progress toward
broader coverage.

5 The Clean Energy Transformation Act is not fundamentally a program design statute.
While some important program design components are included, including energy burden
reduction, prioritization, and eligibility metrics, these are already part of the existing picture,
incorporated into the current IOU programs that service customers. The Clean Energy

Transformation Act process will provide a valuable opportunity for programs to further develop, refine, and improve the effectiveness of these design elements. The Commission has been given the role of setting two general parameters – energy burden and the definition of low-income. Once these are established, however, the Commission’s role on the details of program design need not change significantly from its current role, where the programs details have been carefully and successfully developed by agencies and utilities, working with their Advisory Groups, and brought to the Commission for approval when necessary, either through tariff filings, or specific issues that can’t be resolved by the parties. Again, the focus under CETA is on making sure that programs are available, and then in finding effective ways to reach a greater portion of eligible low-income households, particularly those with the lowest income and higher energy burdens.

6 Utilities and Transportation Commission (UTC) guidance at this point should be high level and allow for flexibility to the utilities and the agencies delivering the programs. This docket has provided a valuable and productive initial exploration of the issues which will be useful going forward. However, the record is still quite limited compared with what will be available in the next few months. As with CETA implementation generally, this will be an iterative process. The best course at this stage may be to focus on procedural guidance for the process around compliance and the biennial assessment filings on July 31, 2021.³ The Commission will be better placed at that time to provide more detailed policy guidance.

² RCW 19.405.120(2).

³ RCW 19.405.120(4)(a). *See*, Guidelines for RCW 19.405.120, Version 03.09.2020, Department of Commerce, at 3 (Commerce Guidelines). The Commerce Guidelines state that the biennial assessment reports are due on July 31, 2021.

III. SELECTED SECTION 12 ISSUES

A. Demonstrating Progress

7 The two primary goals of CETA are making low-income energy assistance programs available, and making progress in increasing coverage of those programs. We are fortunate in Washington that we are not starting from scratch in this effort. Washington's five regulated IOUs, the agencies delivering those programs, and the other stakeholders (including Commission Staff, TEP, Public Counsel and NWECA) have over the past decades together established a strong baseline of programs that make both monetary assistance and energy efficiency that is available to all eligible low-income customers in every IOU service territory. Given this fact, in TEP's view, for purposes of this docket, the most important aspect of Section 12 is stated in the first sentence: "It is the intent of the legislature to *demonstrate progress toward making energy assistance available* to low-income households consistent with the policies identified in this section."⁴

8 Existing programs have been making progress since their inception in providing benefits to increasing numbers of low-income customers, as measured both by customers participating, and by increasing budget amounts. The challenge is that, notwithstanding these efforts, many low-income customers are not yet participating in the programs.⁵ The unmet need is substantial. Even when measured at 150 percent of Federal Poverty Level (FPL), for example, Puget Sound

⁴ RCW 19.405.120(1), emphasis added.

⁵ There are a variety of reasons for this, including funding limitations, lack of awareness, cultural and language barriers, fear of government or utility interactions, and economic fluctuations.

Energy (PSE) has approximately one quarter million low-income customers. Of these, approximately 13-14 percent of electric customers participate in the HELP program.⁶ The Clean Energy Transformation Act, for the first time in Washington, provides a statutory framework for taking on this basic challenge of helping more customers to have affordable energy service.

9 This primary goal of expanding coverage is reflected throughout Section 12. RCW 19.405.120(2) requires that each utility must “demonstrate progress in providing energy assistance” in the assessments which the utility will provide every two years to Commerce and to the UTC. This demonstration in turn is directly tied to three primary areas: (1) the effectiveness of the utility’s programs, which in part will be measured in terms of customers served; (2) the outreach conducted to encourage participation in energy assistance programs, again reflecting the goal of greater participation; and (3) a review of funding levels needed to meet 60 percent of the need by 2030 and ninety percent by 2050, reflecting an aspirational target or goal for significant expansion of coverage.

10 RCW 19.405.120(3) requires Commerce to collect data about each utility’s energy assistance “in order to improve agency and utility efforts to serve low-income households with energy assistance.” Finally, the assessment “must include a plan to improve the effectiveness of the assessed mechanisms and strategies toward meeting the energy assistance need.”⁷ All of these requirements are expressions of the intent to expand the reach of energy assistance. It is important to view all the elements of the statute, including considerations of energy burden

⁶ See, *Washington Utilities & Transportation Commission v. Puget Sound Energy*, UE-170033/UG-170034, Testimony of Shawn Collins, Exh. SMC-1Tr, p. 3 (citing PSE testimony re 20 percent); PSE Annual HELP Program Report, 2018/2019 Program Year (May 29, 2019), at 5.

⁷ RCW 19.405.120(4)(b).

reduction, and the broadened definition of low-income, within this broader context of legislative intent and the statutory directives.

11 An immediate question for this docket is about the appropriate timing of any guidance on this topic. A demonstration of progress, and evaluation of that progress, would inevitably be preliminary in nature at the initial phase of compliance for July 31, 2021. Since the May 2019 effective date of CETA, the UTC and Commerce have been engaged with the utilities and stakeholders in working on CETA implementation, rulemaking and interpretation and issues.⁸ Final rules as well as the potential for guidance are not becoming available until now. While the utilities will certainly be able to report in their first biennial assessment about recent progress in their programs, measuring utility progress in the initial biennial period against guidelines and standards announced at the end of the period would not be a particularly useful exercise.

12 The better approach is to treat the first biennial assessment as establishing the baseline against which progress is measured going forward. Once the 2021 biennial assessments are filed, the Commission can, as part of the review process of those filings, consider guidelines for how it will expect progress to be demonstrated by the time of the next biennial assessments in 2023 (discussed in more detail below). The workshop discussion questions asked what principles should be included in the Commission’s guidance on this topic. The Energy Project Initial Comments provided a response as did other stakeholders and a broad array of reasonable recommendations were provided.⁹ The Energy Project is generally comfortable with the

⁸ COVID-19 response has also been a priority beginning in 2020.

⁹ Initial comments of TEP, ¶¶ 17-22. In paragraph 22 the comments state: “The statute, therefore, appears to contemplate that progress should be evaluated in terms of these factors. The information provided in connection with the biennial assessments will provide a body of information for the Commission to use in evaluating progress.

recommendations that have been made by other stakeholders. These can provide a good basis for further discussion and analysis during the biennial assessment in mid-2021.

B. Programs and Funding

1. Program Issues

a. Substantial compliance

13 As a threshold matter, Washington IOUs are currently in substantial compliance with the statutory requirement to provide low-income energy assistance “programs.”¹⁰ All five companies are currently offering both “monetary assistance” and “weatherization”¹¹. Both types of program are currently made available to all eligible low-income customers.¹² The only qualification to this is that some modifications may be needed to tariffs to the extent eligibility levels are adjusted to match the new definition of “low-income.” An option for the Commission, as part of any guidance statement, would be to state a tentative conclusion of substantial compliance, subject to review in July 2021.

b. Other programs

14 The Energy Project recommends that non-ratepayer funded programs not be considered for purposes of determining whether a utility is meeting the requirement to provide energy assistance under RCW 19.405.120(2). Two primary additional programs available to customers are federal Low-income Rate Assistance Program (LIHEAP) and the charitable “emergency” or

In addition, the Commission can also look at related information such as budget levels, number of participants and households served, weatherization evaluations, energy burden reductions, reduction in arrearage levels and numbers of disconnections for non-payment.”

¹⁰RCW 19.405.120(2),

¹¹ RCW 19.405.020 (15)(a).

¹² See, e.g. PSE Schedule 29 HELP (including Income Eligibility Criteria), Schedule 201 (Electric Energy Efficiency Program).

“fuel funds”. In our Initial Comments, TEP has addressed why “emergency funds” should not be viewed as a basis for compliance. Federal LIHEAP programs are not “made available” by the utility, but are an independent federal program not funded or administered through the utility. The utility has no ability to structure, fund or manage LIHEAP so as to pursue CETA’s statutory goals. It would not be consistent with the legislative intent or the statutory requirements to treat a utility as in compliance with Section 12 solely because federal LIHEAP or charitable funds were available to its customers. It may be reasonable, however, to consider these types of non-utility programs in terms of meeting energy assistance need.

c. Number of programs

15 One of the issues raised in the first round of comments was how many programs¹³ must be provided, and to what group of customers. As just discussed, every IOU in the state offers at least two types of programs to all eligible low-income customers, a bill assistance and a weatherization program. This is consistent with TEP’s reading of the statutory requirement, as we discussed in the first round of comments.¹⁴ These programs are effectively offered to all low-income customers served by the IOU if the customer meets the current eligibility requirements. As discussed below, current programs also reduce energy burden and prioritize customers with higher energy burdens. The only change required under the statute would potentially be the modification of the eligibility levels to match the new definitions. As a result, there is no immediate need for the Commission to address this issue on a blank slate on a purely theoretical level. The Commission could at this stage reasonably reach the tentative conclusion

¹³ RCW 19.405.120(2). The statute uses the plural term “programs.”

¹⁴ TEP Initial Comments, ¶ 8.

that the IOUs are in substantial compliance, subject to modifications required to meet the new low-income eligibility definition, and of course, subject to review of the biennial assessment filings next summer.

16 The Energy Project, therefore, recommends that the Commission avoid adopting interpretations or guidance that imply or require a “roll back” of existing levels of program provision. Indicating to the five IOUs, for example, that CETA only requires that they offer one program, only bill assistance, or only low-income weatherization, would run directly contrary to the overall statutory goals, definitions, and requirements, including the “demonstration of progress.” Moreover, that issue is not present in the current program infrastructure. While it seems unlikely, if any IOU proposes to reduce the number of programs offered to one at the time of the July 31, 2021, deadline filing, the Commission can make a determination at that time whether that complies with the statute. There is nothing in the statutory intent language that indicates such an intent for CETA, either under Section 12 or elsewhere. The goal is built on and improve the current system, and to make progress toward serving a greater number of customers.

17 This is supported by the statutory language in RCW 19.405.120(4)(a)(i) which requires, as part of the utility’s biennial assessment filing, an assessment of the “effectiveness of the programs and mechanisms in both short-term and sustained energy burden reductions.” The existing framework of energy assistance aids energy burden reduction over both the short and long-term. Bill assistance programs in Washington are annual programs that distribute a grant to customers to reduce energy burden for the program year – typically by creating a credit on the customer’s account. This is short-term energy burden reduction, assisting the customer for a

finite period, generally tied to the heating season. Weatherization programs on the other hand, when energy efficiency measures are installed in the customer's home, have a permanent, long-term effect in reducing energy usage over multiple years and heating seasons. Both types of assistance are important, and both should continue to be made available to all eligible low-income customers, as they are now.¹⁵

2. Funding

18 Funding is currently available and provided, primarily through IOU ratepayers, for low-income assistance programs for all five IOUs.¹⁶ Funding levels are calibrated to meet the need and several companies have formula increases to meet growing demand and delivery capability.¹⁷ In addition, as a result of the recent COVID-19 Response Order, the available funding for bill assistance may as much as double. Investor-owned utilities appear to be in substantial compliance with this requirement at the present time, a conclusion which the Commission will be able to review at the time of the biennial assessment filings. There does not appear to be a need for guidance at this time. Future funding issues are likely to focus, appropriately, on what progress has been demonstrated in expanding program resources.

¹⁵ An interpretation that only one program is required would theoretically allow a company to provide a only a low-income weatherization program. Weatherization assistance is not practicably available to every household for a variety of reasons such as the ownership status of the premises, whether the residence is a multi-family structure, the condition of the structure and other factors. For many customers, energy burden reduction may only be achievable through energy assistance.

¹⁶ Avista LIRAP, Sch. 92, Avista Schedules 90 and 91 (energy efficiency). Low-income energy efficiency programs are funded by IOU ratepayers primarily through tariff riders.

¹⁷ See e.g., *Washington Utilities & Transportation Commission v. Avista Utilities*, Dockets UE-150204/UG-150205, Order 05 (Avista 2015 GRC), ¶¶ 231-232 (Avista LIRAP 5 year funding plan); Cascade WEAFA Annual Report, 2018/2019 Program Year, at p. 1.

C. Prioritization

1. Current program designs prioritize customers with lower incomes and higher energy burdens

19 As noted above, existing energy assistance programs, including Low-Income Weatherization and bill assistance programs utilize the concepts of both energy burden and prioritization in their respective program designs that drive benefit calculations. In the case of bill assistance, prioritization occurs through increasing benefits to households with higher energy burdens. More funds are distributed to households with lower incomes and high energy usage resulting in prioritization of assistance funds to households most in need. Carefully crafted benefit curves have been created to functionalize this concept in program design.

20 Commonly, IOU bill assistance programs utilize a benefit calculation that takes into account the energy consumption from the previous twelve months as well as a household's total income. This establishes an energy burden. The benefit calculation is formulated to provide the largest benefits to the poorest households, which effectively prioritizes available funding for households with the lowest incomes.

21 For example, Avista's LIRAP program grant amount is based on household size, income, annual heat cost, and housing type (in some cases). This calculation gives a larger award benefit to a household with a lower-income and a high heat burden (by design). The largest award benefits go to the poorest households. Under the formula, a household at 50 percent of the FPL will get approximately 90 percent of their heating cost paid, at 100 percent FPL would get 70 percent of hearing cost paid, and at 125 percent about 50 percent of heating cost paid. Avista's

LIRAP Annual Summary Report for the 2017/2018 Program Year provides a detailed explanation of energy burden reductions that resulted from the provision of bill assistance to customers at different income levels.¹⁸

22 The PSE HELP program also uses a formula which takes into account annual energy use and income to determine energy burden, factoring in income and household size, and generating an award amount that is greater for the household at the lower-income level with a higher energy burden. In this example, using the PSE HELP calculation, for comparably sized households with the same energy usage, the household with the lower-income receives a higher benefit amount:

- A household of three with an income of \$32,250 (150% of Federal Poverty Level), using 12000 kWh annually, would receive a HELP benefit of \$576 (less any LIHEAP funds they may be eligible for).
- The same size household of three with an income of \$21,720 (100 percent Federal Poverty Level), using the same amount of energy (12000 kWh annually), would receive a help benefit of \$648 (less any LIHEAP grant they might be eligible for).

The family in the second example, while their usage is the same, faces a higher energy burden because of their lower income. The formula prioritizes their need by generating a larger award. Multiplied across the entire program, the available funding is thus prioritized to the low-income PSE customers households with the higher energy burdens.

23 The Clean Energy Transformation Act allows for a flexible and practical approach to prioritization, providing that “[t]o the extent practicable, priority must be given to households with a higher energy burden.”¹⁹ Approaches to prioritization may vary across IOUs based on current program

¹⁸ Avista LIRAP Annual Summary Report at 12, Table 6 (Energy Burden- Total Energy Costs Divided By Household Income).

¹⁹ RCW 19.405.120(2).

designs, existing practices and methods, partnerships with local agencies, and demographics of the service territory. Consultation with Advisory Groups will continue to be critical. Existing IOU programs direct the bulk of their funding to households with the lowest incomes and the highest energy burdens and continue to develop and improve these efforts. Utilities and Transportation Commission guidance should allow for flexibility in prioritization at this stage.²⁰

2. Other prioritization issues

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In addition to the benefit calculation formulae, there are other tools that can assist prioritization. Additional prioritization occurs with respect to the timing of fund availability. For example, households with elderly or disabled clients, Native Americans, and other vulnerable households are specifically targeted for early enrollment in bill assistance programs. Some confusion may arise, however, if the term prioritization is used in the sense of providing help to customers who come through the door first. The Energy Project's understanding is that there is not a significant problem with "first come/first served" such that customers who apply later, with higher energy burdens than earlier applicants, will not receive benefits. As a general proposition, current programs are designed to structure budgets commensurate with historic and projected utilization of those funds. Eligible customers, no matter when they apply during the program year, receive an award amount based on their individual household energy burden. As a result, the annual budget as a whole prioritizes the available funding by allocating the larger share to lower-income customers with higher energy burdens.

²⁰ Going forward, IOUs may also consider a range of different approaches to provide some assistance to households that are closer to the higher end of the income range, such as arrearage management, emergency assistance, or a minimum benefit.

25 The discussion questions ask how programs could be structured such that low-income/high energy burden households could be prioritized without delaying provision of assistance. To TEP’s knowledge there is not a structural problem of delay related to prioritization. As discussed above, prioritization is built in to the benefit award calculations. The formula is run during the application process to generate the customer’s benefit amount and does not add additional processing time or otherwise postpone the benefit.

26 The Clean Energy Transformation Act contemplates that the Commission determine the appropriate level of energy burden for determining energy assistance need.²¹ The Commission has addressed this in other CETA rulemaking settings by establishing a 6 percent energy burden²² but has not adopted rules on this or the low-income definition issue specifically applicable to Section 12. This is an important area where flexibility should be allowed for programs. As one important example, if the energy assistance award lowered household energy burden below 6 percent, it should be allowed. If a utility has a program component that addresses very low-income population, e.g., Avista’s PIPP program, that utility should be considered in compliance with CETA. The energy burden of 6 percent should be a yard stick for program evaluation, but not a replacement formula. Specific program approaches to factoring in the energy burden metric can be developed by the utilities, agencies, and Advisory Groups within individual programs and brought forward for Commission review.

²¹ RCW 19.405.020(16).

²² See, EIA Rulemaking, adopting WAC 480-109-060(14); Dockets UE-191023 (CEIP) and UE-190698 (IRP), final proposed WAC 480-100-605, defining “energy assistance need.”

D. Other Program Design Issues

1. Program types – PIPP

27 Nationally, and in Washington state, a variety of program designs are available and in use for bill assistance. These include grant programs, discount programs, and percentage of income payment programs, and variations on those types. In Washington, the primary bill assistance programs are grant programs (PSE, Avista, Cascade, and NW Natural), with PacifiCorp providing a rate discount program. All these programs reduce energy burden by reducing the amount of household income that must be devoted to paying for energy.

28 The workshop included discussion of percentage of income payment programs. No Washington IOU currently has an across-the-board PIPP program. However, working with agencies, TEP, Commission Staff, and other stakeholders in order to evaluate the potential of the approach, Avista recently implemented two pilot programs to reduce energy burden and disconnections for low-income households -- an Income Based Payment Program (IBPP, a form of PIPP) and a Balance Management Arrangement (BMA). These two pilot programs were evaluated by Evergreen Economics after one year of implementation. The IBPP targeted very low-income households, at 10% - 50% FPL, and sought to reduce energy burden to 6 percent through monthly fixed percentage bill discounts. The BMA pilot was available to participants in the IBPP who had arrearages at the time of enrollment. Balance Management Arrangement participants could have 90 percent of their arrearages covered if they made consistent payments

on the remaining 10 percent of the arrearage during the one-year pilot program.²³ Community action agencies determined income eligibility for the pilots.

29 The pilots included an independent evaluation by Evergreen Economics which included the following conclusions:

- “The process to qualify customers for the pilot program is more resource intensive compared to the existing grant programs.”²⁴ The report also notes that in any program expansion “it would be challenging to make recruitment less time intensive.”²⁵
- IBPP and BMA significantly decrease the likelihood of both missed payments and disconnections.²⁶
- Energy burden was reduced to 12 percent for all participants, although short of the goal of 6 percent. Prior to enrollment, IBPP participants had an average energy burden of 28 percent.²⁷ After the program, 33 to 44 percent of participants had energy burdens at 6 percent or below, and virtually all of the remaining participants had energy burdens below 12 percent.²⁸
- Energy usage among IBPP participants did increase by 4 percent during the program. The report describes this as “not uncommon in rate assistance programs” because the

²³ *Avista Income Based Payment Program / Balance Management Arrangement Pilot Program Evaluation*, Final Report, Evergreen Economics, April 20, 2020, p. 1.

²⁴ *Id.*, p. 2.

²⁵ *Id.*, p. 48.

²⁶ *Id.*, p. 43.

²⁷ *Id.*, p. 44.

²⁸ *Id.*, p. 45.

discounts make energy use more affordable and allow households to increase comfort, such as increasing the thermostat temperature for heating.²⁹

30 The Energy Project is very supportive of the PIPP approach, but based on the pilot results, some words of caution are in order. There is evidence that PIPPs are best suited to targeting households with very low incomes as this program design can actually have a negative impact on households with higher incomes, above 50 percent of FPL, when compared to existing grant program offerings. They also may be more costly and resource intensive to deliver. At this stage, it would be premature to identify the PIPP as a preferred delivery design for monetary assistance to replace broad-based programs such as LIRAP or HELP. This does not diminish the fact that the PIPP is one of several approaches worth considering, especially as a targeted program offered in conjunction with a more general bill assistance program.

2. New eligibility requirements

31 Current eligibility requirements may have to be adjusted as programs move toward adoption of a new definitions of “low-income.” This in itself is not a significant matter. Bill assistance programs are regularly revised to reflect changes in eligibility metrics (most recently in increases in FPL levels). As in the past, the existing programs can be modified to incorporate the new requirements, including through tariff amendments, as needed.

32 One issue to be addressed in program design is the impact of using the greater of 200 percent FPL/80 percent Advanced Metering Infrastructure (AMI). Use of 80 percent AMI in certain geographic areas may result in relatively higher income customers being eligible for programs under the standard. At the same time, the requirement to prioritize higher energy

²⁹ *Id.*, p. 52.

burden customers at lower-incomes could tend to reduce the benefits of those at or near the top of eligibility, sometimes to very low levels. Utilities and delivering agencies should be allowed flexibility in program design, to accommodate the interplay between the adoption of the higher income levels in the low-income definition and the statutory goal of prioritization tied to a more specific energy burden metric.

33 One reasonable approach is to think of 200 percent FPL/80 percent AMI as a first filter for potential eligibility. Once the customer meets the first threshold, then the application is viewed through the second filter of prioritization for those with the higher energy burden. Indeed, that is how the programs work now. The introduction of the 80 percent AMI metric, however, in some geographic areas, could result in higher income customers having a negligible calculated benefit. One potential solution would be to establish a minimum benefit level. Under the flexible process envisioned by TEP, agencies, utilities, and stakeholders will develop a variety of program design solutions to such issues and bring them forward in the Commission review process, with the potential to move toward best practices, and where appropriate consistency between programs.

3. Effectiveness

34 Regarding effectiveness, there was discussion at the workshop of whether low-income weatherization actually reduces usage or the degree to which it is offset by increased usage that has been observed. The data show clearly that low-income weatherization is successful in substantially reducing usage. For example, an evaluation of PSE's Low-Income Weatherization (LIW) program, conducted by Cadmus, included a comprehensive billing analysis to assess

program impact. The evaluation determined that the program successfully reduced the energy cost burdens of low-income households, due to energy efficiency measures installed as well as energy education. Specifically, the evaluation found that participants used 18 percent less electricity, achieving average electric savings of 2,928 kWh per year.³⁰ Low-Income Weatherization participants used 24 percent less gas on average (188 therms), as a result of the program.³¹ Cadmus characterized these findings as “among the highest relative impacts compared to other low-income weatherization programs benchmarked from across the country.”³²

E. Energy Assistance For Non-Low-Income Customers

35 Some discussion occurred at the workshop regarding the issue of how to take into account energy assistance for non-low-income customers. The Energy Project understands this issue to arise from the fact that the CETA definition of energy assistance does not use include the term “low-income.” This can lead to reading RCW 19.405.120(2) to refer to both “low-income” energy assistance (in the first sentence), and energy assistance to *all* income levels (in the second sentence). The Energy Project does not believe this is the most reasonable interpretation of the provision. The entirety of Section 12 by its terms is addressing low-income energy assistance, as reflected in the intent section, RCW 19.405.120(1). The first sentence of RCW 19.405.120(2) contains the core mandate of the section, that utilities must provide programs and funding for “energy assistance to *low-income* households.” (emphasis added). The second sentence then

³⁰ UE-152058, PSE 2017 Annual Conservation Report, *Low-Income Weatherization Program Final Evaluation Report*, Cadmus, (October 27, 2017), p. 6.

³¹ *Id.*, p. 10.

³² *Id.*, p. vii.

requires a demonstration of progress in providing energy assistance. Based on the context, this is most reasonably read as referring to the “low-income”energy assistance mentioned in the immediately preceding sentence. The third sentence of RCW 19.405.120(2) again refers to “low-income households,” further underlining the application of the subsection to low-income customers.

36 Outside of the definitional section, there is no statutory language or mandate requiring the provision of energy assistance generally to all customers of any income.³³ Interpreting Section 12 as requiring utilities to address the “energy assistance need” of customers at all income levels leads to problematic results. As reflected in the Staff presentation at the workshop, this interpretation would be including assistance to non-low-income customers in the overall calculation of energy assistance need. This skews the overall calculation of need by increasing the total beyond the already substantial level of need for low-income energy assistance, including meeting 60 percent of the need by 2030 and 90 percent by 2050, diluting efforts to make progress on low-income assistance as required by Section 12. Other Section 12 requirements would also be affected, since the term “energy assistance” is used throughout the section, sometimes without the modifier “low-income.” The plan required under 19.405.120(4)(b) for example, would have to address the provision of energy assistance to the entire customer base.

37 Finally, a broad reading of “energy assistance” is also inconsistent with the adoption of a specific metric for determining energy burden, which in turn determines “energy assistance

³³ To the extent “energy assistance” means energy efficiency programs, promotion of energy efficiency is of course one of the overall clean energy goals of CETA. Energy efficiency programs for non-low-income customers, however, are dealt with in the context of integrated resource plans, clean energy implementation plans,

need.” The metric is calculated at a level to target energy assistance to customers with the lowest incomes, the highest usage, and the resulting high energy burden. The provisions of Section 12 are properly interpreted as relating to the low-income energy assistance which is the subject of this section of CETA.

F. The Role of Advisory Groups

38 As part of the Section 12 implementation process, it is important that the Commission recognize and preserve the critical role of low-income Advisory Groups. Each Washington IOU has two Advisory Groups that involve low-income energy assistance: a low-income bill assistance Advisory Group, and an energy efficiency Advisory Group which includes low-income weatherization. The membership of the Advisory Groups typically consists of the utility, Commission Staff, TEP, Public Counsel, agencies, and in most cases, NWECC.

39 The Advisory Groups have played a long-standing and critical role in working on an in-depth basis with the utility on program design and operational issues. As an example, Avista’s current LIRAP program design was based on a detailed collaborative process of the Advisory Group.³⁴ The IBPP/AMP and Senior and Disabled Rate Discount Programs also involved close collaboration with Avista’s Advisory Group.

40 The program design issues that have been discussed in this docket, for example, prioritization and modification of eligibility requirements, are squarely within the expertise and job description of the Advisory Groups. The utility and organizational members bring years of experience and expertise to bring to bear on the issues. Agency participants are on the front-

and the EIA. There is not an analog in CETA to Section 12 requiring utilities to provide energy efficiency “programs and funding” to non-low-income customers.

lines of delivering the programs and are intimately familiar with enrollment, eligibility determinations, benefit calculations (including prioritization), outreach, administrative issues, access barriers, language issues, and local service territory conditions. The Advisory Groups have a long track record of successfully collaborating to address and solve design and operation problems, and to bring the solutions to the Commission for review and approval where appropriate. The advisory committees should be viewed as a valuable resource that can aid the Commission in its task of supervising CETA implementation. The Commission should ensure an integral role for Advisory Groups in the development and review of the biennial assessments, and other compliance activities.

41 As we move into CETA implementation, the role of Advisory Groups in all areas will continue to be key. The Commission's final rules for the IRP and CEIP provide for a central role for Advisory Groups. Energy efficiency Advisory Groups have had an integral role in the implementation of the EIA. Advisory Groups can and should play a comparable role in Section 12 implementation.

G. Compliance

42 In the Initial Comments, TEP observed that the Commission has a range of options for addressing Section 12 compliance. Compliance review will generally focus on the biennial assessment filing with Commerce, the first one occurring on or before July 31, 2021,³⁵ which is also the date by which low-income energy assistance programs and funding must be provided.³⁶

³⁴ *Avista 2015 GRC*, Order 05, ¶¶ 222-223.

³⁵ RCW 19.405.040(4)(a); Commerce Guidelines at 3.

³⁶ RCW 19.405.120(2).

One option mentioned would be for the Commission to require that each utility make a compliance filing with the UTC at that time. The filing would consist of the biennial assessment, and any other material relied on by the utility or request by the Commission. Similar to the processing of EIA filings, the Commission would establish a process for consideration of the filing at an Open Meeting, with opportunities for written and oral comment by stakeholders. The Commission would ultimately issue a determination of compliance, with the potential to adopt conditions or provide other types of guidance for the utilities to use in compliance going forward, a similar iterative process that has been used for EIA implementation and review.

IV. SUMMARY OF GUIDANCE RECOMMENDATIONS

43 Stakeholders have been asked to comment on the type and timing of guidance that would be most appropriate and useful in connection with Section 12 implementation. For the reasons generally discussed in these and earlier comments, it is TEP's view that it would be premature for the Commission to issue extensive substantive guidance or a detailed policy and interpretive statement prior to the filing of the biennial assessments July 31, 2021. Once those filings are made, the Commission will have a much more complete record upon which to analyze and evaluate the Company's current programs in light of the statutory requirements and to provide guidance for the next biennial period. At that time the Commission will be in a significantly better position to provide policy guidance, based on the specifics of each company's situation, and of the overall program landscape.

44 As a foundation for future policy guidance, TEP recommends that the Commission structure a process for determining compliance with RCW 19.405.120(2) based on the filing of

the biennial assessments and other information the Commission may request. The process should be similar to that used for the review of EIA filings. Stakeholders would be given a period of time to comment on the filings. The compliance filings would be set for consideration at an Open Meeting. The Commission would ultimately make a determination of whether to approve the compliance filings. The process would provide an opportunity for the Commission to provide general guidance or policy statements about compliance going forward to the next biennial assessment filing, either by setting conditions on approval, or other means such as statements in the order. The utilities and Advisory Groups will then work together on necessary specific issues in the next assessment period.

45 Rather than issuing a detailed policy statement at this early phase, it may be most useful for the Commission to issue procedural guidance to the utilities and other parties with respect to the July 31, 2021 filing and review requirements. Under this approach, a procedural policy statement should include:

- Any compliance filing requirements the Commission would ask the utilities to meet for the July 31 filing, including any additional materials that the Commission requests to accompany the biennial assessment in order to demonstrate compliance with RCW 19.405.120(2).
- A list of issues the Commission would like the utilities to address in the compliance filing based on the issues explored in the docket to date (for example, how the programs meet the prioritization and energy burden requirements of the statute).
- A general description of the review procedure expected to be employed.

- A provision that the utility provides a draft compliance filing/biennial assessment to the low-income Advisory Groups a reasonable period in advance of filing.
- Guidance regarding whether utilities should modify their energy assistance program tariffs to reflect the new low-income definition based on 200 percent FPL/80 percent Area Median Income.

46 Should the Commission wish to issue substantive guidance at this stage, TEP

recommends that guidance be general in nature, allowing flexibility to the utilities in the first phase of implementation of the statute. The following points should be included:

- The guidance should avoid “picking winners” among different program designs.
- The guidance should recognize the important role of the advisory committees in working with the utilities to address program design, funding and operational issues connected with Section 12 implementation.
- The guidance should not be prescriptive regarding program design issues. Utilities, working with their Advisory Groups, should be given flexibility in developing ways to improve prioritization and energy burden reduction, and other issues.
- The six percent energy burden metric should not be treated as a “hard cap.” Companies should be allowed flexibility to design programs that generate awards which reduce energy burdens below 6 percent
- A tentative conclusion, subject to review of the compliance filings, that the regulated utilities low-income bill assistance and low-income weatherization programs comply with the requirements of RCW 19.405.120(2) to provide programs and funding.

- Companies should be permitted the flexibility to supplement broad bill assistance and weatherization programs with targeted programs for customers at lower income levels.

V. CONCLUSION

47 The Energy Project respectfully requests consideration of these Second Comments by the Commission in this docket. The Energy Project looks forward to continuing to work with the Commission, Staff, the utilities, and other stakeholders on this important aspect of CETA.

RESPECTFULLY SUBMITTED this 18th day of December, 2020.

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