

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the matter of the

Rulemaking to consider potential long-term changes and improvements to customer notice, credit, and collection rules, including permanent elimination of late fees, disconnection and reconnection fees, and deposits

Docket U-210800

SECOND COMMENTS OF THE ENERGY PROJECT

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I. Introduction

On April 29, 2022, The Energy Project (TEP) and other parties submitted initial comments in this proceeding. On August 3, 2022, the Commission issued a Notice of Opportunity to File Written Comments (Notice) addressing many of the topics identified in TEP's initial comments. TEP thanks the Commission for investigating those topics, and respectfully submits these comments in response to the Notice.

The COVID-19 pandemic has contributed to a substantial growth in residential customer arrearages, particularly in the 90+ day arrearages. Although the number of customers with arrearages held fairly constant during the past two years, the total amount of residential arrearages across the five investor-owned utilities (IOUs) ballooned from \$39 million in March 2020 to \$93 million in March 2022.¹ Consequently, households are carrying much higher levels of past due balances. The Energy Project's analysis of zip code level data shows that arrearages are disproportionately concentrated in a few zip codes that also include areas of highly impacted communities according to the Washington Department of Health's Environmental Health

¹ Thompson, C. & Kimball, M., *Summary of the Effects of COVID-19 on Washington's Investor-Owned Utilities Residential Customers*, The Energy Project, p. 7 (June 2022). A copy of the report is included as Attachment A to these comments.

Disparities map.² These highly impacted communities include areas with higher levels of certain socioeconomic factors, including poverty and unemployment, as well as sensitive populations, including people of color.³ TEP's most recent analysis of utility arrearage data is attached to these comments.

In light of these disturbing data trends in residential arrearages, combined with the end of the disconnection moratorium, TEP is concerned that Washington may be facing a wave of customer disconnections, which will disproportionately and inequitably fall on BIPOC and highly impacted communities. With this context and background, TEP believes that equity concerns are central to the Commission's inquiry in this proceeding.

TEP urges the Commission to consider eliminating disconnections for residential and low-income customers because cutting off utility services for nonpayment imposes a sanction that is not only harsh but also inequitable. Research has shown that even at comparable levels of income, Black households face disconnections at disproportionately high rates, relative to white households. And the consequences of disconnection are most severe for already-vulnerable populations, including the elderly and people living with health problems.

There are reasonable alternatives to disconnections that ensure the utility recovers its costs and customers get the assistance they need. To prevent the need for disconnections, utility

² *Id.* at pp. 13-17.

³ The DOH Environmental Health Disparities (EHD) mapping tool is part of the DOH Washington Tracking Network (WTN) program. The EHD map considers socioeconomic factors, sensitive populations, environmental effects, and environmental exposure. Washington's census tracts are ranked according to environmental factors and social and health vulnerability measures that influence health outcomes. Census tracts ranked 9 or 10 and those with tribal lands are designated as "highly impacted communities" (HIC). See WA Dept. of Health, *Washington Environmental Health Disparities Map*, <https://doh.wa.gov/data-statistical-reports/washington-tracking-network-wtn/washington-environmental-health-disparities-map> (accessed August 17, 2022).

service in Washington can include three types of programs: (1) ongoing energy assistance based on income level for customers with low incomes, (2) arrearage management plans with debt forgiveness for customers with low and moderate incomes, and (3) payment plans for all residential customers.

Utilities can also perform more proactive outreach to customers. First, utilities can automatically provide customers information about energy assistance and payment plans when past due balances exceed a certain threshold. Second, utilities can collaborate with community-based organizations to perform proactive outreach about energy assistance programs. Community-based organizations can effectively promote and build trust in energy assistance programs among customers with unmet need.

Our most vulnerable neighbors are clearly experiencing significantly higher levels of financial distress, and thus TEP appreciates the Notice's attention to the reporting of customer arrears to credit reporting bureaus, and if disconnections continue, the need for additional safeguards. As explained below, TEP is very concerned with the reporting of essential utility service debt to the credit bureaus.

Finally, to the extent possible, it would be beneficial for the Commission to seek input and guidance in this proceeding from organizations that advocate for and work directly with households with credit challenges, households that are unbanked, and individuals and households with other financial challenges. This would allow the Commission to gain as full a picture as possible regarding how credit issues, collections activity, and payment options impact customers.

II. The public interest and equity are best served by keeping certain customers connected to essential utility services (Questions 1.d-e).

As TEP noted in our prior comments, a number of organizations, including the NAACP and the National Consumer Law Center (NCLC), consider access to essential utilities to be a

human rights issue.⁴ TEP agrees, and believes that Washington has already made important steps towards recognizing and protecting that right, particularly for families that lack financial resources. For example, the winter payment program protects low-income families from losing residential heating service in the winter.⁵

While the winter program provides protection for part of the year, the importance of utility service extends beyond heat in the winter. Utility service is essential for health, safety, nutrition, and daily wellbeing throughout the year. Cutting off utility services for nonpayment imposes a sanction that is not only harsh but also inequitable. Research has shown that even at comparable levels of income, Black households face disconnections at disproportionately high rates, relative to white households.⁶ The consequences of disconnection are most severe for already-vulnerable populations, including the elderly and people living with health problems.⁷

Disconnection may not produce payment and can be counterproductive. Disconnection and reconnection can cost a utility more than it saves.⁸ In addition, the loss of electricity and heat makes it more difficult for individuals to maintain the stability and financial security needed to earn income, access public services, and pay back arrears. Moreover, cutting off service poses

⁴ Initial Comments of the Energy Project, pp. 3-4 (April 29, 2022) (TEP April 29 Comments).

⁵ See WAC 480-100-143.

⁶ Kowalski, K., *Racial disparities persist in electric service. Is 'willful blindness' to blame?*, Energy News Network (July 1, 2020), <https://energynews.us/2020/07/01/racial-disparities-persist-in-electric-service-is-willful-blindness-to-blame/>.

⁷ Franklin, M. & Kurtz, C., *Lights Out in the Cold: Reforming Utility Shut-off Policies as if Human Rights Matter*, NAACP, p. 9 (2017) (*Lights Out in the Cold*), <https://naacp.org/resources/lights-out-cold>.

⁸ See Colton, R. D., *Determining the Cost-Effectiveness of Utility Credit and Collection Techniques*, Nat. Consumer Law Center, pp. 19-24 (July 1990), http://www.fsconline.com/downloads/Papers/1990%2007%20Credit_n_collection_cost-effectiveness.pdf.

immediate risks to health and safety. Those risks include increased vulnerabilities to public health events such as extreme weather, and the danger to customers and neighbors when individuals resort to grills, candles, kerosene lamps, and other makeshift means of indoor cooking and providing light and heat.⁹

Better methods for arranging payment exist. As explained below, utilities should develop and deploy more robust programs for connecting customers to energy assistance, weatherization, and payment plans. Those programs aid customers in managing and lowering their energy costs and provide more sustainable and equitable pathways for financial security.

III. The Commission should adopt more equitable and effective credit and collection practices (Questions 1.f-g, 16 and 18).

In order to equitably serve low-income customers and prevent the need for disconnections, TEP envisions utility service in Washington including three types of programs: (1) ongoing energy assistance based on income level for low-income customers, (2) arrearage management plans with forgiveness for low- and moderate-income customers, and (3) payment plans for all residential customers. Finally, utilities should notify customers of energy assistance programs automatically when past due balances exceed a certain threshold.

A. The UTC should require IOUs to offer customers with low incomes ongoing bill assistance based on financial need.

The first type of program is ongoing energy assistance based on income level. As mentioned in TEP's April 29 Comments, ideally customers with the most need would be eligible

⁹ See Knauss, T., *Why is National Grid shutting off so many homes for nonpayment this summer? And 5 other questions*, Central NY News (September 7, 2014), https://www.syracuse.com/news/2014/09/why_national_grid_shut-offs_for_nonpayment_are_peaking_at_80_per_hour_this_summe.html (noting that some customers resort to risky alternatives after losing utility service); *Lights Out in the Cold* at p. 67, footnote 57 (describing the same risks).

for a percentage of income payment plan (PIPP) that sets their bill based on their income. However, the legislature recently required utilities to propose bill discount programs.¹⁰ As a result, over the next several years, utilities will work with their energy assistance advisory groups to design and implement bill discount programs for low-income customers. A well-designed bill discount program includes multiple tiers that provide customers with lower incomes a higher discount. For example, a five-tiered bill discount program could provide a varying discount based on income, as shown in Table 1.

Table 1: Sample Bill Discount Program Design

Income	Bill Discount
0-5% Federal Poverty Level	94%
6-50% Federal Poverty Level	75%
51-100% Federal Poverty Level	35%
101-150% Federal Poverty Level	20%
151 to 200% Federal Poverty Level or 80% Area Median Income, whichever is higher	15%

A well-designed bill discount program, such as the sample in Table 1, can provide some of the benefits of a PIPP. Considering that utilities in Washington are in the process of designing and implementing new bill discount programs which have the potential to provide some of the same benefits as a PIPP, TEP would prefer that utilities focus on implementing effective multi-tiered bill discount programs for the next year or two. During this time, the Commission should require utilities to work with the Community Action Partnership agencies and their energy assistance advisory groups to design and implement multi-tiered bill discount programs.

¹⁰ RCW 80.28.068 (“Each gas or electrical company must propose a low-income assistance program comprised of a discount rate for low-income senior customers and low-income customers as well as grants and other low-income assistance programs.”).

After two years, most if not all utilities will offer bill discount programs. At that time, the Commission and its energy assistance advisory groups should evaluate the effectiveness of the bill discount programs at reducing energy burden. One aspect of that evaluation should consider whether PIPPs could more effectively reduce energy burden compared to the existing bill discount programs.

B. The UTC should require the IOUs to offer arrearage management plans.

As explained in TEP's April 29 Comments, utilities should offer customers an arrearage management program, or AMP. AMPs typically target customers with low and moderate incomes and forgive a portion of customers' past due balance after a certain number of regular bill payments.¹¹

C. The UTC should require IOUs to offer all residential customers access to payment plans (Question 16).

Payment plans allow customers to repay arrearages over a period time, e.g., 12 or 18 months. Unlike AMPs, under a payment plan customers repay the full amount due.

Maine's payment plan policy contains several strong features which the Commission and utilities could draw from, in consultation with the low-income advisory groups.¹² TEP generally supports Maine's payment plan policy. As the Commission considers creating an analogous policy in Washington, it may wish to consider the following features of Maine's policy that promote equity by considering individual customers' circumstances:

¹¹ See, e.g., Nat. Consumer Law Center, *New D.C. Study Shows How Arrearage Management Programs Are a Win-Win for Companies and Customers Alike*, <https://www.nclc.org/issues/energy-utilities-a-communications/nclc-energy-utilities-telecom-blog/new-d-c-study-shows-how-arrearage-management-programs-are-a-win-win-for-companies-and-customers-alike.html> (accessed August 19, 2022).

¹² See generally Code Maine R. 65-407, Chapter 815, Section 9, pp. 22-27 (Payment Arrangements), <https://www.maine.gov/sos/cec/rules/65/407/407c815.docx>.

- *Individualized payment arrangements.* Every residential customer should have access to a payment plan that takes into account the customer’s individualized circumstances.¹³ Income requirements should not apply.
- *Referral to the Consumer Protection Division.* If a utility and customer cannot agree on the terms of a payment plan, the dispute should be referred to the Commission’s Consumer Protection Division for resolution.¹⁴
- *Written Guidelines.* Utilities should create written guidelines that describe the contents and procedures of the payment plan program.¹⁵ Those guidelines could be located in the utility’s tariff or a separate document. The utilities should consult with the low-income advisory groups prior to modifying the guidelines and should provide updated copies to the Commission and Community Action Partnership agencies after any modification.

As noted above, the Commission should also improve upon Maine’s policy by specifying that utilities must include an AMP with forgiveness for customers with low and moderate incomes.

D. The rules should require utilities to engage in proactive outreach to customers.

Lack of awareness of energy assistance and bill management programs remains a significant barrier to energy security for many low-income customers.¹⁶ Accordingly, the Commission should direct utilities to engage in outreach with customers who are in jeopardy of losing service or falling behind on their utility bills, as well as through community-based organizations. More proactive communications between utilities, community-based organizations, and customers increases the likelihood that customers will take advantage of the suite of programs that exist to reduce energy costs and manage bills.

¹³ See *id.* at § 9(F), p. 23 (Maine utilities must “establish payment arrangements that take into consideration the individual customer’s unique circumstances . . .”).

¹⁴ See *id.* (describing the process of referring customers to the Consumer Assistance and Safety Division (CASD) of the Maine Public Utilities Commission).

¹⁵ See *id.* at § 9(E), p. 23.

¹⁶ *Lights Out in the Cold* at p. 17.

1. Utilities should proactively provide information on energy assistance and payment programs to customers at risk of falling behind on their bills.

The Commission should establish an arrearage threshold to identify customers at risk of accruing large arrearages. Utilities should then contact customers whose arrears exceed the threshold to offer assistance before they fall further behind on their bills. The Commission should work with stakeholders in this proceeding to determine the appropriate threshold. TEP suggests that the threshold include both a dollar amount and minimum amount of time for arrears (e.g., 90 days of an outstanding balance). Utilities should then automatically notify any customer whose arrears exceed the thresholds via traditional and electronic mail to provide information on energy and payment assistance. In addition, utilities should describe available assistance programs in any phone calls or chats with customers whose arrearages exceed the threshold. The Commission should adopt this policy regardless of whether the Commission allows disconnections for nonpayment.

Such early communication has the advantage of engaging customers while arrears are smaller and more manageable, increasing the likelihood that payment plans will be successful. Proactive offers of assistance can also build trust between customers and utilities, particularly when the utility's outreach occurs outside of the context of disconnection notices.

2. Utilities can engage community-based organizations to perform proactive outreach.

In order to reach more customers, utilities can partner with organizations based in and trusted by vulnerable communities. Community-based organizations are well-positioned to promote the bill assistance programs to hard-to-reach customers. They have established relationships with other organizations and individuals. Employing these organizations to get the

word out about the energy assistance program can build trust in the program among customers with unmet need.

This outreach will not only give customers the information about how to access energy assistance, but also provide customers the confidence that expending the time and effort necessary to apply for assistance will actually provide the advertised benefits. Put simply, community-based organizations can build trust in utility energy assistance programs among unserved customers.

Using trusted messengers to promote programs that provide social benefits is not new. For example, literature discussing public health outreach strategies acknowledges the benefits of using community-based organizations to enroll customers in healthcare programs and studies.¹⁷ More directly relevant to utility service, Avista and Washington State University use similar programs.

The Commission authorized Avista's Community Partner Network (CPN) to increase customer engagement in hard-to-reach and underserved areas by enlisting the help of organizations with established representatives in those communities.¹⁸ Through the CPN, the low-income assistance programs expanded their reach through organizations that represent and

¹⁷ See, e.g., Giachello, A., *Making Community Partnerships Work: A Toolkit*, March of Dimes Foundation (2007), <https://aapcho.org/wp/wp-content/uploads/2012/02/Giachello-MakingCommunityPartnershipsWorkToolkit.pdf>; Adebayo, O. W., et al., *A Systematic Review of Components of Community-Based Organization Engagement*, Health Soc. Care Community, 26(4): e474–e484 (July 2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6124309/pdf/nihms-986500.pdf>.

¹⁸ See Dkt. UE-210115, Avista Tariff WN U-29, Schedule 173, Residential Debt Relief Program, Cover Letter of Avista Corp., pp. 6-7 (Feb. 19, 2021).

support vulnerable populations.¹⁹ This established program has proven to be effective.²⁰ And as a result of its success, the Commission authorized Avista to make the program permanent and expand it.

In another example, since 2009, the Washington State University's Energy Program has run a Community Energy Efficiency Program that relies upon community-based outreach.²¹ The program targets outreach for weatherization and energy efficiency upgrades to hard-to-serve customers, including low- to moderate-income households, as well as customers in rental units, manufactured housing, and homes heated with oil, propane, or wood.²² The Community Energy Efficiency Program is funded by the Legislature and currently partners with Avista, PSE, Clark Public Utilities, the Opportunity Council, and Sustainable Living Center.²³

The Commission should consider requiring each IOU to work with its energy assistance advisory group to employ community-based organizations, including Community Action Partnership agencies, to perform proactive outreach about energy assistance programs.

E. The Commission should consider eliminating late fees for residential customers and customers with low incomes.

Assessing late fees to residential customers, particularly households with low incomes, is

¹⁹ Dkts. UE-210490 and UG-210491, Avista Tariff WN U-28, Schedule 92, Low-Income Rate Assistance Program, Cover Letter of Avista Corp., p. 5 (June 29, 2021).

²⁰ Dkts. UE-210490 and UG-210491, Avista Tariff WN U-28, Schedules 92 and 192, Open Meeting Memo, p. 3 (July 29, 2021).

²¹ WA State University Energy Program, *Community Energy Efficiency Program*, <https://www.energy.wsu.edu/BuildingEfficiency/CommunityEEProgram.aspx> (accessed August 19, 2022).

²² WA State University Energy Program, *Community Energy Efficiency Program Update*, p. 1 (2019), <https://www.energy.wsu.edu/documents/Brief%20CEEP%20Update%202019.pdf>.

²³ WA State University Energy Program, *Community Energy Efficiency Program*, <https://www.energy.wsu.edu/BuildingEfficiency/CommunityEEProgram.aspx>.

unfair, unproductive, and unlikely to lead to timely payment.²⁴ Households in financial distress are no more likely to make a utility payment because of a late fee.²⁵ In some cases, late fees can increase customer past-due balances even when customers are making payments to cover their delinquencies.²⁶ This dynamic can create self-sustaining debt burdens detached from the policy objectives that late fees were meant to serve.²⁷

Since submitting comments in April, TEP completed a review of selected state and utility approaches to customer late fees; the results are provided below.

Several states do not allow late fees for certain customer classes. For example, New Jersey prohibits energy utilities from charging late fees to residential customers and no IOU in Massachusetts charges late fees to residential customers.²⁸ Texas prohibits certain retail electric service providers from charging residential and small commercial customers late fees.²⁹

²⁴ Nat. Consumer Law Center, *Access to Utility Service*, Section 5.6.3, Late Payment Charge Does Not Induce Prompt Payment (6th ed. 2018) (*Access to Utility Service*).

²⁵ Lo, J., *Food or Power: Energy Bill Late Fees Force Tough Choices*, AP News (March 14, 2022), <https://apnews.com/article/energy-late-fees-Louisiana-Kentucky-da59030e9abc8b5271b4a13eee15f63d> (accessed August 10, 2022).

²⁶ *Id.*

²⁷ *Id.* (“...rules on late fee penalties in many states were decided long before the advent of new technologies and computer systems. Billing software and automated meters have made the cost of collecting late payments virtually zero for utilities.”).

²⁸ N.J. Admin. Code § 14:3-7.1(e) (New Jersey prohibits late charges for residential customers); MA Dept. Pub. Utils., Dkt. 20-58, Inquiry of the Dept. of Pub. Util. Into Establishing Policies and Practices for Electric and Gas Companies Regarding Customer Assistance and Ratemaking Measures in Connection to the State of Emergency Regarding the Novel Coronavirus (COVID-19), Joint Comments of the Massachusetts Distribution Companies, p. 27 (April 17, 2020) (“Late-payment charges are not assessed on residential accounts.”), <https://fileservice.eea.comacloud.net/FileService.Api/file/FileRoom/12145587>.

²⁹ 16 Tex. Admin. Code § 25.480(c). The Provider of Last Resort (POLR) is Texas’ backstop to ensure customers in retail competition zones have access to electricity if their chosen retail service provider is unable to continue doing so. See Pub. Util. Comm. of TX, *Provider of Last Resort*, <https://www.puc.texas.gov/consumer/electricity/polr.aspx> (accessed August 10, 2022).

Regardless of state rules, TEP found utilities in Rhode Island, Vermont, and New Mexico that do not assess late fees to residential customers.³⁰

Other states, including Illinois, do not allow late fees for low-income customers.³¹ And TEP found that some individual utilities have policies against charging late fees to low-income customers.³² In contrast, Alabama, Colorado, Rhode Island, and Kentucky appear to allow at least some utilities to assess late fees against residential customers.³³

³⁰ See Narragansett Electric Co., *Terms and Conditions for Distribution Service*, p. 4 (October 16, 2020), https://www.rienergy.com/media/pdfs/billing-payments/tariffs/ri/neco-tcs-dist-svc_ripuc_2243.pdf (utility's terms and conditions permit late fees for customers "other than individually metered residential customers"); Pascoag Utility District, *Terms and Conditions for Electric Service*, pp. 3-4 (March 19, 2021), <https://www.pud-ri.org/wp-content/uploads/2022/01/PUD-Terms-and-Conditions-RIPUC-706.pdf> (similar); Green Mountain Power Corp., *Terms and Conditions for Electric Service*, p. 5 (January 3, 2019), <https://greenmountainpower.com/wp-content/uploads/2019/01/Terms-and-Conditions-1-3-19.pdf> (late fees "not applicable to residential accounts"); Southwestern Public Service Co., *Rules and Regulations*, Rule 18 (April 5, 2014), https://www.xcelenergy.com/staticfiles/xcel/Regulatory/Regulatory%20PDFs/rates/NM/nm_rules-and-regs.pdf (billing rule for Xcel's New Mexico subsidiary, Southwestern Public Service Company, does not include an allowance for assessing late fees on residential customers for delinquent bills.).

³¹ Ill. Admin. Code, tit. 83, § 280.65.

³² See, e.g., Montana-Dakota Utilities Co., *Electric Rate Schedule, General Provisions*, pp. 5-6 (September 28, 2018), <https://www.montana-dakota.com/wp-content/uploads/PDFs/Rates-Tariffs/Montana/Electric/MTElectric100.pdf> (Montana-Dakota Utilities charges late fees for all customer classes, but does not assess late fees against residential customers where there is a payment plan in place or where the customer is using Low Income Energy Assistance Program (LIEAP) funds.).

³³ TEP's previous comments, relying on the *Access to Utility Service* treatise, said that these states prohibit certain late fees. TEP regrets this apparent error. Alabama Power Co., *Rules and Regulations for Electric Service*, p. 8 (May 2017), <https://www.alabamapower.com/content/dam/alabama-power/pdfs-docs/Rates/APCRulesRegulations.pdf> (Alabama Power charges late fees for all customer classes.); 4 Colo. Code Regs. § 723-3:3404(a)(I) (Utilities may assess a late payment fee when the account delinquency exceeds \$50.); Block Island Power Co., *Terms and Conditions* (June 1, 2020), p. 7 (describing late payment charges); 807 Ky. Admin. Regs. § 5:006(9)(3)(h) (A late payment charge may be assessed if a customer fails to pay a bill for services by the due date shown on the customer's bill.); *Access to Utility Service*, Section 5.5.2 Are Late Charges Authorized by PUC?

IV. If the Commission permits disconnections to continue, the Commission should adopt a set of best practices to reduce the number of disconnections and mitigate their impacts.

As previously discussed in TEP's April 29 comments, the Commission should adopt a set of important safeguards if it permits disconnection for nonpayment.³⁴ These safeguards include a "last knock" site visit, minimum account balances, notice and approval from the Commission, and extended protections for customers with medical conditions.

A. The Commission should require a "last knock" site visit, minimum account balances, and Commission approval prior to any disconnection for non-payment (Questions 17.a-c).

In Question 17, the Commission has asked about three specific proposals for requirements prior to disconnection for nonpayment. Those requirements are: (1) a "last knock" site visit for all customers prior to disconnection, (2) a minimum overdue balance, and (3) a requirement for Commission notice and approval prior to disconnection.

Should the Commission allow residential disconnections for nonpayment, TEP supports each of the three proposals. As noted in our prior comments, "last knock" site visits have proven to be an effective means of avoiding the need for disconnection. Frequently, customers can pay some or all of what they owe when a utility representative comes to the residence prior to disconnection. As a result, households avoid the harsh consequences of disconnection while utilities forego the time and resources required to restart service after disconnection. Minimum balance requirements protect customers from disconnection for minimal arrears while also preventing utilities from incurring unnecessary shutoff costs. Finally, notice and approval from the Commission provides an opportunity for staff from the Consumer Protection Division to contact the customer and discuss payment options, as well as provides valuable insights for the

³⁴ TEP April 29 Comments at pp. 9-12.

Commission into the frequency, causes, and locations of disconnections. Such a requirement would also improve customer awareness of the UTC, a goal referenced in question 21 of the Notice.

B. Customers with chronic medical conditions should not need to resubmit medical certifications every 60 days (Question 8).

WAC 480-100-128 permits utilities to require a medical certification from a qualified professional prior to extending protections from disconnection for customers who have a medical condition. However, as currently set forth in the rules, the medical certification is valid for “no longer than sixty days, unless renewed.”³⁵

Renewing medical certifications every sixty days can be onerous, particularly for customers living with chronic health conditions.³⁶ TEP appreciates the Commission’s attention to this issue. If the Commission continues to permit disconnections for nonpayment, the Commission should eliminate the requirement in the rules for renewal of medical certifications after sixty days. Instead, medical certifications should be valid for the duration of the health condition.

C. The utilities should clarify whether they rely upon prior obligations as one factor for determining whether to disconnect a customer (Question 6).

The Energy Project understands that several, if not all, of the IOUs consider a customer’s prior obligation as a factor in determining a credit or risk score. Customers with lower utility credit scores are at greater risk of disconnection, because utilities are more likely to send such customers to a dunning or collections process. Consideration of prior obligations in utility credit

³⁵ WAC 480-100-128(8)(b).

³⁶ See TEP April 29 Comments at p. 16.

scores, which in turn informs utility disconnection practices, is yet another example of the inequities inherent in current disconnection policies and practices.

TEP recommends that as part of this rulemaking, it would be helpful if the IOUs clearly identify all factors considered as part of their internal or external credit rating processes. Because these utility credit ratings place customers in various risk categories that in turn put certain customers more at risk of potential disconnection, it is important to clearly understand those credit rating policies and practices.

D. Disconnection notices should include a full description of a customer’s rights and protections, descriptions of energy assistance, descriptions of payment plans, and contact information for the Commission (Questions 2.b-c).

As described above, utilities should engage in proactive outreach to customers to provide information on available energy assistance programs and payment plans whenever a customer’s arrears exceed an established threshold. That early notification should occur prior to the issuance of a formal disconnection notice.

In addition, if a utility sends a disconnection notice, the utility should provide a full description of a customer’s rights and protections. Currently, WAC 480-100-128(4)(b) requires utilities to include in disconnection notices information on methods for avoiding disconnection, including on the availability of energy assistance programs. TEP recommends that the rules should explicitly state that the notice should include a description of the customer’s rights and options under different energy assistance programs for low-income customers and payment plans for all residential customers. For instance, if a customer does not know that both 12-month and 18-month payment plans are available, the customer is likely to agree to a shorter repayment schedule even though a longer schedule might be more helpful. TEP agrees that disconnection notices should also include contact information for the Commission.

V. The Commission should consider a prohibition on reporting customer debt for essential utility service to credit bureaus (Questions 11 and 12).

TEP appreciates that the Commission is seeking additional information and clarity on the extent to which IOUs and their collection agencies report information on customer debts to credit bureaus. TEP is very concerned about the additional harm and difficulties imposed on households that are already financially strained, due to reporting of debts for essential utility service to credit bureaus as part of collections activity. Arrears can accumulate for various reasons, including because customers are unaware of available energy assistance and payment plans. Reporting arrearages to credit bureaus can exacerbate the challenges that low-income households face in building and accessing credit.

TEP is particularly concerned with the disparate and inequitable impacts of reporting utility debt to credit bureaus. TEP's analysis of IOU arrearage data from the COVID-19 docket showed that a substantial portion of residential customer arrearages are concentrated in certain zip codes that also contain highly impacted communities.³⁷ These findings are consistent with recent reports by the NAACP and others that BIPOC households are much more likely to face significant energy burdens.³⁸

The potential impacts of credit reporting are sizable. In 2018 and 2019, the five IOUs sent approximately 87,000 to 100,000 residential customer accounts to collection agencies, according to data provided in the initial comments in this proceeding.³⁹ TEP's analysis of IOU

³⁷ Attachment A at pp. 13-17.

³⁸ *Lights Out in the Cold* at pp. 13-14.

³⁹ The five IOUs reported sending approximately the following numbers of residential customer accounts to collections in 2018 and 2019: PSE—58,000 to 68,000; Avista—20,000 to 21,000; PacifiCorp—4,000 to 5,000; Cascade Natural Gas—4,000; Northwest Natural Gas—1,000.

reporting in the COVID-19 docket indicated that even during the UTC's prohibition on sending customers to collections, about 3,000 to 5,000 customer accounts were sent to collections.⁴⁰

In their April comments, some of the IOUs indicated they did not report arrearage information to credit bureaus, including PSE.⁴¹ However, the IOUs also contract with third-party collections agencies, and it is possible that those collection agencies report customer debt to credit bureaus.⁴² PacifiCorp's initial comments indicated that indeed, the collection agencies it works with do in fact report customer debt to credit bureaus. PacifiCorp's comments provided the following explanation on this issue:

Approximately 45 days following closure of the electric service account, any outstanding balance is assigned to a third-party collection agency for repayment attempt. . . . If the debt is not paid within 90 days of assignment to the collection agency and the balance is greater than \$100.00, *the debt may be reported by the collection agency to the customer's credit bureau.*⁴³

In light of the potential harms to low-income customers, the Commission should consider amending the rules to (1) prohibit utilities from sharing information on customer arrears with credit reporting bureaus, and (2) require utilities to include an equivalent prohibition in all contracts with collection agencies.

⁴⁰ Attachment A at pp. 27-28. Presumably these are closed accounts, as the UTC prohibition applied only to active accounts. *See id.* at 27.

⁴¹ Comments of Puget Sound Energy, p. 13 (April 29, 2022).

⁴² In its initial comments, Avista stated that its collection agencies do not report unpaid utility debt to credit bureaus. Comments of Avista Utilities, p. 11 (April 29, 2022). TEP appreciates that the Commission's Notice asks the companies to provide copies of contract terms with collection agencies. Even if some collection agencies do not currently report customer debts, absent a clear prohibition, those practices could change in the future. Furthermore, as TEP noted in its initial comments, Avista stated at a hearing in the COVID-19 docket that the company had only recently asked its collection agencies not to report customer debts to credit bureaus. TEP April 29 Comments at pp. 16-17. An express prohibition from the Commission on sharing customer information with credit reporting bureaus, including via third-party collection agencies, would ensure that this recent change becomes a standard and enduring practice.

⁴³ PacificCorp's Responses, p. 8 (April 29, 2022) (emphasis added).

VI. The Commission should consider prohibiting the use of liens on residential property as a method of collecting utility arrears (Question 14).

In TEP's April 29 Comments, we mentioned that the National Consumer Law Center indicated that some utilities and collection agencies use liens on residential properties as a mechanism for collecting utility arrears.⁴⁴ TEP appreciates the inclusion of this topic in the Notice and looks forward to reviewing comments provided by the companies. It would also be helpful to understand whether collection agencies use liens as part of their actions seeking payment from residential customers, if the companies do not provide that information in this set of comments. TEP shares the concern of NCLC regarding liens for unpaid utility arrears and similarly recommends that the Commission prohibit the imposition of liens on non-vacant residential property as a strategy for collecting utility arrears.⁴⁵

VII. The Commission should review customer notices of tariff filings before the utility distributes the notice to customers (Question 20).

The Energy Project suggests that it would be beneficial for customers if the Commission had an opportunity to review and edit customer notices of tariff filings prior to distribution.

VIII. The Commission should continue to seek input on strategies for increasing participation in Commission proceedings (Questions 15, 19, and 21) and for ensuring that unbanked customers have adequate payment options (Question 13).

Questions 15, 19, and 21 raise important questions concerning the methods for engaging customers in Commission proceedings and notifying customers of tariff filings and Commission resources. These are critically important issues and The Energy Project appreciates their inclusion in this Notice. TEP recommends that the Commission continue to gather input on the barriers that customers face in learning of and participating in Commission proceedings,

⁴⁴ TEP April 29 Comments at p. 17.

⁴⁵ See TEP April 29 Comments, Attachment A at p. 3.

including concerning proposed changes to utility tariffs. TEP will continue to consider potential solutions to address these issues.

TEP also appreciates that the Commission is seeking specific information regarding payment locations from each of the IOUs and we look forward to reviewing the company responses. For those households that are unbanked, providing options to pay in cash, without added fees, is likely particularly helpful.

To the extent possible, it would be beneficial for the Commission to seek input and guidance in this proceeding from organizations that advocate for and work directly with households with credit challenges, households that are unbanked, and individuals and households with other financial challenges, in order to gain as full a picture as possible regarding how credit issues, collections activity, and the payment options requested here in this question, may impact customers.

One such organization at the statewide level is the Asset Building Coalition, or Washington ABC.⁴⁶ In addition, many areas have a local Asset Building Coalition. For example, the King County ABC, the Financial Empowerment Network (FEN), is a collaborative of organizations that provide free or low-cost financial resources, with initiatives that include free tax return preparation, encouraging low-cost, low-fee banking, financial education, and more.⁴⁷ In many instances the organization that serves as the lead for the local ABC coalition is a community action agency that also distributes energy assistance. For example, the Opportunity Council is the lead organization for the Whatcom ABC, Community Action of Skagit County is the lead for the Skagit County ABC, and Blue Mountain Action Council of Walla Walla is the

⁴⁶ WA Asset Building Coalition, <https://www.washington-abc.org/> (accessed August 19, 2022).

⁴⁷ The Financial Empowerment Network (formerly known as the Seattle-King County Asset Building Collaborative), <https://www.everyoneiswelcome.org/> (accessed August 19, 2022).

lead for the ABC of Walla Walla County. In this regard, there appears to be a natural nexus between the issues considered in this rulemaking and the Washington ABC organizations.

IX. Conclusion

TEP appreciates the opportunity to submit these comments. TEP looks forward to reviewing the parties' responses and to participating in the Virtual Workshop on August 29, 2022.

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