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State Of WASH.
UTIL. AND TRANSP.
COMMISSION



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October 9, 2020

SENT VIA WEB PORTAL

Mark L. Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, Washington 98503

Re: *In the Matter of Commission Staff's Investigation into Investor-Owned Utilities' COVID-19 Response*
Docket U-200281

Dear Mr. Johnson:

The Public Counsel Unit of the Washington State Attorney General's Office submits the following letter on behalf of itself and The Energy Project, NW Energy Coalition, Front & Centered, Puget Sound Sage, and Sierra Club (known collectively as "the Advocates"). We wish to address some issues not resolved or not addressed in the motion at the October 6, 2020 Recessed Open Meeting, and to clarify and highlight certain issues of particular importance to the Advocates. We hope this will be of assistance to the Commission in making its final decisions in this docket at the October 15, 2020 Open Meeting. In particular, this letter addresses (1) customer program funding, (2) communication, (3) cost recovery principles, and (4) data and reporting.

1. Additional Customer Program Funding

The Advocates modify their recommendation in response to the discussion at the Recessed Open Meeting and request that these three key components be incorporated in the final terms and Order.

- **Arrearages:** Include Advocates edits which add the term "arrearages" to clarify that funds could be used to eliminate or reduce arrearages and give priority to that goal. This does not appear controversial (grants currently go to past-due balances as well as bill assistance) and a

To: Mark L. Johnson, WUTC
Re: Docket U-200281
Letter from the Advocates
October 9, 2020
Page 2 of 5

utility spokesperson at the hearing indicated it is already the practice to allocate grants to the oldest amount owed.

- **Allocation of New Funding:** Advocates modify their request for a specific 80/20 allocation of new funds between existing and new direct utility programs. It would be satisfactory to simply require that a majority of the funding go to existing programs. (Section 2 (a) and (b), in order to leverage existing infrastructure, and to minimize inefficient duplication and customer confusion.
- **Advisory Group Involvement:** Advocates recommend that Section 3 be revised to state: “Each Utility shall work with its Low-income or Energy Assistance Advisory Group to implement any bill payment and arrearage assistance programs using the additional funding so that any new programs have advisory group support.”

2. Communication

Under the heading “Disconnection Moratorium,” Staff’s term sheet Item 3(b) states:

Make a good faith effort to contact the residential or small commercial customer to inform the customer of flexible payment options, financial assistance programs, and any other means to avoid disconnection.

The Advocates agree with the intent behind this term, but we are concerned that more specificity is required to achieve the desired clarity. Clear communication is critical to informing customers of the assistance available, which addresses the issue of mounting arrearages. Simply requiring a good faith effort without further definition could result in less robust effort than is necessary to be effective. As we explained in our September 30, 2020 written comments, the Advocates strongly request that the Commission define “good faith effort” to mean:

A good faith effort requires that communications with customers be widely broadcasted, both directly to customers through direct mailings, calls, and electronic communications, and generally through social media postings, utility websites, and press releases.¹

This definition of good faith effort provides clear guidance to the utilities about what efforts they need to pursue. The efforts identified are all reasonably within a utility’s capabilities, and it is important to use multiple modes to reach the most customers and different customer groups.

Additionally, to ensure that utility communication plans reach their targeted audiences, the Advocates recommend that the following term be adopted:

¹ Advocates Sept. 30, 2020 Comments, App’x A, Disconnection Moratorium Item 3(c), at 1.

To: Mark L. Johnson, WUTC
Re: Docket U-200281
Letter from the Advocates
October 9, 2020
Page 3 of 5

Communication plans should be developed in consultation with low-income advisory groups and community-based organizations. Communication plans will take into consideration race, indigenous communities, language, ability, income, and gender as consistent with the utility's service territory. Utilities will provide funding and resources related to participation of community-based organizations, similar to the funding contemplated in Dockets UE-190698 and UE-191023.²

Lastly, the Commission should adopt the Advocates' recommendation on communications related to Additional Funding for Customer Programs:

In order to expedite distribution of new and existing bill payment and arrearage assistance, each utility will engage in active outreach and marketing to reach likely applicants, and work with community action agencies to take steps to eliminate obstacles to customer enrollment, including minimizing eligibility documentation, allowing self-certification, auto-enrollment, multi-year qualification, remote enrollment, translation, and language access.³

3. Cost Recovery Principles

The Advocates understand from the Recessed Open Meeting that the Commission may wish to provide some guidance on cost recovery principles. The Advocates do not object to a statement of principles to be considered on cost recovery as generally outlined in Staff's list of "guiding principles," but strongly urge the Commission to add the following principles to the list:

5. Utilities should approach cost-recovery requests with the spirit of shared sacrifice.
6. Recovery of deferred COVID-19 costs in rates will be subject to an earnings test.
7. Utilities should zealously pursue and document cost-savings with equal emphasis given to tracking and accounting for savings and benefits during the deferral period.⁴

The Advocates' additional principles recognize the unprecedented nature of the pandemic and the economic crisis facing Washingtonians.

The Advocates also understand that the Commission does not intend to address the merits of the utilities' pending accounting petitions.⁵ The Advocates strongly agree with that approach.

² Advocates Sept. 30, 2020 Comments, App'x A, Disconnection Moratorium Item 3(c), at 1–2.

³ Advocates Sept. 30, 2020 Comments, App'x A, Additional Funding for Customer Programs, Item 4, at 3.

⁴ Advocates Sept. 30, 2020 Comments, App'x A, Cost Recovery, Items 5-7, at 5.

⁵ Puget Sound Energy, Dockets UE-200780 and UG-200781; Avista Corp., Dockets UE-200407 and UG-200408; PacifiCorp, Docket 200234; Cascade Nat. Gas Co., Docket UG-200479; NW Nat. Gas Co., Docket UG-200264.

To: Mark L. Johnson, WUTC
Re: Docket U-200281
Letter from the Advocates
October 9, 2020
Page 4 of 5

Consistent with that approach, the Advocates urge the Commission to exclude from its order and any term sheet the section in which Staff supports specific determinations on deferral treatment for “direct costs,” bad debt, late payment fees, reconnection fees, and costs associated with COVID-19 bill assistance programs. Including these specific cost determinations in an order in this docket goes beyond a statement of principles and would prejudge issues to be decided in the accounting petition dockets. As noted by the Alliance of Western Energy Consumers (AWEC) in their written comments in this docket, parties involved in the accounting petition dockets are not involved in this docket and would be prejudiced if issues are decided here. Nor, is it appropriate to decide issues presented in the accounting petition dockets based on another proceeding.

4. Data and Reporting

The Advocates request that the utilities provide zip code or census tract information.⁶ During the October 6, 2020 Open Meeting, Commissioners expressed concern that requiring zip code information would be burdensome. The Advocates respectfully disagree. The utilities have this data. Indeed, zip codes have been provided to parties in response to data requests when customer information is requested. Requiring zip code information would simply require the utilities to include a column on a spreadsheet, and that more granular information can allow for deeper demographic analysis.

Utility regulation is beginning to consider disproportionate the impacts that past and future regulations have had on Black, Indigenous, and People of Color (BIPOC) communities. This consideration is long overdue, and it is important that we take every opportunity to consciously incorporate BIPOC impact in our work.

Given the impact that we know thus far from the pandemic — that BIPOC communities have contracted the novel Coronavirus at higher rates, died at higher rates, and have been economically impacted more severely — it behooves all of us to gather information on how the customer protections put into place through this docket serve or do not serve these communities.

Thus, the Advocates request that the Commission adopt the following language, which is modified from our original request:

All data sections 1–8 must be provided by zip code and where possible by 9 digit zip code.⁷

⁶ Advocates Sept. 30, 2020 Comments, App’x A, List of Requested Data, Item 1, at 7.

⁷ Advocates Sept. 30, 2020 Comments, App’x A, List of Requested Data, Item 1, at 7.

To: Mark L. Johnson, WUTC
Re: Docket U-200281
Letter from the Advocates
October 9, 2020
Page 5 of 5

Thank you for considering these items. Please feel free to contact me with any questions. A member of each organization will be present at the October 15 Open Meeting to answer any questions and discuss our recommendations further.

Sincerely,

Lisa W. Gafken
/s/
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LWG/KMB
Enclosure