

Agenda Date: August 28, 2025  
Item Number: A6

**Docket:** A-250549  
**Companies:** Puget Sound Energy,  
Avista Corporation d/b/a Avista Utilities  
Northwest Natural Gas Company d/b/a NW Natural  
Cascade Natural Gas Corporation  
PacifiCorp, d/b/a Pacific Power & Light Company

**Staff:** Corey Cook, Regulatory Analyst

### **Recommendation:**

Issue a policy statement or letter addressing issues related to the Commission's interpretation of RCW 80.28.425(2).

### **Summary of Issues**

RCW 80.28.425(2) (herein, the statute) reads: "The commission may approve, disapprove, or approve with modifications any proposal to recover from ratepayers up to five percent of the total revenue requirement approved by the commission for each year of a multiyear rate plan for tariffs that reduce the energy burden of low-income residential customers including, but not limited to: (a) Bill assistance programs; or (b) one or more special rates. For any multiyear rate plan approved under this section resulting in a rate increase, the commission must approve an increase in the amount of low-income bill assistance to take effect in each year of the rate plan where there is a rate increase. At a minimum, the amount of such low-income assistance increase must be equal to double the percentage increase, if any, in the residential base rates approved for each year of the rate plan. The commission may approve a larger increase to low-income bill assistance based on an appropriate record."

1. Does the last sentence of Section (2), "The commission may approve a larger increase to low-income bill assistance based on an appropriate record," apply to all of section (2) or only to the single preceding sentence, "At a minimum, the amount of such low-income assistance increase must be equal to double the percentage increase, if any, in the residential base rates approved for each year of the rate plan"?
2. What constitutes an "appropriate record"?
3. Is the "up to five percent of the total revenue requirement..." threshold a hard cap on total energy assistance benefits?
  - a. How does this threshold interact with the sentence "At a minimum, the amount of such low-income assistance increase must be equal to double the percentage increase, if any, in the residential base rates approved for each year of the rate plan."?

4. What items should be included in calculation of the five percent threshold?
  - a. Numerator:
    - i. Direct service only.
    - ii. Community Action Agency program implementation costs.
    - iii. Low-Income Weatherization.
    - iv. Conservation education.
    - v. Utility administrative costs, such as labor and outreach.
    - vi. Community Solar.
    - vii. Credits funded by CCA no-cost allowances.
  - b. Denominator:
    - i. Use base, or billed, revenues?
    - ii. Which revenue requirement do we use?
5. Is there a burden of proof regarding an “appropriate record”? If so, on whom does the burden lie?

## **Background**

In 2019, the legislature passed the Clean Energy Transformation Act (CETA), as codified in Chapter 19.405 of the Revised Code of Washington (RCW), established a definition of “low-income,” and expanded the meaning of “public interest” under Title 80 RCW. In enacting CETA, the legislature found that the public interest includes: (a) the “equitable distribution of energy benefits and reduction of burdens to vulnerable populations and highly impacted communities;” (b) “long-term and short-term public health, economic, and environmental benefits;” and (c) “the reduction of costs and risks; and energy security and resiliency.”<sup>1</sup>

In 2021, the legislature enacted Engrossed Substitute Senate Bill 5295 (SB 5295), as codified in RCW 80.28.068, to update the Washington Utilities and Transportation Commission’s (Commission) regulation of electric and natural gas utilities’ rates. Among other things, the law provides that “[e]ach gas or electrical company . . . 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.” It further provides that the “[C]ommission shall approve, disapprove, or approve with modifications, each gas or electrical company’s low-income assistance discount rate and grant program.”<sup>2</sup>

On March 28, 2025, in Docket UE-250200, Puget Sound Energy (PSE) noted in its Cover Letter: “...As PSE funding for ratepayer-funded low-income programs will exceed the 5 percent threshold for the next program year, PSE would appreciate a discussion and guidance from the

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<sup>1</sup>The Clean Energy Transformation Act (CETA) as codified in RCW 19.405.020(24) defines “low-income” and adopts the definition of “household incomes” as defined by the Department of Commerce (Commerce) and the Commission, “as household incomes [that]...may not exceed the higher of 80 percent of area median household income or 200 percent of the federal poverty level, adjusted for household size.”

<sup>2</sup> See Engrossed Substitute Senate Bill 5295, [Chapter 188, Laws of 2021](#) (July 25, 2021)

Commission in advance of the its next low income filing, in September 2025, on what utilities should be expected to do when that calculation cross the 5 percent limit.”

## **Discussion**

Commission Staff (Staff), The Energy Project, Alliance of Western Energy Consumers, and the regulated utilities have met several times regarding the issues present. There is a common consensus among those mentioned regarding an appropriate record including an energy burden assessment showing unmet need, demand among customers for additional energy assistance, and budget, at a minimum.

Staff recognizes each Docket is evaluated and ruled upon by the Commission based on its own merits and facts; however, there is also a need for consistency in treatment among regulated utilities.

Staff believes, with the differences in utilities’ interpretation surrounding the 5 percent threshold, it would be prudent and in the public interest to establish a consistent methodology for utilities to calculate the total amount of low-income energy assistance, as well as how the 5 percent threshold is determined.

Each Company and interested party have interpreted the statute, and an item of dispute is whether the “five percent” mentioned as the threshold is a “hard cap,” meaning that it is the maximum amount of low-income energy assistance available to all customers. This “hard cap” approach would mean as energy costs continue to rise, the levels of funding will only increase by 5 percent of any revenue requirement increase amount, leaving 95 percent of the increased costs on customers, regardless of low-income status.

Staff contends that the intentions of CETA, CCA, and the language included in statute do not support the argument of this law implementing a “hard cap” on low-income energy assistance.

The first sentence of RCW 80.28.425(2) gives the Commission discretion to address proposals to include up to five percent of a utility’s total revenue requirement for tariffs that reduce the energy burden of low-income residential customers. That energy burden might be lowered through bill assistance programs or special rates. This provision recognizes the Legislature’s goal of achieving the transition to non-carbon resources in an equitable manner and without undue burden on low-income households.<sup>3</sup>

The second and third sentences require the Commission to approve an increase to low-income bill assistance in each year of a multi-year rate plan that a rate increase is ordered. This increase to low-income bill assistance must be at least double the percentage increase to the residential base rate. The Commission’s discretion is limited; it may not approve an increase that is lower than double the percentage increase to the residential base rate

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<sup>3</sup> See [RCW 19.405.130](#), [RCW 70A.65.130\(2\)\(a\)](#), and [RCW 70A.65.120\(4\)](#)

The last sentence gives the Commission general discretion to approve a larger increase to low-income assistance based on an appropriate record. This discretion applies to all the preceding sentences in the section.

Taking these provisions together, the Commission has wide discretion to approve low-income assistance funding. Simultaneously, it must increase funding by double the percentage of increase to the residential base rate; it may also increase funding beyond that threshold. If a proposal for low-income assistance funding is 5 percent or less of a utility's revenue requirement, it is deemed to be appropriate, subject to the normal ratemaking standards requiring that rates be fair, just, reasonable, and sufficient and that costs be known and measurable.

The 5 percent provision does not set a cap for how much a utility may include in its revenue requirement for low-income assistance programs. The language creates an evidentiary trigger.

If a proposal for low-income assistance funding exceeds 5 percent of a utility's overall revenue requirement, there must be an additional showing regarding why that amount is needed and appropriate. The statute requires "an appropriate record" for such a proposal, but it does not define what that record must include.

It would be reasonable to require the proponent of the proposal to make a showing of the need for the funding and the benefits expected. It may also be reasonable to require the proponent to discuss alternatives considered and funding and enrollment data under current programs.

Regardless of how the Commission ultimately defines "an appropriate record," nothing in the statute prohibits the Commission from approving low-income assistance funding exceeding 5 percent of the utility's total revenue requirement.

## **Conclusion**

The spirits and intent behind CETA, CCA, and SB 5295 are clearly aimed at reducing energy burden on low-income Washingtonians. Throughout, there are references to holding low-income customers harmless, providing increases to low income programs which are double that of residential rate increases, as well as other low income protections.

The statute at hand clearly indicates a requirement for low-income energy assistance growth to outpace that of standard residential rate increases. To suggest a hard cap be placed on a utility is counterproductive to the work Staff, advocate groups, and regulated utilities have put forth in enhancing the low-income assistance landscape throughout Washington.

Staff believes it is in the public interest to clarify the five presented issues consistent with the Statewide push for clean energy, reduced emissions, and protecting vulnerable populations.

Attachments (2)