

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

Dockets UE-190529 and UG-190530 (*Consolidated*)

Washington Utilities & Transportation Commission v. Puget Sound Energy

**RESPONSE OF PUBLIC COUNSEL TO
BENCH REQUEST NO. 15**

Request No: BR 15
Directed to: Public Counsel
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BENCH REQUEST NO. 15.

Since the conclusion of the evidentiary hearing in the above-referenced dockets, circumstances have changed significantly due to the COVID-19 pandemic and related Governor Proclamations. In response, the Commission granted Puget Sound Energy's motion to extend the suspension date of its general rate case until July 20, 2020. The parties subsequently filed initial and reply briefs, several of which mentioned the economic impacts Puget Sound Energy's customers are facing due to the COVID-19 pandemic and made related proposals.

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

RESPONSE:

The Commission's Bench Request recognizes that the world has dramatically changed during the pendency of the case. It is not hyperbole or exaggeration to state that the novel coronavirus, which causes the disease COVID-19 and became a world-wide pandemic and public health crisis, has altered our collective existence. Washington, like many states, has ordered its residents to stay home and only go into public when necessary.¹ Washington has also recognized that utility service is an essential service. Governor

¹ Wash. Exec. Order No. 20-25 (Mar. 23, 2020) ("Stay Home – Stay Healthy"). This proclamation was extended and is currently scheduled to expire on May 4, 2020, unless further extended.

Inslee stated in his proclamation, “Preserving and maintaining essential utility services to vulnerable populations during this crisis supports the fundamental public purpose of protecting public health and welfare.”² Proclamation 20-23.2 prohibits disconnections for nonpayment from March 23, 2020, until the proclamation expires. The proclamation further prohibits utilities from refusing to reconnect customers who had been disconnected and prohibits utilities from charging late payment or reconnection fees.³

PSE has likewise responded to the pandemic by developing an add-on program to distribute \$11 million of roll-over assistance dollars from prior years to struggling customers. The program, the Crisis-Affected Customer Assistance Program (CACAP), has a maximum award of \$1,000 and will assist an estimated 18,000 to 22,000 households. After discussion at its April 10th Open Meeting, the Commission approved CACAP.

The impact on individuals and our economy has been considerable. Nationwide, unemployment numbers are staggering. In six weeks, over 30 million people filed claims for jobless benefits.⁴ In Washington, 787,533 people have filed for unemployment benefits since March 7.⁵ Roughly one in five people who were employed in February have lost their jobs.⁶

Affordability is a more than low-income bill assistance, but rather involves the challenge people have in meeting all of their day-to-day expenses. The financial impact of the COVID-19 pandemic will harm those customers who cannot pay their bills as well as those who can barely pay their bills. For example, with disconnection notices not being issued under the disconnection ban, many customers facing severe financial hardship may not qualify for financial assistance programs, delaying their access to assistance funds.

In this unprecedented environment, Public Counsel is deeply concerned that the number of utility customers in arrears and the average amount owed per customer will increase substantially. The Stay Home-Stay Healthy Order has required the closure of nonessential businesses, which has resulted in subsequent employee layoff. Customers are at greater risk of falling behind on their utility bills. With people staying home, their home energy

² Wash. Exec. Order No 20-23.2 (Apr. 17, 2020) (“Ratepayer Assistance and Preservation of Essential Services”).

³ Wash. Exec. Order No. 20-23 (Mar. 18, 2020) (“UTC – Ratepayer Assistance”); Wash. Exec. Order No 20-23.2 (Apr. 17, 2020) (“Ratepayer Assistance and Preservation of Essential Services”).

⁴ Scott Horsley, *A Staggering Toll: 30 Million Have Filed for Unemployment*, National Public Radio (Apr. 30, 2020), available at <https://www.npr.org/sections/coronavirus-live-updates/2020/04/30/848021681/a-staggering-toll-30-million-have-filed-for-unemployment> (Last accessed April 30, 2020).

⁵ King 5 Staff, *Unemployment claims top 1.4 million over one week in Washington state*, King 5 (Apr. 30, 2020), available at <https://www.king5.com/article/news/health/coronavirus/washington-unemployment-hits-record-numbers/281-97bc7755-6d9f-4c77-a028-ce536599e984> (Last accessed April 30, 2020).

⁶ *Id.*; Scott Horsley, *A Staggering Toll: 30 Million Have Filed for Unemployment*, National Public Radio (Apr. 30, 2020), available at <https://www.npr.org/sections/coronavirus-live-updates/2020/04/30/848021681/a-staggering-toll-30-million-have-filed-for-unemployment> (Last accessed Apr. 30, 2020).

usage has undoubtedly increased, making their monthly bills higher even without a rate increase. All of this may lead to an increase in utility uncollectibles, placing pressure on future ratepayers.

Now is clearly the wrong time for increases to utility base rates. At best, people are working from home and still drawing their paychecks. Because we do not know how long or how severe the economic impact of COVID-19 will be, even those fortunate workers are vulnerable. At worst, people have lost their job – or their business – or they are vulnerable to losing their job or business, as a result of the Stay Home-Stay Healthy Order. In any event, increasing rates on an essential service during this remarkably challenging time is unfair, and thus does not comply with the standard that utility rates be fair, just, reasonable, and sufficient under RCW 80.28.010(1).

The Bench Request seeks input from parties regarding how to mitigate the impact of the final determination on rates and asks parties to submit “proposals that address variables such as timing, amortization periods, or the use of existing mechanisms that may not be at issue in this proceeding.” Parties are cautioned against re-litigating contested issues, including the level of revenue requirement.

The Commission has before it a fully litigated rate case that presents many issues. Some of the policy and substantive decisions it must make in this case can mitigate the impact of the case on customers.

Public Counsel asks the Commission to consider the ideas and proposals below as they finalize their decision in this case.

1. **The Commission should expand the moratorium on disconnection and related fees.**⁷ Governor Inslee’s Proclamation 20-23.2 prohibits utilities from disconnecting customers for nonpayment during our state of emergency. Importantly, the prohibition extends back to March 23, and utilities are further prohibited from refusing to disconnect customers who were disconnected for nonpayment after March 23. Additionally, utilities are prohibited from charging late fees and reconnection fees. PSE voluntarily stopped disconnecting customers and charging certain fees prior to the proclamation. The Commission should require PSE to continue waiving fees and prohibit shut offs beyond the immediate viral threat to alleviate customer financial hardship. The California Public Utilities Commission (CPUC) has extended its emergency customer protections, which apply to both residential and small business customers, for one year. The CPUC noted that the emergency customer protections are the minimum, not maximum, levels of protection and encouraged the regulated utilities to do more

⁷ Public Counsel witness Susan M. Baldwin addressed disconnections in her Prefiled Testimony, Exh. SMB-1T at 27-31.

to help customers during this time of need.⁸ The Commission can require the same of PSE and also consider taking similar action to apply to all utility service.

2. **The Commission should impose additional customer protections designed to mitigate the economic impact of COVID-19.** The moratorium on disconnections will likely not carry forward forever. At some point, utilities will likely regain the ability to disconnect customers for nonpayment. However, when the current moratorium ends, it is likely that there will be a spike in shut offs. The Commission should set policies that protect customers, keep them protected for as long as possible, and make reconnection easier. Below are practices and policies that PSE and the Commission can adopt that will protect customers.⁹

- a. Allow customers to reconnect after being disconnected for nonpayment without requiring a down payment on past-due balances. While customers continue to owe the amounts they incurred for services, the goal should be to keep customers current, then address the arrearages.
- b. Waive late payment fees and security deposits. Such punitive measures do not result in more timely payments for struggling households.
- c. Implement a deferred payment plan option for past-due bills. A deferred payment plan would provide affordable options based on the customer's actual income and expenses. Public Counsel witness Susan M. Baldwin addresses deferred payment plans in her prefiled testimony.¹⁰
- d. Develop a debt forgiveness program that allows customers to eliminate a portion of their debt each month so long as they remain current on their bills.
- e. Reduce customer energy burden through assistance programs.
- f. Evaluate the qualification requirements for assistance programs and identify ways to reduce the administrative burden of applying for assistance.
- g. Continue weatherization and energy efficiency programs.

3. **The Commission should encourage PSE to communicate with its customers about how to receive help and how to manage their bills.** Customers should communicate with their utility early and frequently when they are having troubles paying their bills. Additionally, customers should be urged to continue to pay their utility bills if possible. If they are not able to pay the full bill, they should pay a portion of the bill, if possible, to avoid larger accumulated balances later. PSE should engage in effective and frequent outreach to inform its customers

⁸ Pub. Utils. Comm'n of Calif., Resolution M-4842, Emergency Operation and Order Directing Utilities to Implement Emergency Customer Protections to Support California Customers During the COVID-19 Pandemic (Apr. 16, 2020).

⁹ See, John Howat, *Utility shutoff bans are in effect for many families, but what happens when they end?* Utility Dive (Apr. 28, 2020), available at <https://www.utilitydive.com/news/utility-shutoff-bans-are-in-effect-for-many-families-but-what-happens-when/576838/> (Last accessed Apr. 30, 2020).

¹⁰ Baldwin, Exh. SMB-1T at 31-34.

about bill assistance, payment plans, and any other help option available. PSE should work closely with the agencies administering low-income assistance so that these efforts are coordinated and complimentary. Additionally, PSE should encourage customers, in a compassionate manner, to stay current or pay what they can to reduce accumulated balances.

4. **The Commission should require PSE to track and report information regarding customer affordability challenges.** To develop effective long-term strategies, the Commission should understand the affordability challenges faced by customers in a more concrete manner. To this end, the Commission should require PSE to track and report the following data to the Commission and interested parties to this case, including Public Counsel:
 - a. The number of customers in arrears,
 - b. The average amount owed per customer and the range of amounts owed by customers (lowest and highest),
 - c. The number of customers receiving bill assistance,
 - d. The number of disconnections, and
 - e. Customer repayment efforts.
5. **The Commission should require PSE to work with its small business customers to avoid disconnection.** Small nonessential businesses have been hit hard during the COVID-19 pandemic. As they begin to reopen, a disconnection for nonpayment would be devastating. The Washington Retail Association and others are developing guidelines for retailers to follow as they reopen their businesses. Those guidelines follow CDC and state health official guidelines. The Commission should prohibit PSE from disconnecting a small business that is following guidelines and making good faith efforts reopen. Further, PSE should work with these customers to develop payment plans, as needed.
6. **The Commission could deny or delay any rate increase.** PSE is a large company with many resources. Regulation is a substitute for competition, and firms operating in competitive markets are cutting costs and finding efficiencies to address the economic impact of the pandemic. Utilities have the same obligation to control its expenses during times of crisis. However, if the Commission declines to deny any rate increase, it could delay the implementation of new rates. Rates must go into effect no later than 10 months from the date the rates would otherwise go into effect under RCW 80.04.130(1). Governor Inslee suspended the operation and enforcement of RCW 80.04.130 in Proclamation 20-23, 20-23.1, and 20-23.2. As a result, Public Counsel believes that the Commission has the ability to delay implementation of any rate increase it might

order in this case.¹¹ If implementation is delayed pursuant to the Governor's proclamation, it may be unnecessary to compensate the utility for the delay period by allowing the utility to collect the amounts not collected during the delay. Rather, current rates would remain in effect until the delayed implementation date.

Public Counsel appreciates the inquiry made by Bench Request No. 15. The common goal that all stakeholders should share is the goal of keeping people connected to their essential utility services. This goal is even more critical now as people are faced with the public health crisis and the resulting economic impact. Indeed, the economic impact will carry forward for a period and scope yet to be understood. To avoid greater financial hardship and harm, the Commission should order the customer protections and other proposals listed above.

Dated this 1st of May 2020.

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¹¹ To be clear, Public Counsel is not abandoning arguments made during the case through pre-filed testimony and briefing. Public Counsel continues to advocate for a rate decrease, as described in testimony and legal argument submitted to the Commission.