

EXHIBIT NO. _____ (AML-1T)
DOCKET NOS. UE-200115
COLSTRIP UNIT 4 SALE
WITNESS: AMANDA MARIE LEVIN

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

DOCKET NO. UE-200115

Complainant, v.

PUGET SOUND ENERGY,

Respondent.

**RESPONSE TESTIMONY OF
AMANDA MARIE LEVIN**

**ON BEHALF OF
THE NATURAL RESOURCES DEFENSE COUNCIL**

October 2, 2020

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Exhibit List:

AML-2 – Qualifications of Amanda Marie Levin

AML- 3 – Great Falls Tribune article, January 2, 2020

AML- 4 – Talen Montana Press Release, June 11, 2019

AML- 5 – WUTC Docket UE-191024, News Release, July 21, 2020

AML- 6 – Energy Information Association (EIA) article, July 1, 2020

AML-7 – Energy Information Association (EIA) article, September 2020

AML-8 – Lazard article, November 2019

AML- 9 – David Schlissel article, *Solar Builder*, June 4, 2020

AML-10 – PSE’s response to Public Counsel DR-03

AML-11 – NorthWestern Energy Responses to NRDC-001 in MT PSC Docket 2019.12.101

AML-12 – Intervenor Testimony of Mr. Walksalong in MT PSC Docket No. 2019.12.101

AML-13 – PSE’s Response to Public Counsel’s DR-08

AML-14 – PSE’s Response to Public Counsel’s DR-12

1 **I. BACKGROUND AND QUALIFICATIONS**

2 **Q. Please state your name, address and employment.**

3 **A.** My name is Amanda Marie Levin. I am a Senior Policy Analyst for the Natural Resources
4 Defense Council, 1152 15th Street NW, Suite 300, Washington, DC, 20005.

5 **Q. Have you prepared an exhibit describing your education, relevant employment**
6 **experience, and other professional qualifications?**

7 **A.** Yes, I have. My professional and educational background is provided in the attached
8 Exhibit AML-2.

9 Briefly though, in my current position at the Natural Resources Defense Council
10 (“NRDC”), I focus on analysis and advocacy around energy, energy efficiency, renewables
11 integration, decarbonization, and wholesale market reform. As part of my responsibilities,
12 I serve as an expert witness for NRDC and partner organizations before state utility
13 commissions, legislatures, and federal agencies on issues related to utility regulation and
14 long-term planning.

15 I am currently serving as a witness for NRDC in the Montana docket concerning
16 NorthWestern Energy’s application to acquire a portion of PSE’s share of Colstrip Unit 4.
17 I sought multiple modifications and did not support the application as filed in that docket.
18 In my testimony, I laid out several recommendations to the Montana Commission that were
19 designed to ensure that NorthWestern behaves transparently with respect to its ownership
20 interest in CU4, its plans for the future, its dealings with the community, and what the
21 continued inclusion of Colstrip power in rates means for customers.

22 I have previously served as an expert witness before the Montana Public Service
23 Commission, the Idaho Public Utilities Commission, the New Mexico Public Regulation

1 Commission, the New Jersey Board of Public Utilities, the Virginia State Corporation
2 Commission, and the Washington Utilities and Transportation Commission.

3 My research on decarbonization strategy and modeling, the impact of various
4 environmental regulations, electric restructuring, utility business model design, and energy
5 efficiency program design has also been published in a variety of academic journals.

6 **Q. On whose behalf are you testifying?**

7 **A.** I am testifying as a witness for the Natural Resources Defense Council (“NRDC”).

8 **Q. Have you previously testified before the Washington Utilities and Transportation
9 Commission?**

10 **A.** Yes. I served as a witness in WUTC Docket No. UE-170033 (on behalf of the NW Energy
11 Coalition, Renewable Northwest, and NRDC) and in WUTC Docket No. UE-190334 (on
12 behalf of the NW Energy Coalition).

13 **Q. What is the purpose of your direct testimony in this proceeding?**

14 **A.** My testimony concerns the proposed transaction between Puget Sound Energy (PSE),
15 NorthWestern Energy (NorthWestern or NWE), and Talen. I outline a number of
16 recommendations (summarized in Section II) that, if incorporated, I believe would make
17 the proposal stronger and more beneficial for PSE, its customers, and the environment. My
18 testimony will first provide a brief history of Colstrip Generating Station and issues around
19 its continued operation (Section III), as well as a short summary of the proposed
20 acquisition. I then discuss the proposal in more detail (Section IV) and recommend several
21 conditions for the Commission to consider if it determines that it is in the public interest to
22 approve the transfer of PSE’s interest in CU4 to NorthWestern and Talen (Section V).

1 **II. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS**

2 **Q. Please summarize your conclusions and recommendations.**

3 **A.** Washington utilities and the Commission itself need to start preparing to meet the
4 requirements of the CETA, both the near-term, 2025 requirements around coal power as
5 well as the longer-term transition to carbon-neutral and clean power. PSE’s application is
6 a step in this process. PSE has stated this transaction is important because it will allow
7 them to exit Unit 4 and, critically, remove the uncertainties and barriers to the
8 decommissioning of Unit 3. I'm encouraged that PSE recognizes the need to address the
9 seemingly intractable problems related to their ownership of both Colstrip Unit 3 and Unit
10 4.

11 While I recognize that this transaction could facilitate a move toward compliance
12 with state clean energy laws, before recommending approval, I would need to see
13 significant improvements to this proposal. Any sale approved by the Commission should
14 result in clear environmental benefits for both Washington state and the entire region, while
15 also producing net customer benefits. I will outline several recommendations that I believe
16 would better ensure that the transaction benefits not only the utility, but also its customers
17 and the environment. In light of Washington’s unambiguous requirement to move away
18 from coal fired electricity generation, I believe that these additional conditions would
19 substantially reduce the risks from this sale and increase the durability and public interest
20 benefits of any approved transaction. These conditions are as follows:

- 21 **1.** The Commission should direct PSE to consult with the other Colstrip owners and
22 provide the UTC with a retirement proposal for Unit 3 that sets out a timeline and

1 action plan to retire Unit 3 by the end of 2023 or earlier. PSE should submit this
2 retirement proposal within 6 months of a final order in this Docket.

- 3 **2.** The Commission should require PSE to replace the lost capacity and generation of
4 Colstrip Unit 3 (when retired) and of Unit 4 (after the PPA expires at the end of
5 2025) with clean and/or renewable energy technologies, including both demand-
6 side (e.g. energy efficiency and demand response) and supply-side options.
- 7 **3.** PSE should not be granted any cost recovery for capital additions on Unit 3 after
8 2020.
- 9 **4.** PSE should not be allowed to recover any costs from its Washington customers for
10 incremental remediation and decommission that accrue as a result of unit 3
11 operations after 12/31/2023 or for unit 4 operations that accrue as a result of
12 operations after 12/31/2025. If there are any costs, these should be borne by PSE's
13 shareholders.

14

15 **III. COLSTRIP: BACKGROUND & UNCERTAINTIES**

16 **Q. Please describe the Colstrip electric generating facility.**

17 **A.** The Colstrip Generating Facility is a 4-unit plant complex located in Colstrip, Montana.
18 Units 1 and 2, which are each approximately 307 MW, were constructed, and owned in
19 equal shares, by Puget Sound Power and Light Company (now Puget Sound Energy or
20 PSE) and the Montana Power Company (MPC). These two units went on-line in 1975 and
21 1976, respectively. In 1999, Pennsylvania Power and Light (PPL) obtained MPC's
22 ownership share of the two units (and MPC's share of Unit 3). In 2015, PPL transferred its

Colstrip assets to Talen Energy.¹ In 2016, a settlement between, on the one hand, PSE and Talen, and, on the other hand, the Montana Environmental Information Center and the Sierra Club required that units 1 and 2 cease operations by July 1, 2022. These two units were closed 18 months early, officially shutting down by January 5, 2020.² In a press release from Talen and PSE in June 2019 about the decision to close these two units at the end of 2019, the utilities said that the decision was made after determining they could not make the units “economically viable.”³

Units 3 and 4 went on-line in 1984 and 1986, respectively, and are approximately 740 MW each. These units are owned by five investor owned utilities – PSE, Portland General Electric (PGE), Avista, Pacific Power (a division of of PacifiCorp), NWE – and a merchant generator – Talen Montana. The ownership of these two units is as follows:

Unit 3			Unit 4	
Owner	Share		Owner	Share
PSE	25%		PSE	25%
PGE	20%		PGE	20%
Avista	15%		Avista	15%
PacifiCorp	10%		PacifiCorp	10%
Talen	30% ⁵		NWE	30% ⁴

¹ Talen Energy is the parent of Talen Montana. Talen Montana is the Colstrip plant operator and also has an ownership interest in Unit 3. No distinction will be made herein between these two corporate entities. Subsequently, a private equity firm, Riverstone Holdings acquired Talen Energy but since Talen Montana, or just Talen, is a Colstrip owner and remains the plant operator, reference will be made to it.

² Drake, Phil, “Colstrip Units 1 and 2 shutting down this week, lawmaker says,” *Great Falls Tribune*, January 2, 2020, <https://www.greatfallstribune.com/story/news/2020/01/02/colstrip-units-1-and-2-shutting-down-week-montana-lawmaker-says/2796681001/> (see Exh AML-3).

³ “Colstrip Steam Electric Station Units 1 and 2 to Retire”, Talen Montana Press Release, June 11, 2019, <https://www.prnewswire.com/news-releases/colstrip-steam-electric-station-units-1-and-2-to-retire-300865486.html>. (see Exh AML-4).

⁴ NWE and Talen have a sharing agreement that covers units 3 and 4 that divides cost responsibility and output rights for both units evenly between the two parties. See Exh. RJR-1CTr, page 5. This means that, in effect, NWE “owns” 15% of each unit and Talen “owns” 15%.

1 It is important to understand the jurisdictional issues when considering the situation
2 at Colstrip. PSE, Avista, and PacifiCorp all serve Washington customers and, thus, are
3 subject to regulation by the Washington Utilities and Transportation Commission.
4 PacifiCorp also serves Oregon customers; accordingly, it, along with PGE, are regulated
5 by the Oregon Public Utility Commission. NorthWestern Energy is regulated by the
6 Montana Public Service Commission. The laws of Washington, Oregon, and Montana will
7 apply to these utilities operating within the respective states.

8 **Q. Are there laws or regulatory actions from other states that will affect the future of**
9 **Colstrip?**

10 **A.** Yes. In May 2019, the Washington Clean Energy Transformation Act (CETA) was
11 signed into law.⁵ This Act prohibits each of the Washington utilities from serving their
12 Washington customers with coal-fired generation after 2025. Washington utilities must
13 provide customers with fully greenhouse gas-neutral power beginning in 2030⁶ and have
14 a 100% renewable or non-emitting portfolio by 2045. The state’s utilities are beginning
15 to work toward meeting these requirements of the CETA: an approved party settlement
16 in Avista’s recent rate case will accelerate the depreciation of its Colstrip Regulatory
17 Asset to 2025. Avista also “agree[d] not to support capital expenditures beyond routine
18 capital maintenance costs at Colstrip that will extend the plant’s operational life beyond

⁵ See SB5116, Washington State Legislative Session 2019 – 2020,

<https://app.leg.wa.gov/billsummary?BillNumber=5116&Initiative=false&Year=2019>.

⁶ Utilities can achieve the 2030 greenhouse gas neutrality target by using a combination of non-emitting resources, renewable resources, and “alternative compliance options” that produce GHG reductions equivalent to what would be achieved by the use of non-emitting resources. Utilities may use alternative compliance options to satisfy up to 20% of the GHG neutrality requirement. There are a variety of alternative compliance options, the simplest of which is for the utility to pay \$84 per MWh for a natural gas peaking plant or \$60 per MWh for a combined cycle plant or to purchase unbundled renewable energy credits.

1 December 31, 2025.”⁷ Even more recently, PacifiCorp agreed to accelerate depreciation
2 of its share of Colstrip to 2023, removing all costs associated with coal-fired facilities
3 from its Washington rates at that time.⁸

4 Oregon also has a statutory mandate to eliminate coal from the state’s electricity
5 supply. Senate Bill 1547B requires that electricity provided to customers of Pacific
6 Power (PacifiCorp) and Portland General Electric be coal-free by 2030, with the
7 exception of PGE’s ownership of Colstrip, which, could, under certain circumstances,
8 stay in PGE’s rate base until 2035. This would be very unlikely: PGE’s ownership of
9 Colstrip is subject to the same economic pressure as any other utility that serves its
10 customers with electricity from coal, the law constrains the ability of PGE to recover the
11 costs of capital expenditures past 2030, and there is considerable public pressure in
12 Oregon, even today, for the state’s utilities to adopt clean energy. PGE has set a
13 depreciation date of 2030 for its Colstrip facility ownership share; PacifiCorp has set its
14 Colstrip depreciation date to 2027.

15 **Q. Are there other factors that may influence the decision-making of Colstrip owners?**

16 **A.** Yes. Beyond state laws prohibiting the use of coal power by wire in the future, Colstrip
17 power, as a commodity on the market, is facing significant competitive pressures from
18 energy efficiency, natural gas and renewable energy that has flooded the Western
19 Interconnection.

⁷ Consolidated Dockets UE-190334, UG-190335, UE-190222, Final Order 09, ¶¶ 51, 55 (Mar. 25, 2020).

⁸ WUTC Docket UE-191024. See Washington Utilities and Transportation Commission, “State utility staff announce settlement on Pacific Power electric rates,” *news release*, July 21, 2020. <https://www.utc.wa.gov/aboutUs/Lists/News/DispForm.aspx?ID=671> . (see Exh AML-5).

1 Pressure on individual coal plants to survive as a result of larger economic and
2 social forces is nothing new. Coal plants have faced worsening economics across the
3 U.S., with record drops in coal production, consumption, and generation over the last
4 several years. U.S. coal-fired electricity generation in 2019 fell to its lowest level in 42
5 years when the overall economy was considerably smaller. That same year, energy from
6 renewable resources surpassed that of coal, for the first time in 130 years.⁹ Over 91
7 gigawatts (GW) of coal-fired capacity has retired in the last decade; another 16.7 GW
8 of coal-fired capacity has been fully converted to run on gas. Coal’s challenges
9 competing in the market will almost certainly continue. Utilities have already announced
10 retirement plans for over 52 GW of coal-fired capacity between 2020 and 2030. And, it
11 is not unreasonable to anticipate additional near-term retirements as a result of COVID
12 and the associated drop in electricity demand, which has hit coal especially hard. As
13 lower cost gas and renewable plants have come online, coal has increasingly become the
14 marginal source of electricity – or the last unit of energy dispatched to meet load – and
15 thus has also been the first unit of energy avoided as demand has fallen in recent months.
16 The U.S. Energy Information Administration’s recent modeling (which includes the
17 impacts of COVID) projects that coal’s share of the national electricity mix will fall to
18 20% in 2020 (from 24% in 2019) – below that of natural gas (39%), nuclear (21%), and
19 renewable resources (20%).¹⁰

⁹ U.S. Energy Information Administration (EIA), “Nonfossil sources accounted for 20% of U.S. energy consumption in 2019,” *Today In Energy*, July 1, 2020, <https://www.eia.gov/todayinenergy/detail.php?id=44277>. (see Exh AML-6).

¹⁰ EIA, *Short-Term Energy Outlook*, September 2020, https://www.eia.gov/outlooks/steo/pdf/steo_full.pdf. (see Exh AML-7).

1 The declining competitiveness of coal reflects several factors. The costs of wind
2 and solar energy, and those of electricity storage, have dropped systematically and
3 dramatically, which has made these renewable sources of electric generation
4 increasingly competitive. In the last decade, the price of wind and solar has fallen by
5 70% and 89%, respectively.¹¹ Utilities in the West have signed long-term power
6 purchase agreements for solar power priced as low as \$15/MWh and for solar + storage
7 prices as low as \$30/MWh.¹² With no fuel costs, these very low marginal cost renewable
8 generators become “must run” sources of electricity when they are available, depressing
9 electric market prices. Many customers, from small households to large corporations,
10 have also helped influence the market, driving additional demand for clean and
11 renewable power due to concerns about the impact of coal and fossil fuel-related
12 pollution on climate and public health. In addition, increased domestic supplies of gas
13 have driven down its commodity price compared to coal. Gas-fired plants (e.g.,
14 combined cycle facilities), also tend to be newer and more efficient, and operate more
15 flexibly than coal-fired power plants.

16 17 **IV. SUMMARY OF THE CURRENT PROPOSAL**

18 **Q. Please summarize your understanding of the transaction both as originally**
19 **proposed and as described in PSE’s supplemental filing.**

20 **A. In its original application, PSE proposed to sell its interest in CU4, which constitutes**

¹¹ Lazard, *Lazard’s Levelized Cost of Energy Analysis Version 13.0*, November 2019,
<https://www.lazard.com/perspective/lcoe2019>. (see Exh AML-8).

¹² Schlissel, David, “IEEFA: Record-low solar PPAs are another nail in carbon-capture’s coffin,” *Solar Builder*, June 4, 2020, <https://solarbuildermag.com/policy/ieefa-record-low-solar-ppas-are-another-nail-in-carbon-captures-coffin/>. (see Exh AML-9).

1 185 MW of capacity, to NorthWestern Energy for \$1.00. However, in April, Talen
2 exercised its Right of First Refusal. Under the final terms of the proposed acquisition,
3 Talen and NWE will both receive half of PSE's CU4 capacity.

4 Currently, PSE owns a 25% share of Colstrip Units 3 & 4, while Northwestern
5 owns 30% of Unit 4 and Talen owns a 30% share of Unit 3 (equal to a 15% share of both
6 Colstrip Units 3 & 4). These are known as the "pre-closing" shares. With this
7 transaction, PSE would own a 12.5% share of the two units while NWE and Talen will
8 both own a 21.25% share of the entire Project (or the "post-closing" share).

9 The transaction also includes the sale of a portion of PSE's share of the Colstrip
10 Transmission System to NWE at book value.¹³ Talen, in its exercise of its right of first
11 refusal, is also seeking to acquire some amount of the portion of PSE's transmission
12 system being proposed for conveyance to NWE. PSE and NWE are resisting Talen's
13 invocation of the right of first refusal as it applies to the transmission system, and that
14 the matter has gone to arbitration as is allowed under the Colstrip Ownership and
15 Operation Agreement.¹⁴

16 As part of this transaction, PSE will divest itself of "all rights, title and interest
17 of PSE in Colstrip Unit 4, including PSE's pro rata interest (with respect to its interest
18 in Colstrip Unit 4) in the Common Facilities (as defined in the Common Facilities
19 Agreement), real property (both generating and non-generating), real property leases,
20 inventory (including fuel), contracts for goods or services, security deposits (including

¹³ 95 MW now, with the option to purchase the remainder of 90MW when the PPA expires, assuming Talen loses arbitration.

¹⁴ See the prefiled supplemental direct testimony (nonconfidential) of Ronald J. Roberts, EXH. RJR-9T, page 11 – 12.

1 PSE's share of any working capital deposit held by Talen Montana), prepaid expenses,
2 fuel contracts with coal suppliers, and emission allowances."¹⁵

3 PSE would retain the responsibility, based on its pre-closing share of Colstrip
4 ownership, for pension liabilities, and CU4 remediation costs, decommissioning costs,
5 and miscellaneous shutdown costs for the portion of CU4 it is selling. There is an
6 exception to this: if these liabilities increase due to the violation of environmental laws
7 or releases of hazardous substances that "substantially take place after closing,"¹⁶ then
8 NWE would be responsible for those liabilities based on its post-closing share.

9 According to the terms of the original proposal, NWE and PSE would enter into
10 a PPA for PSE to purchase 90 MW of output from CU4 until May 15, 2025. The PPA
11 pricing would be the higher of either the Mid C Day-Ahead Index Price for on-peak and
12 off-peak periods for the applicable day of delivery minus O&M Costs (Base) Equivalent
13 or the marginal operating cost of Colstrip Unit 4.

14 After exercising its right of first refusal, Talen was able to obtain the right to
15 share in the sale of CU4 output on the same terms that NWE and PSE agreed to. Thus,
16 PSE will now enter into two separate PPAs, one with NWE, one with Talen, on the same
17 terms as those established in the original proposal, but with each PPA for 45 MW.¹⁷

¹⁵ PSE will retain all its right, title, and interest in Colstrip Units 1, 2, and 3.

¹⁶ The Purchase and Sale Agreement between NWE and PSE, makes a distinction between coal combustion residuals released from the facility in the ordinary course of operations, for which remediation cost responsibility is assigned to PSE based on its pre-closing ownership share, and releases of hazardous substances and violations of law post-closing for which NWE would have remediation cost responsibility. See Exhibit RJR-17.

¹⁷ See the Sixteenth and Seventeenth Exhibit to the Supplemental Direct Testimony of Ronald J. Roberts, Exh. RJR-17 and RJR-18, for a copy of PSAs.

1 **Q. How will the proposed transaction affect project decision-making?**

2 **A.** Section 17(f) of the Ownership and Operation Agreement¹⁸ (O&O Agreement) for
3 Colstrip Unit 3 and CU4 establishes a decision-making process for the Project
4 Committee for a variety of matters concerning the two units, such as the capital and
5 operating budgets. The Operator generally will submit matters to the Committee for a
6 vote and “a vote of Operator's Committee member, plus at least two other Committee
7 members so that the Committee members voting for approval represent at least 55% of
8 the total Project Share” is necessary to approve the matter being voted on. There are 5
9 members of the Project Committee.¹⁹

10 With six project owners, the five vote limitation made it necessary for MPC and
11 PPL, when MPC transferred its interest in Unit 3 to PPL, and now with PSE’s proposed
12 transfer of its interest in Unit 4 to NWE and Talen, to adopt an arrangement whereby
13 what was one vote by one entity, based on that entity’s Project Share, could be shared
14 between the original owner and the new owner or, in the case of the present proposed
15 transaction, new owners.

16 Currently, NorthWestern shares a 30% vote with Talen as a result of the
17 acquisition by PPL of Unit 3 from MPC. Their vote sharing agreement lays out which
18 party gets to vote on specific matters (e.g. Unit 3 Proposal, CU4 Proposal, Mixed
19 Proposal). Generally speaking, NWE votes the shared vote on matters concerning CU4
20 and Talen votes the shared vote on matters concerning Unit 3. This vote sharing

¹⁸ See the Second Exhibit to the Prefiled Direct Testimony of Ronald J. Roberts, Exh. RJR-3, for a copy of the Colstrip Units #3 and #4 Ownership and Operation Agreement.

¹⁹ NorthWestern, PSE, Avista, PGE, and PacifiCorp, *see* Section 17(a) of the O&O Agreement.

1 agreement establishes a process to be used if either NWE or Talen objects to the way a
 2 vote is classified and also creates a dispute resolution process if a classification objection
 3 is contested. Importantly, under the NWE and Talen vote sharing agreement, whenever
 4 either entity casts the shared vote it is deemed to be the vote of the Operator Committee
 5 Member.²⁰ Thus, the current breakdown of votes is below:

Party	Project Share	Committee Members	Committee Vote
Avista Corporation	15% (15% interest in each of Colstrip Units 3 and 4)	1	1
NorthWestern	15% (30% interest in Colstrip Unit 4 only)	1	Shared Vote ²¹
PacifiCorp	10% (10% interest in each of Colstrip Units 3 and 4)	1	1
Portland General Electric	20% (20% interest in each of Colstrip Units 3 and 4)	1	1
PSE	25% (25% interest in each of Colstrip Units 3 and 4)	1	1
Talen Montana	15% (30% interest in Colstrip Unit 3 only)	1	Shared Vote ²¹

6 The “three-party” vote sharing agreement between NorthWestern, Talen, and
 7 PSE embedded in this proposal is similar in structure to the vote sharing agreement
 8 between NWE and Talen. It differs, most visibly, by specifying additional categories of
 9 matters to be voted on (e.g. Generic Proposals for each unit, Mixed Proposals, Budget
 10 Proposals for each unit, Remediation Proposal, and Decommissioning Proposals for
 11 each unit). Generally speaking, under the proposed vote sharing agreement, NWE and

²⁰ Section 2.3(f)

²¹ Shared with Talen and NWE.

1 Talen will decide how to cast the shared vote on matters pertaining to CU4 and PSE
 2 votes the shared vote on matters pertaining to Unit 3. Specifically, on CU4 issues, NWE
 3 and Talen will collectively cast the cast the shared vote However, if Talen and
 4 NorthWestern are not in agreement as to how the shared vote is to be case, they will
 5 abstain from voting and the shared vote will not be cast. The breakdown of votes under
 6 this vote sharing agreement would be as follows:

Party	Project Share	Committee Members	Committee Vote
Avista	15% (15% interest in each of Colstrip Units 3 and 4)	1	1
NorthWestern	21.25% (42.5% interest in Colstrip Unit 4 only) ²²	1	Shared Vote 1 ²³ Shared Vote 2 ²⁴
PacifiCorp	10% (10% interest in each of Colstrip Units 3 and 4)	1	1
Portland General	20% (20% interest in each of Colstrip Units 3 and 4)	1	1
PSE	12.5% (25% interest in Colstrip Unit 3 only)	1	Shared Vote 2 ²⁴
Talen Montana	21.25% (30% interest in Colstrip Unit 3 and 12.5% interest in Colstrip Unit 4)	1	Shared Vote 1 ²³ Shared Vote 2 ²⁴

7 **Q. How will the proposed transaction affect Unit 3 decommissioning decision-making?**

8 **A.** PSE has said that this transaction will ease the process of decommissioning Unit 3. In
 9 its initial application, the Company’s Witness Ronald J. Roberts stated “The Vote
 10 Sharing Agreement is important to PSE because it provides certainty with respect to

²² 30% interest from NorthWestern’s existing ownership share in Unit 4 plus 12.5% from the proposed Puget transaction.

²³ Shared with Talen and NWE.

²⁴ Shared with PSE, NWE, and Talen Montana.

1 ambiguities within the Colstrip Units 3 & 4 Ownership and Operation Agreement that
2 could have created difficulties for the owners of Colstrip Unit 3 to decommission and
3 remediate that unit at the appropriate time.” This is because PSE believes that the
4 Ownership & Operating Agreement may require unanimous consent from owners to
5 decommission one or both units.²⁵ In their estimation, “NorthWestern Energy would
6 likely be the owner with the most difficulty approving the closure or decommissioning
7 of Colstrip Unit 3 due to political and economic pressures in the State of Montana.”
8 From PSE’s perspective, the proposed transaction and vote sharing agreement “resolves
9 this ambiguity by providing PSE the sole right to vote the Shared Vote on any issue with
10 respect to a Unit 3 Decommissioning Proposal”, ensuring that NorthWestern would not
11 have a “veto right” under the O&O agreement.²⁶

12 13 **V. NRDC’S PROPOSED RECOMMENDATIONS**

14 **Q. What is the purpose of these recommendations?**

15 **A.** As noted in Section II, the state must begin preparing to meet the requirements of the
16 CETA, both the near-term, 2025 requirements around coal power as well as the longer-
17 term transition to carbon-neutral and clean power. PSE’s application is a step in this

²⁵ The O&O agreement may or may not require unanimous consent. As noted in the company’s response to Public Counsel DR-03 (attached as Exhibit AML-10), “PSE only believes that “[a]rguments could be made that any decision regarding the closure or decommissioning of one or both units must be unanimous.” There are no documents that provide “the basis” for PSE’s “determination.”

²⁶ I will note that whether or not NorthWestern ever had a “veto right” is contested. NWE itself, in response to data requests in the Montana docket, asserted “It is NorthWestern’s position that the Ownership and Operation Agreement requires unanimous vote of the owners to decommission a unit. NorthWestern has no ownership interest in Unit 3 and no “veto right” on decommissioning that unit. See NorthWestern Energy Responses to NRDC-001 in MT PSC Case 2019.12.101, attached as Exhibit AML-11.

1 process. And while I recognize that this transaction could facilitate a move toward
2 compliance with state clean energy laws, I believe significant improvements should be
3 made prior to an approval. I believe that the recommendations discussed below would
4 better ensure that the transaction benefits not only the utility, but also its customers and the
5 environment. These additional conditions should also reduce the risks from this sale and
6 increase the durability and public interest benefits of any approved transaction.

7 **Q. What is your first recommendation?**

8 **A.** The Commission should direct PSE to consult with the other Colstrip owners and provide
9 the UTC with a retirement proposal for Unit 3 that sets out a timeline and action plan to
10 retire Unit 3 by the end of 2023 or earlier. PSE should submit this retirement proposal
11 within 6 months of a final order in this Docket.

12 **Q. Why do you believe this is necessary?**

13 **A.** The deal as currently proposed has no environmental benefits beyond business-as-usual.
14 To begin with, under the transaction PSE will still receive 90 MW of Colstrip Unit 4
15 capacity from NWE and Talen as set forth in their respective PPAs. Thus, emissions from
16 Colstrip Unit 4 associated with these MWs will continue – up until 2025 and then beyond,
17 for as long as the Unit operates, as that portion of Colstrip Unit 4 generation will be used
18 by NorthWestern and Talen to generate electricity to sell to their customers..

19 With respect to the other 95 MW of Colstrip Unit 4 capacity compromising the
20 transaction, while PSE states with respect to this part of the transaction that it enables the
21 immediate reduction of 350,000 metric tons of CO₂, these tons will not actually be reduced
22 – rather only shifted from PSE’s ledger to NWE and Talen’s. This is because the 95 MW
23 of coal output - and the emissions associated with that 95 MW – that PSE will no longer

1 receive if the proposed transaction is approved will simply become the responsibility of
2 NorthWestern and Talen.

3 In order for this deal to have any positive environmental benefit in terms of climate,
4 it must result in actual reductions in coal use and emissions – not just shift those emissions
5 to other entities. PSE asserts that this transaction will help it comply with the CETA;
6 exiting Unit 4 is one-half of that, the other half is Unit 3. In this transaction, PSE has only
7 said that the unit will be retired at an "appropriate time."²⁷ This isn't good enough. Although
8 PSE has until the end of 2025 to get coal out of its portfolio under the CETA, the
9 Commission can and should in the context of this proceeding require an outcome that is
10 more favorable environmentally and to customers, namely the closure of Unit 3 before that
11 date if the application is approved. I would argue that PSE's application, as it currently
12 stands, is flawed because it only considers one-half of the equation. PSE fails to inform the
13 Commission on how and when it is going to exit unit 3. And while one could argue that
14 addressing Colstrip on a unit-by-unit basis is a appropriate way to proceed, I would urge
15 the Commission to take this opportunity and put Unit 3 on a glide path to retirement by
16 2023.

17 Therefore, PSE should be directed to consult with the other owners of unit 3, all but
18 one who are intervenors in this docket, on the subject of unit 3 retirement. PSE should be
19 directed to file a proposal on the subject, identifying a plan for retirement or, if such a plan
20 is not forthcoming, the reasons why and an identification of the impediments to devising

²⁷ See the Prefiled Direct Testimony of Ronald J. Roberts, as revised on March 10, 2020, page 35.

1 such a plan.²⁸ I would suggest that PSE be directed to consider a retirement date of
2 December 31, 2023 or earlier for Unit 3. This should provide sufficient time for PSE and
3 the other owners of Unit 3, as well as the City of Colstrip and surrounding areas, to prepare
4 for the economic and energy impacts associated with the retirement of Unit, while also
5 resulting in an earlier retirement (and environmental benefits) than required by the CETA.

6 **Q. Can you provide more information about what this proposal should include?**

7 **A.** Yes. I would recommend that the proposal cover at least four areas. First, decommissioning
8 of Unit 3 may require unanimous consent (or at least PSE asserts it will)²⁹ of all Unit 3
9 owners (PSE, Avista, Pacificorp, PGE, and Talen). Regardless of whether it requires
10 unanimous consent to decommission the Unit, PSE should engage and work with the other
11 owners to retire the unit in an orderly manner. Any proposal should include a discussion
12 of PSE's undertakings with the other owners and their positions. This should inform the
13 timeline and retirement date proposed by PSE. As noted above, if PSE decides that it cannot
14 develop a plan, it must provide the reasons why and an identification of the impediments
15 to devising such a plan.

16 Second, any proposal should outline the actions that will be necessary to recover
17 all plant costs and retirement obligations ahead of the proposed retirement date. This could
18 include identifying funding streams available to cover remediation and decommissioning
19 costs or the use of accelerated depreciation for currently unrecovered plant costs.

²⁸ If there are confidentiality concerns, that can be addressed through the normal UTC process for handling confidential material.

²⁹ As discussed in the prior section, in the company's response to Public Counsel DR-03, "PSE only believes that "[a]rguments could be made that any decision regarding the closure or decommissioning of one or both units must be unanimous." there are no documents that provide "the basis" for PSE's "determination."

1 In addition to plant and known retirement costs, the proposal should also lay out a
2 transition assistance strategy for the City of Colstrip and Rosebud County. I would
3 recommend that PSE incorporate successful elements and lessons learned from the Colstrip
4 Community Impact Advisory Group (CCIAG) process formed after the 2017 PSE rate case
5 settlement agreement when outlining a process for Unit 3. PSE should include potential
6 funding levels and sources that could be available to help impacted workers, the
7 community of Colstrip, and surrounding areas address the anticipated effects from the
8 closure of Unit 3.

9 Lastly, PSE should lay out a process and timeline to procure any replacement
10 resources necessary to replace the lost generation and capacity from PSE's share of Unit 3.
11 I will discuss the issue of replacement needs in more detail as part of Recommendation
12 two.

13 **Q. What is your second recommendation?**

14 **A.** The Commission should require PSE to replace the lost capacity and generation of Colstrip
15 Unit 3 (when retired) and of Unit 4 (after the PPA expires at the end of 2025) with clean
16 and/or renewable energy technologies, including both demand-side (e.g. energy efficiency
17 and demand response) and supply-side options.

18 **Q. Please explain your recommendation.**

19 **A.** The Clean Energy Transformation Act requires that the state's utilities procure greenhouse-
20 gas neutral power for its Washington customers by 2030 and 100% clean electricity by
21 2045. Requiring PSE to model the replacement of all lost coal capacity with clean or
22 renewable electricity is well within the Commission's purview and is essential to ensure
23 that any utility planning and proposed new capacity is consistent with the requirements of

1 the CETA. PSE should consider both utility- and third-party owned resources, as well as
2 demand-side measures like energy efficiency and demand response, as replacement
3 options.

4 Clean and/or renewable electricity, as I intend for the purposes of this
5 recommendation, should not be unduly restrictive on PSE. It covers a wide expanse of
6 technologies, such as wind and solar power both in- and out-of-state – including projects
7 paired with energy storage technologies – and demand-side measures such as energy
8 efficiency, distributed energy resources, and demand response.

9 I would also ask the Commission to open dockets after the conclusion of this docket
10 for the other Washington utilities that co-own Colstrip capacity to ensure that they also
11 include clean energy replacement and/or start RFP processes for their respective portions
12 of Colstrip well ahead of the 2025 deadline.

13 **Q. Do you have anything else to add about replacement capacity options?**

14 **A.** Yes, I do. I believe that special consideration should be given to renewable projects, such
15 as wind projects, that are located in or near the City of Colstrip, Rosebud County, or
16 neighboring tribal lands and can repurpose the Colstrip Transmission System.

17 These communities, which will be impacted by the closure of the Colstrip
18 Generating Station, have expressed interest in the economic and energy opportunities of
19 renewable energy. For example, the Northern Cheyenne Tribe noted in their testimony to
20 the Montana PSC, “the Tribe has prioritized development of renewable energy as a means
21 to help provide jobs for Tribal members and members of the surrounding community, to
22 work toward Tribal energy independence, and to help contribute to a cleaner

1 environment.”³⁰ The tribe has also identified the importance of Colstrip and its
2 Transmission System, noting:

3 “The presence of Colstrip near the Reservation is absolutely critical to the
4 Tribe's renewable energy development goals, because it provides potential
5 transmission to west coast markets and reduces the amount of transmission line
6 construction needed for a project. Project developers have been attracted to the Tribe
7 both because of abundant wind and solar resources and proximity to Colstrip and
8 associated transmission.”³¹

9 As part of its consideration of potential clean and/or renewable replacement
10 resources, PSE should study and assess the availability and benefits of out-of-state
11 resources, such as resource diversity and potential transition benefits for communities that
12 may be impacted by the closure of Colstrip coal units, to provide clean electricity for
13 Washington consumers. PSE should also ensure, as it develops its long-term resource plan
14 and near-term replacement strategy, that it is retaining adequate transmission on the Colstrip
15 Transmission System to bring these out-of-state renewable resources to meet the needs of
16 their Washington customers and comply with the clean energy requirements of the CETA.

17 **Q. What is your third recommendation?**

18 **A.** PSE should not be granted any cost recovery for capital additions on Unit 3 after 2020.

19 **Q. Please explain your recommendation.**

20 **A.** Under state law, PSE cannot use electricity from Colstrip to meet customer needs after
21 2025. In addition, I am asking the Commission to require PSE to develop a proposal to
22 retire Unit 3 by or before 2023. In either case, given the relatively short amount of time
23 remaining for the usefulness of Unit 3 to meet customer needs, it would be wise to limit

³⁰ See the Intervenor Testimony of Mr. Walksalong, submitted September 25, 2020, in Montana Docket No. 2019.12.101. Page 9 (attached as Exh. AML-12).

³¹ *Id.* Page 10.

1 the exposure of PSE’s customers to new or incremental costs associated with the operation
2 of Colstrip Unit 3. The Commission should be clear that any and all requests for cost
3 recovery related to new capital additions at Unit 3 will be denied moving forward.

4 **Q. What is your fourth recommendation?**

5 **A.** PSE should not be allowed to recover any costs from its Washington customers for
6 incremental remediation and decommission that accrue as a result of unit 3 operations after
7 12/31/2023 or for unit 4 operations that accrue as a result of operations after 12/31/2025.
8 If there are any costs, these should be borne by PSE’s shareholders.

9 **Q. Can you provide more detail?**

10 **A.** Yes. In the proposed transaction, “All liabilities caused by or arising from the AOC and/or
11 CCR Rules that arise from or are caused by the deposit, storage, generation, staging, or
12 release of coal combustion residuals shall be based on pre-Closing Date Project Shares,
13 without regard to whether such deposit, storage, generation, staging, or release occurs
14 before or after closing.”³² This means that PSE will be responsible for 25% of the
15 associated liabilities, rather than its post-closing share of 12.5%. There is one exception to
16 this. If these liabilities increase due to violation of environmental laws or release of
17 hazardous substances (occurring entirely or substantially after closing), the share of costs
18 would be based on the post-closing shares.³³

19 PSE has not provided an estimate of potential incremental remediation expenses that
20 may occur after 2025 from the continued operation of Unit 4. As noted in response to Public
21 Council, “PSE does not know whether Colstrip Unit 4 will continue to operate beyond 2025

³² See the Company’s Response to Public Counsel’s DR-08 (attached as Exh. AML-13).

³³ See the Company’s Response to Public Counsel’s DR-12 (attached as Exh. AML-14).

1 or whether there would be additional coal combustion residual remediation expenses
2 associated with any such continued operation of Colstrip Unit 4 beyond 2025.”

3 Given that the company’s Washington customers will not and cannot receive
4 electricity from Colstrip after 2025, I would recommend that the Commission disallow the
5 recovery of any additional CCR remediation expenses associated with the continued
6 operation of Unit 4 after 2025. In addition, as related to my first recommendation that PSE
7 develop a proposal that would result in the retirement of Unit 3 by or before the end of 2023,
8 I would also recommend that the Commission disallow the recovery of any CCR
9 remediation expenses associated with the continued operation of Unit 3 after December 31,
10 2023.

11 12 **VI. CONCLUSION**

13 **Q. WILL YOU PLEASE RESTATE YOUR RECOMMENDATION.**

14 **A.** Yes. The four recommendations are as follows:

- 15 **1.** The Commission should direct PSE to consult with the other Colstrip owners and
16 provide the UTC with a retirement proposal for Unit 3 that sets out a timeline and
17 action plan to retire Unit 3 by the end of 2023 or earlier. PSE should submit this
18 retirement proposal within 6 months of a final order in this Docket.
- 19 **2.** The Commission should require PSE to replace the lost capacity and generation of
20 Colstrip Unit 3 (when retired) and of Unit 4 (after the PPA expires at the end of
21 2025) with clean and/or renewable energy technologies, including both demand-
22 side (e.g. energy efficiency and demand response) and supply-side options.

1 **3.** PSE should not be granted any cost recovery for capital additions on Unit 3 after
2 2020.

3 **4.** PSE should not be allowed to recover any costs from its Washington customers for
4 incremental remediation and decommission that accrue as a result of unit 3
5 operations after 12/31/2023 or for unit 4 operations that accrue as a result of
6 operations after 12/31/2025. If there are any costs, these should be borne by PSE's
7 shareholders.

8 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

9 **A.** Yes.