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Mr. Mark L. Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250

Submitted via E-mail:
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Re: Docket U-180680

Dear Mr. Johnson:

This office represents CENSE, the Coalition of Eastside Neighbors for Sensible Energy, a Washington non-profit corporation organized in 2013. CENSE was formed to address the regulatory, financial and environmental impacts of an eighteen mile 230 kV transmission line proposed by Puget Sound Energy which would pass through the cities of Redmond, Kirkland, Bellevue, Newcastle and Renton, which has been branded as a part of PSE's lobbying campaign as "Energize Eastside." Over the past years, CENSE has been an active participant in the review of this proposal regarding local permitting, environmental (SEPA) review and proceedings before this Commission.

CENSE has retained several experts in the field of electrical transmission and generation to assist in their review of the PSE proposal. In addition, our firm has been retained as legal counsel.

CENSE has been recently notified that PSE has filed an application requesting the Commission approve new owners of Puget Holdings LLC, the parent company of PSE. The Commission has requested that comments from interested parties be submitted by October 24, 2018.

This letter constitutes the comments of CENSE on the pending application. These comments express concerns regarding the expressed intentions of the new foreign ownership and request that, if the transfer is approved, conditions be placed on the transfer to assure consistency with the public interest.

The application is chiefly supported by the Prefiled Direct Testimony of PSE, including its president and chief executive officer (CEO), its chief financial officer (CFO), and its vice president for energy supply, Mr. Mills. Their testimony claims that PSE has been a good corporate citizen and will continue to be such after the transfer of ownership. For example Ms. Harris, the CEO, indicates that “many of our customers are focused on preserving and protecting the beautiful, natural environment we enjoy” and claims PSE is also focused on this objective. Harris Testimony at 11, line 3-8. She further claims that PSE has “taken actions and made investments that benefit its customers and the community and has worked constructively with the Commission and stakeholders.” Harris Testimony at 11, lines 15-17. Mr. Mills indicates PSE customers “have a growing interest in the environmental impacts of their energy consumption.” Mills Testimony at 5, lines 3-4.

Testimony from the organizations that seek to buy into Puget Holdings provides similar statements, again touting the buyer’s public interest commitments. For example, Mr. Mubashir, on behalf of the Alberta Investment Management Corporation (AIMCo) indicates his company has made a “formal, public commitment to integrating consideration of environmental social and governance (“ESG”) factors in the investment decision-making process.” Mubashir Testimony at 8, lines 6-9. He goes on to say that AIMCo is a co-founder of PRESB Infrastructure “a global sustainability bench marking tool to identify the best and normative ESG practices for infrastructure funds and assets.” Mubashir Testimony at 8, lines 12-15.

While we take these hortatory statements at their face value, the testimony from representatives of these foreign pension funds discloses that none of their constituents or beneficiaries reside in or do business in the PSE service area.

What really attracts these companies to acquire an interest in Puget Holdings is guaranteed returns on investment. As Mr. Verwoest states, his company PGGM (a Dutch pension fund), “seeks to invest in secure entities, characterized by <u>stable cash flows</u> that are anchored in businesses and industries with proven track record. Therefore, <u>rate-regulated utilities are attractive investments</u> for pension plans in general and PGGM in particular.” Verwoest Testimony at 16, lines 7-10 (emphasis supplied).

Similarly, Mr. Mubashir indicates AIMCo is really interested in a “reputable, well-run utility with <u>stable regulatory oversight</u> and a strong management team.” Testimony at 10, lines 16-18 (emphasis supplied). To the same effect is the testimony of Mr. Zucchet, of OMERS Administrative Corporation, a retirement system based in Ontario, Canada. He states: “Rate regulated utilities have long been viewed as an ideal investment sector for OAC and pension plans in general.” Testimony at 11, lines 1-3. Mr. Zucchet points to the fact that PSE’s “established and well-functioning regulatory relationships” were “essential factors in OAC’s decision to acquire an indirect interest in PSE.” Testimony at 11, lines 8-11. In fact, what these purchasers seek investments in companies whose regulators dependably and consistently approve substantial returns on investment that allow these companies to meet their financial objectives. Put in plain terms, these investors like the fact that PSE has been able to secure substantial rates of return on its investments from the WUTC, including the current 9.8 percent return that PSE receives on capital infrastructure projects.

While the investment objectives of the companies seeking to buy into PSE are sensible for pension funds with fiduciary obligations, they are not necessarily consistent with the public interest for rate payers and property owners in Washington state and the PSE service area. Further, current ownership has spent millions of dollars on a public relations effort, styled by its strategist as a political campaign, to sell their "Energize Eastside" project to businesses and local government on the Eastside. These costs are embedded in the Construction Work in Progress (CWIP) account provided to FERC. Ironically, the targets of this lobbying campaign, the residents and businesses on the Eastside, will end up paying for the public relations effort if PSE's prospective foreign owners have their way.

Moreover, contrary to PSE's political campaign, it is now evident that forecasts for capacity are either flat or declining in the Puget Sound region. For example, Seattle City Light (SCL) projects a decline in peak loads for the next twenty years. See https://www.seattle.gov/light/IRP/docs/2018_Integrated_Resource_Plan_Progress_Report.pdf, page 10. This is despite the fact that residential growth rates are significantly higher in Seattle than in Bellevue. See the article in the Seattle Times dated August 8, 2018, https://www.seattletimes.com/business/real-estate/king-county-suburbs-slow-their-housing-growth-canceling-out-seattle-building-boom/. That article indicates that Seattle housing construction has grown 130 percent in this decade, while Bellevue's has only grown by 11 percent. Meanwhile, PSE continues to produce load forecasts which this Commission has noted "have been overly optimistic," based upon a study from the Lawrence Berkeley National Laboratory, as noted in the WUTC Acknowledgment Letter Attachment for THE PSE 2017 IRP ("ALA") at page 11.

Data from the U.S. Energy Information Administration illustrates the problems posed by falling rates of growth in electric peak demand. Since 2008, winter peak in Washington State have only increased by 0.22%. Puget Sound Energy's winter peak loads have actually decreased over the same period by -0.70%.

Much is made in PSE's application about conformance with and continuance of conditions originating in this Commission's 2008 docket which allowed PSE to "go private." Those conditions were forward thinking and continue to have merit. However, times are different in 2018 than they were ten years ago. As noted above, even in the current more prosperous times (with Seattle leading the U.S. in construction cranes, with 65 cranes in July, 2018) electric consumption is declining. Electric utility companies seeking stable and guaranteed return on their investments must find sources other than retail electric sales. Indeed, the prospective owners make no bones about "seeking stable cash flows" which these investors believe can be achieved with "well-functioning regulatory relationships." In sum, these investors believe that this Commission will continue to allow returns on investment for capital construction that substantially exceeds returns from non-regulated investments.

But allowing such over-market returns to companies that would be entirely foreign owned does not translate into furtherance of the public interest for PSE rate payers and residents of their service area. While the pre-filed testimony contains ambiguous platitudes about environmental concerns (described above), no specifics are provided and the new owners' beneficiaries have no tangible interest in environmental values in the Puget Sound region. Moreover, the returns on new owners' investments would not be spent in the PSE service area or the state of Washington; instead they would eventually go into the pockets of retirees in British Columbia, Ontario, Alberta and the Netherlands. It may be more consistent with the public interest to not have large capital investments or rate increases when alternates are available that provide value to local rate payers involving less, not more, electric use.

How then should this Commission balance the financial motives of the potential investor with the public interest?

CENSE suggests conditions that require the owners of PSE to fully, completely and objectively consider alternatives that do not require capital investments and result in less actual consumption. Without conditions, these new owners are likely to continue on their business model of promoting "stable cash flows" that do not necessarily promote the public interest.

For example, demand response, efforts to shave peak demand by voluntary actions by customers, is relied upon in the Seventh Pacific Northwest Power plan to make up 600 MW of peak demand which is cost effective to develop. https://www.nwcouncil.org/sites/default/files/finalplanbrochure.pdf. The concept was favorable received by the Supreme Court in Federal Energy Regulatory Commission, Petitioner v. Electric Power Supply Association, 135 S.Ct 2049 (2015) Supreme Court (January, 2016), where Justice Kagan wrote describing the potential results of demand response on the electric system created by excessive mid-summer heat in D.C. and the consequence of buying or generating expensive power:

> Making matters worse, the wholesale electricity market lacks the self-correcting mechanism of other markets. Usually, when the price of a product rises, buyers naturally adjust by reducing how much they purchase. But consumers of electricity—and therefore the utilities and other LSEs buying power for them at wholesale—do not respond to price signals in that way. To use the economic term, demand for electricity is inelastic. That is in part because electricity is a necessity with few ready substitutes: When the temperature reaches 98 degrees, many people see no option but to switch on the AC. And still more: Many State regulators insulate consumers from short-term fluctuations in wholesale prices by

> insisting that LSEs set stable retail rates. See *id.*, at 41, 43-44. That, one might say, short-circuits the normal rules of economic behavior. Even in peak periods, as costs surge in the wholesale market, consumers feel no pinch, and so keep running the AC as before. That means, in turn, that LSEs must keep buying power to send to those users—no matter that wholesale prices spiral out of control and increased usage risks overtaxing the grid.
>
> But what if there were an alternative to that scenario? Consider what would happen if wholesale market operators could induce consumers to refrain from using (and so LSEs from buying) electricity during peak periods. Whenever doing that costs less than adding more power, an operator could bring electricity supply and demand into balance at a lower price. And simultaneously, the operator could ease pressure on the grid, thus protecting against system failures. That is the idea behind the practice at issue here: Wholesale demand response, as it is called, pays consumers for commitments to curtail their use of power, so as to curb wholesale rates and prevent grid breakdowns. See *id.,* at 44-46.

The issues raised by Judge Kagen are very similar to ones raised by this Commission in its ALA at page 5 where there was considerable discussion of resource adequacy with a conclusion that "a capacity short position is an increasing possibility." At page six, this Commission indicates that "historical experience suggests the demand will be inelastic, leading to very high costs of purchasing capacity from the tight market." Page 6. The Commission's conclusion was that "the absence of a plan for eliminating reliance on market purchases over the 20-year plan <u>carries excessive risk</u>" (emphasis supplied). Of course, for companies seeking a stable cash flow, these "very high costs" will not impact equity owners, but rather provide an opportunity to pass on costs to the local rate payers without impacting retail revenues.

As described above, one of the capital projects that has been proposed by PSE is the "Energize Eastside" project, an 18 mile 230 kV transmission line running through Redmond, Kirkland, Bellevue, Newcastle and Renton. The specific distribution project, now costing about $300 million, was originally designed for conditions in 2010. At the time Puget Sound Energy estimated that its total peak load would be 5,960 MW in 2018. But for many years, Puget Sound Energy has experienced no growth in their peak loads. In fact, the 2010 forecast is now 40% above current peak loads.

We believe that "Energize Eastside" has become obsolete given current conditions and has passed from prudent utility planning to gold-plating the existing distribution system. We are concerned that the objective of assuring "stable returns on investment" through unwarranted projects will come at great expense to local rate payers and property owners.[1]

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[1] Indeed, BPA abruptly cancelled its I-5 Reinforcement Project, 80 miles of transmission in Southwest Washington and Northern Oregon, citing the availability of non-wire alternatives. See https://www.bpa.gov/Projects/Projects/I-5/Pages/default.aspx.

This concern is amply illustrated by the most recent Moody's concerns about the highly leveraged nature of the company – a fact that contributes significantly to the low bond ratings at both the corporate and the utility levels. Moody's Investors Service, Credit Opinion, Puget Sound Energy, Inc., Update following rating affirmation, 31 August 2018, *www.Moody's.com*.

In the ALA, at page 10, this Commission also raised questions about the "Energize Eastside" project, including load assumptions, the withholding of modeling date, and Canadian entitlement returns. This Commission also stated that:

> it is still not clear if a joint utility analysis of all available transmission and potential interconnections in the Puget Sound region might solve the Energize Eastside reliability issues.

ALA at 11. Additionally, as described above, aggressive demand response would address both the concerns inherent in the "Energize Eastside" project, but also "excessive risk" of purchasing capacity on the spot market.

Based on the foregoing, CENSE requests that the Commission, if it approves the transfer to the new buyers, include public interest conditions that address the announced intention of these buyers to rely upon PSE operations and capital projects to create a "stable cash flow."

The first condition reflects concerns about resource adequacy and the "excessive risk" from relying on the market for capacity. The suggested condition is:

> Immediately following approval of the new upstream owners of PSE, an analysis shall be made of the resource adequacy, including a) the ability of fixed-cost generation assets, including those close to the load, such as energy storage, to meet peak demand and b) demand side resources such as demand response. This analysis shall be performed and prepared by a third party provider and shall be open to public review and comment. PSE shall submit this analysis to this commission and local governments in the PSE service area.

The second condition reflects continuing questions about the "Energize Eastside" project. This proposed condition is as follows:

> Immediately following approval of the new upstream owners of PSE, a joint utility analysis as described in the Acknowledgment Letter shall be performed to analyze all available transmission and potential interconnections, including Seattle City Light, that might solve the Energize Eastside reliability issues. This analysis shall be performed and prepared by a third party provider and shall be

> open to public review and comment. PSE shall submit this analysis to this commission and local governments in the PSE service area.

While the commitments of the new purchasing entities must be taken at face value, actions are necessary to assure that "stable cash flows" do not dominate decision making by the new owners and that the public interest remains the guiding principal.

Thank you for the opportunity to address important local concerns in this proceeding.

Sincerely,

ARAMBURU & EUSTIS, LLP

J. Richard Aramburu

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