

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

PUGET SOUND ENERGY, AVISTA CORPORATION d/b/a AVISTA UTILITIES, PACIFICORP d/b/a PACIFIC POWER & LIGHT COMPANY, CASCADE NATURAL GAS CORPORATION, NORTHWEST NATURAL GAS COMPANY d/b/a NW NATURAL, THE ALLIANCE OF WESTERN ENERGY CONSUMERS, NW ENERGY COALITION, THE ENERGY PROJECT, SMALL BUSINESS UTILITY ADVOCATES, FRONT & CENTERED, AND SPARK NORTHWEST,

Petitioners,

For An Order Approving an Extended Interim Participatory Funding Agreement between Puget Sound Energy, Avista Corporation d/b/a Avista Utilities, PacifiCorp d/b/a Pacific Power & Light Company, Cascade Natural Gas Corporation, Northwest Natural Gas Company d/b/a NW Natural, the Alliance of Western Energy Consumers, NW Energy Coalition, The Energy Project, Small Business Utility Advocates, Front & Centered, and Spark Northwest.

DOCKET U-210595

PETITION OF INVESTOR-OWNED UTILITIES, CUSTOMER REPRESENTATIVES AND PRIORITIZED ORGANIZATIONS FOR APPROVAL OF THE WASHINGTON EXTENDED INTERIM PARTICIPATORY FUNDING AGREEMENT

I. INTRODUCTION

1. Pursuant to WAC 480-07-370(3), the following organizations file this Petition with the Washington Utilities and Transportation Commission (“Commission”) for approval of

the Washington Extended Interim Participatory Funding Agreement (“Extended Interim Agreement”): Puget Sound Energy (“PSE”), Avista Corporation (“Avista”), PacifiCorp, Cascade Natural Gas Corporation (“Cascade”), Northwest Natural Gas (“NW Natural”), Alliance of Western Energy Consumers (“AWEC”), NW Energy Coalition (“NWECC”), The Energy Project (“TEP”), Small Business Utility Advocates (“SBUA”), Front & Centered, and Spark Northwest (collectively, “Joint Parties”). For the reasons discussed below, the Joint Parties support and recommend Commission approval of the Extended Interim Agreement filed concurrently herewith. This memorandum includes sections discussing lessons learned from the current Washington Interim Participatory Funding Agreement (“Interim Agreement”), a brief history of the negotiations between the parties, and a detailed overview of the key provisions of the Agreement, including explanation of any modifications to these provisions.

II. BACKGROUND

2. The Washington Legislature adopted legislation authorizing financial assistance for organizations representing broad customer interests in regulatory proceedings conducted by the Commission, which has been codified at RCW 80.28.430.
3. RCW 80.28.430(1) requires Washington investor-owned energy utilities to enter into financial assistance agreements with organizations representing broad customer interests in Commission proceedings. Eligible organizations include those representing low-income, commercial, and industrial customers, as well as vulnerable populations and highly impacted communities. These agreements are subject to Commission approval and may be approved, approved with modifications, or rejected. The Commission must also consider the reasonable allocation of costs among customer classes of the utility. RCW 80.28.430(4) also expressly

provides that organizations representing vulnerable populations and highly impacted communities (“Prioritized Organizations”) must be prioritized for participant funding.

4. The Commission administers the agreements, which includes determining the amount of financial assistance available for request, the manner in which it is distributed, and the manner in which it is recovered in the rates of the utility.¹ The Commission’s administration of the agreements also includes providing rate recovery for fund grants provided by utilities, which utilities are allowed to defer for later recovery.²

5. To aid in the development of the initial funding agreement, the Commission engaged in a stakeholder process that culminated in its Policy Statement on Participatory Funding for Regulatory Proceedings (“Policy Statement”). In its Policy Statement, the Commission expressed two goals in the implementation of RCW 80.28.430: (1) increasing participation of groups of people who have not historically been part of Commission proceedings; and (2) increasing the effectiveness of participation of other parties that have historically been active before the Commission.³ As described below, the signatories to the Extended Interim Agreement seek to carry forward terms that are consistent with these goals.

III. DEVELOPMENT OF THE EXTENDED INTERIM AGREEMENT

6. In the fall of 2022, discussions began regarding the need to have an agreement to replace the Interim Agreement, which expires at the end of 2022. Initial efforts began with a review of the Interim Agreement, discussions regarding the lessons learned from the Interim Agreement, and potential changes that could be made. A subset of consumer parties began work

¹ RCW 80.28.430(2).

² RCW 80.28.430(3).

³ Policy Statement, ¶ 14.

on a preliminary draft agreement with the intent of extending the terms of the current Interim Agreement for two more years, with a few modifications, reasoning that an extension will allow additional time for lessons learned with agreement structure so that the next version can be more fully informed by what works and what could be improved. Following an initial draft of the Extended Interim Agreement, discussions began with the utilities, Commission Staff, and Public Counsel, which all provided either feedback or edits to the draft Extended Interim Agreement.

7. All signatories to the Interim Agreement were invited to attend a meeting on December 7, 2022 to discuss the draft Extended Interim Agreement and to finalize its terms. AWEC, NWECC, TEP, Spark Northwest, PSE, PacifiCorp, Avista, NW Natural and Cascade attended the meeting, and discussed draft provisions, issues and concerns. Following additional internal discussions and discussions amongst stakeholders, the Joint Parties reached a final agreement and executed the Extended Interim Agreement on December 19, 2022.

8. The agreed-upon changes from the Interim Agreement to the Extended Interim Agreement were informed by experience under the Interim Agreement, including the level of funding requests for each utility's Sub-Funds. The following table sets forth the amount requested from each Sub-Fund, the approved budget amounts, and the amounts paid by each utility.

	PSE	Avista	PacifiCorp	Cascade	NWN
Total Customer Access Fund	\$300,000	\$300,000	\$300,000	\$265,512	\$72,735
Amt Requested	\$406,020	\$200,000	\$10,000	\$75,250	\$0
Amt Approved	\$300,000	\$170,000	\$0	\$75,250	\$0
Amt Paid	\$0	\$0	\$0	\$0	\$0
"Remaining Funds" (Budget - Approved)	\$0	\$130,000	\$300,000	\$190,262	\$72,735
Prioritized Org Sub-Fund	\$100,000	\$100,000	\$100,000	\$88,504	\$24,245
Amt Requested	\$150,000	\$0	\$0	\$0	\$0
Amt Approved	\$115,000	\$0	\$0	\$0	\$0
Amt Paid	\$0	\$0	\$0	\$0	\$0
Remaining Funds	(\$15,000)	\$100,000	\$100,000	\$88,504	\$24,245
Customer Representation Sub-Fund	\$200,000	\$200,000	\$200,000	\$177,008	\$48,490
Amt Proposed	\$256,020	\$200,000	\$10,000	\$75,250	\$0
Amt Approved	\$185,000	\$170,000	\$0	\$75,250	\$0
Amt Paid	\$0	\$0	\$0	\$0	\$0
Remaining Funds	\$15,000	\$30,000	\$200,000	\$101,758	\$48,490

IV. SUMMARY OF THE MAJOR CHANGES TO THE INTERIM AGREEMENT

A. Overview

9. The Joint Parties used the Interim Agreement as a starting point for the Extended Interim Agreement, making limited modifications largely related to the parties' agreement to have a two-year funding agreement in order to allow additional time for lessons learned that can be incorporated into a permanent agreement.

B. Organizations And Proceedings Eligible For Funding

10. The Extended Interim Agreement maintains the two different categories of organizations: (1) “Prioritized Organizations”; and (2) other customer representative organizations that meet the criteria in the Extended Interim Agreement. Prioritized Organizations are those that represent vulnerable populations and highly impacted communities, as those terms are defined in the Clean Energy Transformation Act, RCW 19.405.020(23) and RCW 19.405.020(40). Both Prioritized Organizations and other organizations must be “case-certified” to receive funding for a particular proceeding.⁴ The case certification requirements for Prioritized Organizations and other organizations remain unchanged from the Interim Agreement.

C. Funds and Accounts

11. The Extended Interim Agreement maintains the five separate “Consumer Access Funds,” one for each Participating Public Utility (PSE, Avista, PacifiCorp, Cascade, and NW Natural).⁵ The Policy Statement established a \$300,000 cap for each Consumer Access Fund, with the requirement that at least one-third of available funding should be reserved for Prioritized Organizations.⁶ The Extended Interim Agreement is generally consistent with this requirement, with two changes: an increase to PSE’s Prioritized Organizations Sub-Fund and a “safety valve” process that allows a Participating Organization to request a petition to increase a Sub-Fund for good cause shown. The impetus for both changes is the fact that some utilities and certain Sub-Funds have been exhausted more quickly than others, begging the question of whether increases

⁴ Extended Interim Agreement, Article 5.2.

⁵ Extended Interim Agreement, Article 4.2.

⁶ Policy Statement, ¶ 21.

are appropriate for each utility's Consumer Access Fund, balanced with the desire to have more experience with the Sub-Funds so that any increases in a future agreement will be more informed.

12. The Joint Parties agree to an increase to PSE's Prioritized Organizations Sub-Fund of \$100,000, which was exhausted during the term of the Interim Agreement. The Joint Parties find that this increase is appropriate given the Commission's desire to further facilitate participation from Prioritized Organizations. No other utility's Prioritized Organization Sub-Fund was similarly exhausted, and therefore, no other increases for Prioritized Organization Sub-Funds are proposed at this time. This change has the effect of increasing PSE's Consumer Access Fund total to \$400,000.

13. The Joint Parties also agree to include a "safety valve" provision that allows for a Participating Organization to petition the Commission for an increase to any utility Sub-Fund in the event that the Sub-Fund has been fully exhausted for the calendar year. If granted, this would have the effect of also increasing that utility's Consumer Access Fund by the corresponding amount. A petitioning Participating Organization carries the burden of demonstrating that there is good cause for the Commission to grant its request. As one example of a circumstance that may constitute good cause, if there is a proceeding involving all utilities, such as a rulemaking, and one or more utilities' respective Sub-Funds have been exhausted, the Commission could find there is good cause to grant a petition to increase one or more Sub-Funds in order to ensure that the ratepayers of those utilities without exhausted Sub-Funds are not subsidizing the ratepayers of utilities with exhausted Sub-Funds. Interested stakeholders, including Commission Staff, would have the opportunity to file a response to any such petition. As discussed above, the Joint Parties agree that for purposes of the Extended Interim Agreement,

this approach best balances the fact that some utility Sub-Funds were exhausted while others were not with the desire to ensure that ratepayers across all utilities have appropriate access to Sub-Funds for proceedings.

D. Advance of Sub-Fund Amounts

14. The Extended Interim Agreement is a two-year agreement, which raises logistical questions for funding proceedings in which the funds available in the appropriate Sub-Fund are inadequate to provide the level of Fund Grants that the Commission deems appropriate and the work for the proceeding is anticipated to continue into a second calendar year during the term of the Extended Interim Agreement. In this case, a Participating Organization may request to utilize funds from the next year's Sub-Fund if it can demonstrate that the anticipated Eligible Expenses in the second year are commensurate with its request for Fund Grants in that year. For example, if a general rate case proceeding is filed on August 1st of one year and is expected to conclude in June of the following year, and the Commission finds that the fund amounts in year one are not sufficient for the work to be completed, the Commission could approve an Advance for funds from the second year commensurate with the amount of work budgeted to occur in the second year. This provision is subject to Commission discretion, which may also help ensure that the appropriate level of funds is available in the second year of this Extended Interim Agreement while also providing a procedural path forward for significant proceedings that span more than one calendar year.

E. Eligible Expenses

15. The Extended Interim Agreement maintains the types of expenses considered eligible for reimbursement as were included in the Interim Agreement, which include primarily

attorney and consultant/expert witness fees, but also include several other expenses incurred for participation in an Eligible Proceeding, such as travel expenses and copying costs.⁷ The Extended Interim Agreement also maintains the time frames for Eligible Expenses as originally included in the Interim Agreement. In proceedings where a Participating Organization made a request for Advance funds, the Participating Organization's Eligible Expenses are considered on a calendar year by calendar year basis.

F. Process For Requesting And Seeking Payment Of Fund Grants

16. The process for requesting and seeking payment of Fund Grants is also substantially similar to that set forth in the Interim Agreement. The Interim Agreement required request for payment of Customer Access Funds to be made “at the conclusion of an Eligible Proceeding, and, when applicable, no later than 60 days after the Commission’s final order issued in the Eligible Proceeding has become final and non-appealable, except where provision is made for interim funding for Prioritized Organizations under the provisions of Section 7.2...” The Joint Parties have agreed to modify the requirement that a request for payment must wait until the conclusion of the Eligible Proceeding, and instead allow for a request for payment to be made “once the Participating Organization has finalized its Eligible Expenses.” Allowing Participating Organizations an opportunity to request payment at an earlier time may provide valuable flexibility to manage cash flow and/or payments to attorneys, experts, etc., utilized in the proceeding. To be clear, this change does not allow an organization that is not a Prioritized Organization to receive interim funding under Section 7.2 (which continues to be reserved exclusively for Prioritized Organizations consistent with the Commission’s Policy Statement).

⁷ Extended Interim Agreement, Article 7.3.

Rather, this change only allows an organization that is not a Prioritized Organization to make a payment request after it has either fully exhausted its budget (and, therefore, further participation in a proceeding will not result in additional funding to the organization under the Extended Interim Agreement) or it has completed all activities for which funding is eligible.

17. The Extended Interim Agreement also requires parties to itemize Eligible Expenses by calendar year, which will facilitate review and the Commission’s decision-making process for payment when a Participating Organization has requested an Advance.

18. Finally, the Extended Interim Agreement also includes an updated standardized form for proposed budgets, which includes all of the requirements from the previous form but eliminates the 20% Discount line under the Expert Witness Fees. This line item was inadvertently included in the Interim Agreement. The Commission did not previously adopt a requirement that Expert Witness fees be subject to a 20% discount,⁸ and the Joint Parties do not advocate that the Commission impose such a requirement in the Extended Interim Agreement.

G. Allocation Of Costs

19. The Extended Interim Agreement continues the cost allocation provision from the Interim Agreement. The Extended Interim Agreement also contemplates cost recovery based on the particular circumstances of the proceedings, including the number of participating utilities and the beneficiaries of the issues raised by a Participating Organization. Importantly, the Extended Interim Agreement also continues to provide the Commission with the ultimate discretion in how to allocate costs, consistent with the goal to “fairly align the costs of the

⁸ *Washington Utilities and Transportation Commission v. Puget Sound Energy*, Docket Nos. UE-220066 and UG-220067 (consolidated) & UG-210918, Order Approving Proposed Budgets and Fund Grants in Part; Rejecting in Part at ¶ 51 (Mar. 26, 2022).

advocacy with the intended potential beneficiaries of the advocacy, regardless of actual outcome of the case.”⁹

20. Costs incurred by the Participating Public Utilities are eligible for deferral, with carrying costs equal to each Participating Utility’s authorized rate of return until such deferral is amortized, at which point the return will be at the published FERC rate.¹⁰ Because the Participating Public Utilities filed deferral applications following the approval of the Interim Agreement, some of which are ongoing in nature, it is not expected that this subset of utilities will file new deferral requests following approval of the Extended Interim Agreement. As such, for these utilities, the Commission has already approved the deferral requests and associated interest rate on the deferral that is anticipated to extend to the Extended Interim Agreement. In its final order approving of the Interim Agreement, in an effort “to mitigate the impact of carrying costs on ratepayers, the Commission requires utilities to file annual tariff revisions to recover those deferred amounts.”¹¹ For this reason, the Joint Parties have not proposed to modify the carrying cost in the Extended Interim Agreement.

VI. FURTHER PROCESS

21. The Joint Parties’ intent with the Extended Interim Agreement, which largely extends the terms of the Interim Agreement subject to the exceptions described above, is to allow for more time and experience with the structure of a funding agreement so that learnings can be incorporated into a permanent funding agreement. In discussing experience to date, the Joint Parties have identified a number of items that are outside of the four corners of the Extended

⁹ Extended Interim Agreement, Article 7.7(b).

¹⁰ *Id.*, Article 7.9.

¹¹ Docket U-210595, Order 01 ¶10.

Interim Agreement, but nevertheless warrant further process which will facilitate utilization and administration of the Extended Interim Agreement.

22. First, the Joint Parties discussed the value of creating templates for interventions, submitting budgets, making payment requests, and potentially others that could facilitate participation from organizations that are less familiar with Commission processes. The Commission could develop these templates on its own, or in collaboration with stakeholders. AWEC would be willing to draft these templates for Commission review, but must be assured that it will receive funding for General Outreach, consistent with the requirements of Section 7.4 in the Extended Interim Agreement. If the Commission is agreeable to this approach, AWEC would submit a budget for the work and proposes that it be recovered proportionately from all Customer Access Funds (including from both the Prioritized Organizations Sub-Fund and the Customer Representation Sub-Fund).

23. Second, the Joint Parties discussed the value in having a document on the Commission's website where the amount of requested and remaining Sub-Fund amounts are clearly visible and available to all stakeholders. See the Oregon Public Utility Commission's Intervenor Funding page, specifically the Intervenor Funding Summary, as an example.¹² This would assist Participating Organizations in making requests to more easily determine the level of funds available in each of the Sub-Funds.

24. Third, the Joint Parties discussed the value of having more certainty on the timing and process for Commission determinations on Fund Grants in non-contested case proceedings, where there may not be a prehearing conference to establish timelines for Commission action on

¹² <https://www.oregon.gov/puc/filing-center/Pages/Intervenor-Funding.aspx>.

proposed budgets. The Joint Parties respectfully request that the Commission rule on filings under the Extended Interim Agreement within 30 days of receipt, unless another process has been adopted for a particular proceeding.

25. Fourth, the process that the Commission uses to determine if utilities should recover payments from all customer classes or certain customer classes pursuant to Section 7.7(b) is unclear. Stakeholders would welcome additional clarity from the Commission concerning the process it uses to make this determination and whether the Commission finds valuable any additional process for parties that may be interested in providing input regarding cost allocation.

26. Finally, the Joint Parties will have an initial meeting no later than June 2024 to begin discussing the next funding agreement to replace the Extended Interim Agreement. This will allow ample time to gain additional learnings, incorporate any additional Commission feedback, and draft and file the negotiated agreement so that it may be in place prior to the expiration of this Extended Interim Agreement.

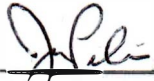
VII. CONCLUSION

27. For the foregoing reasons, the undersigned Joint Parties respectfully request that the Commission find that the Washington Extended Interim Participatory Funding Agreement filed concurrently herewith to be consistent with RCW 80.28.430, the Commission's Policy Statement, and with the public interest, and that the Commission adopt and approve the Extended Interim Agreement by Order.

28. Representatives of the Joint Parties will be available at the Open Meeting scheduled for consideration of this matter.

Dated this 19th day of December, 2022.

Respectfully submitted,



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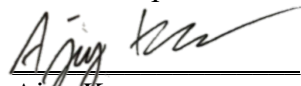
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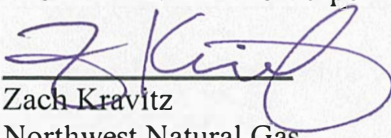
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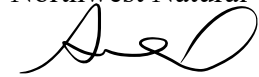
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