

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Complainant,

v.

AVISTA CORPORATION

d/b/a AVISTA UTILITIES,

Respondent.

DOCKET NOS. UE-240006 AND UG-
240007

(Consolidated)

EXHIBIT WG-9

**EXCERPT OF SNS-1T, RESPONSE TESTIMONY OF WITNESS SHAYLEE STOKES
OF THE ENERGY PROJECT FROM PUGET SOUND ENERGY RATE CASE,
DOCKET NO. UE 240004**

**ON BEHALF OF
NW ENERGY COALITION**

August 16, 2024

1 **Q: What arguments did TEP make at that time?**

2 A: TEP did not dispute that RCW 80.28.410 provides the Commission with discretion to
3 authorize a cost of capital for PPAs procured pursuant to a utility's Clean Energy Action
4 Plan (CEAP) and that PSE's DR PPAs were procured pursuant to its CEAP. However,
5 TEP requested that the docket be consolidated with this general rate case so that parties
6 could address, through testimony and in brief, whether and under what circumstances the
7 Commission should exercise its discretion to award a cost of capital for PPAs. The
8 Commission granted TEP's request and consolidated the docket with this rate case.¹⁰⁹

9 **Q: What did TEP recommend the Commission explore in this case?**

10 A: TEP recommended that the UTC consider PSE's proposed cost of capital for the PPAs
11 and the performance incentive mechanism together so that the UTC can develop a
12 coordinated policy concerning: 1) the total amount of financial incentives available to
13 shareholders for DR programs, 2) the portion of the financial incentive attributable to
14 PSE's performance, and 3) the portion of the financial incentive attributable to having an
15 executed contract.

16 1. RCW 80.28.410 does not require the Commission to provide utilities a
17 cost of capital for power purchase agreements.

18 **Q: Have you reviewed RCW 80.28.410?**

19 A: Yes. I am not an attorney, but as a part of my work I read the laws concerning energy
20 policy in Washington.

21 **Q: In your opinion, does RCW 80.28.410 require the Commission to provide utilities a**

¹⁰⁹ Order 03 Consolidating Dockets (March 29, 2024).

1 **financial incentive for signing a PPA?**

2 A. No. The law reserves for the Commission discretion to approve or deny a cost of capital
3 for PPA costs. Specifically, the last sentence of section (1) says

4 Creation of such a deferral account does not by itself determine the actual
5 costs of the resource or power purchase agreement, *whether recovery of*
6 *any or all of these costs is appropriate*, or other issues to be decided by the
7 commission in a general rate case or other proceeding (emphasis added).

8 The italicized phrase means that the Commission may determine if recovery of “any”
9 specific cost is appropriate or not. One of the specific costs that the Commission has
10 discretion to approve or reject is the cost of capital for PPAs.

11 Further, when discussing the types of costs to include in the deferral, sections (1)
12 and (2) use the permissive term “may.” In fact, the mandatory terms “will,” “shall,” and
13 “must” do not appear anywhere in RCW 80.28.410.

14 For these reasons, I do not believe that the Commission is required to approve a
15 rate of return for PPAs included in the deferrals. Questions concerning legal
16 interpretations are best resolved in briefing.

17 **Q: Should the Commission provide PSE’s shareholders a financial incentive for signing**
18 **these three DR PPAs?**

19 A: No. DR is a preferred resource under Washington state law and PSE is already pursuing
20 cost-effective demand-side resources. Granting PSE an incentive for expected
21 performance results is not appropriate, especially given that ratepayers foot the cost.
22 Further, customers already pay for the cost of capital associated with developing DR
23 resources. When a utility signs a PPA, the price the utility pays includes a return on
24 capital for the resource’s owners. Captive ratepayers should not be asked to pay twice for
25 the cost of capital of a resource. PSE invested no capital in the project and has no right to

1 a financial incentive for fulfilling its legal obligation to acquire cost-effective DR
2 resources on behalf of customers.

3 PSE has not made a sufficient showing that such a phantom cost of capital is
4 necessary or reasonable, so the Commission should reject the proposal.

5 2. The Commission should reject PSE's demand response performance
6 incentive mechanism because the target is not based on appropriate data
7 and the design is flawed.

8 **Q: Please describe the second financial incentive for DR that PSE requests.**

9 A: Witness Archuleta proposes that the commission establish a performance incentive
10 mechanism (PIM) concerning the energy savings associated with DR programs.¹¹⁰

11 **Q. Did the Commission establish a PIM for DR performance in PSE's 2022 general
12 rate case?**

13 A: Yes. As a part of a non-precedential settlement, the Commission approved a DR PIM.
14 TEP's testimony supporting the settlement criticized several aspects of the PIM and
15 supported several ratepayer protections.¹¹¹

16 **Q. What was TEP's analysis of the settlement's PIM?**

17 A: It was important to TEP that the settlement capped PSE's incentive at \$1 million, and that
18 it set a more aggressive target than initially proposed by PSE. However, in its testimony
19 supporting the settlement, TEP expressed concern about structure of the PIM and the lack
20 of a cost-benefit test.

21 TEP was also concerned about the lack of data available by which to set a target.

22 However, considering that PSE had no existing DR program and customers would likely

¹¹⁰ Archuleta, Exh. GA-1T at 18-21.

¹¹¹ *Wash. Utils. and Transp. Commn. v. Puget Sound Energy*, Dkts. UE-220066/UG-220067 and UG-210918, Cebulko, Exh. BTC-7T at 3-6.