

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of

PUGET SOUND ENERGY

For an Order Authorizing the Sale of All of
Puget Sound Energy's Interests in Colstrip Unit
4 and Certain of Puget Sound Energy's
Interests in the Colstrip Transmission System

DOCKET UE-200115

RESPONSE TESTIMONY OF

NANCY E. HIRSH

ON BEHALF OF

NW ENERGY COALITION AND RENEWABLE NORTHWEST

October 2, 2020

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EXHIBIT LIST

Exh. NEH-02 (Witness Qualification).

Exh. NEH-03 (PSE Response to Public Counsel Data Request No. 001).

Exh. NEH-04 (PSE Response to NWEC Data Request No. 001).

Exh. NEH-05 (Gillenwater, Michael, *What is Additionality? Part 1: A long standing problem*, Greenhouse Gas Management Institute; Science, Technology and Environmental Policy Program, Woodrow Wilson School of Public and International Affairs, Princeton University, Princeton, NJ, January 2012).

Exh. NEH-06 (PSE Response to NWEC Data Request No. 005).

Exh. NEH-07 (PSE Response to NWEC Data Request No. 006).

1 **I. INTRODUCTION**

2 **Q. Please state your name and business address.**

3 **A.** My name is Nancy Hirsh. My business address is 811 1st Ave, Suite 305, Seattle,
4 WA 98104.

5 **Q. Please describe your background and experience.**

6 **A.** I am the Executive Director of the NW Energy Coalition (“NWEC” or the
7 “Coalition”). From 1996 through 2014 I was the Policy Director for NWEC,
8 where I was responsible for directing the Coalition’s efforts to enhance
9 investments in energy efficiency, renewable resources, and low-income energy
10 services through work with utilities, commissioners, regulators, and state policy-
11 makers. Prior to joining NWEC in 1996, I spent twelve years in Washington, D.C.
12 working on national energy policy issues for the Environmental Action Foundation
13 and the National Wildlife Federation. I have served as an expert witness on
14 decoupling, rate design, and energy efficiency programs in cases before the
15 Washington, Idaho, and Oregon Commissions. I have worked with other NWEC
16 staff and national experts on resource planning, the design of decoupling
17 mechanisms, energy efficiency, and policies and programs to reduce greenhouse
18 gas (“GHG”) emissions.

19 **Q. What is the purpose of this response testimony?**

20 **A.** My testimony explains the position of NWEC and Renewable Northwest
21 (“RNW”) on the issue of whether the Puget Sound Energy’s (“PSE” or “Puget”)
22 Application For an Order Authorizing the Sale of All of Puget Sound Energy’s
23 Interests in Colstrip Unit 4 and Certain of Puget Sound Energy’s Interests in the

1 Colstrip Transmission System that is before the Washington Utilities and
2 Transportation Commission (“Commission” or “UTC”) in this proceeding is in the
3 public interest. While I am not a lawyer, I have extensive experience participating
4 in UTC proceedings and legislative hearings regarding the development and
5 application of the public interest standards. To that end, I offer my thoughts on the
6 relevant standards through the lens of a policy advocate.

7 As far as the standards, in order to satisfy the public interest requirement,
8 the transaction must first meet the “no harm” standard. To that end, my testimony
9 introduces the testimony of Ron Binz and Michael Goggin, showing that if the
10 Commission approves the transaction, harm will indeed arise to PSE customers.
11 Second, the transaction should be evaluated under the “net benefits” standard,
12 which it also fails to meet. Lastly, I explain how the proposed sale does not meet
13 the Clean Energy Transformation Act (“CETA”).

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

15 **A.** NW Energy Coalition and Renewable Northwest.

16 **Q. Please describe the NW Energy Coalition and Renewable Northwest.**

17 **A.** NWECC is a non-profit alliance of around one hundred environmental, civic and
18 human services organizations, utilities, businesses, labor unions, and communities
19 of faith in the Pacific Northwest. NWECC’s primary purpose is to promote an
20 energy future that is clean, reliable, affordable, and equitable. NWECC provides
21 technical and policy leadership on energy issues in this region, and seeks to
22 promote the development of renewable energy, energy conservation, and
23 affordable energy services.

1 RNW is a non-profit organization that works to facilitate the expansion of
2 responsibly developed renewable resources in the Northwest. RNW’s membership
3 includes renewable energy developers and manufacturers, as well as consumer
4 advocates, environmental groups, and other industry advisers. The common goal of
5 RNW’s members is to promote the development of a cost-effective, reliable, and
6 clean energy system for the betterment of the Northwest economy and
7 environment.

8 **Q. Please describe the interests of NWEAC and RNW that are affected by this**
9 **proceeding.**

10 **A.** NWEAC and RNW and their members have a substantial interest in the matter of the
11 PSE’s proposed sale. The proposed asset sale to NorthWestern Energy
12 (“NorthWestern” or “NWE”) and Talen Montana (“Talen”) will directly affect PSE
13 costs to serve customers, our member groups, and the individual members of our
14 organizations. The outcome of this proceeding also has a high likelihood of
15 impacting clean energy progress desired by many customers, as well as the general
16 public in Washington State.

17 The interests in this proceeding of NWEAC and RNW include:

- 18 1. Members of NWEAC and RNW have a direct and substantial interest in
19 the implementation by the Commission of the legal standard for evaluating
20 mergers and other property transfers under either the “net benefits” or “no
21 harm” test described below;
- 22 2. The proposed transaction could impact Puget’s performance related to
23 clean energy implementation as required by state law;
- 24 3. The proposed transaction could impact PSE’s integrated resource

1 planning and PSE's generation portfolio in a manner that either supports or
2 detracts from PSE's clean energy obligations and that impacts cost and risk
3 for PSE's customers;

4 4. The proposed sale could impact the availability of transmission capacity
5 in the region;

6 5. The proposed transaction could impact other issues related to Puget's
7 interest in the Colstrip coal-fired power plant in Montana including
8 transition planning; and

9 6. The proposed transaction could impact affordability for customers.

10 **Q. Please provide an explanation of NWEC and RNW's expectations of PSE in**
11 **this case and the lens through which you have analyzed the proposed**
12 **transaction.**

13 **A.** It is my understanding that in a transfer of property case, the Commission must
14 determine that the sale is consistent with the public interest to approve the
15 transaction.¹ In evaluating whether an asset sale is in the public interest, the
16 Commission has developed a set of principles it uses to determine if the sale
17 satisfies the "no harm" standard.² More recently, the Washington legislature
18 adopted a second step to the analysis—the "net benefit" standard—that applies to
19 property transfers of a utility's controlling interest.³ I am not testifying about what
20 is required by law, but as a matter of policy, the Commission should apply the "net
21 benefit" standard to transfers of property such as the one at issue here. Such an

¹ WAC 480-143-170.

² I provide my understanding of the "no harm" standard in Section II of my testimony.

³ RCW 80.12.020.

1 approach is supported by other general regulatory principles and by Commission
2 decisions in other contexts. In addition to upholding the laws and regulations of
3 the State of Washington, our organizations also expect PSE to protect and enhance
4 affordability for customers and to be responsible stewards of the environment.
5 This includes an expectation that the proposed transaction will align with the clean
6 energy goals of the State of Washington and, specifically, to provide enhanced
7 efforts to meet existing clean energy laws, especially the Clean Energy
8 Transformation Act passed by the Washington legislature in 2019. While certain
9 aspects of the proposed transaction may meet the bare minimum requirements of
10 CETA, overall, the transaction is not consistent with my understanding of CETA's
11 intent and will make it more difficult for PSE to cost-effectively comply with
12 CETA in the future.⁴

13 **Q. How is your testimony organized?**

14 **A.** My testimony first provides an overview of the public interest evaluation,
15 including the “no harm” standard and the failure of the acquisition to meet this
16 lower threshold. Next, I discuss the “net benefits” standard, as well as NWEC and
17 RNW considerations related to the “net benefits” standard as applied in this asset
18 transfer. I also discuss issues related to PSE's proposed sale of Colstrip assets and
19 whether the sale is consistent with consideration of clean energy as part of the “net
20 benefits” standard. Finally, I discuss issues related to CETA.

⁴ NWEC/RNW's witnesses Ron Binz and Michael Goggin also explain how the transaction will harm Washington ratepayers. *See also* Binz, Exh. RJB-1CT; Goggin, Exh. MSG-1T.

1 **Q. Are there any other witnesses testifying on behalf of NVEC and RNW?**

2 **A.** Yes, in addition to my testimony, Ron Binz and Michael Goggin will present
3 testimony on behalf of NVEC and RNW.

4 **Q. What will Ron Binz be testifying about?**

5 **A.** Ron Binz further discusses the acquisition's relation to CETA. Furthermore, he
6 analyzes the power purchase agreement ("PPA") between Puget and
7 NorthWestern/Talen, and the potential impacts to rates. In general, Mr. Binz finds
8 that the Colstrip Unit 4 transaction could cost Puget up to \$8 million in relation to
9 retaining ownership and shutting down the unit in 2025.

10 **Q. What will Michael Goggin be testifying about?**

11 **A.** Michael Goggin discusses the harm to customers by Puget selling the rights to 185
12 megawatts ("MW") of the Colstrip Transmission System ("CTS") for net book
13 value. Mr. Goggin finds that, in part due to the need to comply with CETA, the
14 CTS will become increasingly valuable as Montana wind resources offer greater
15 value at lower cost than other resources. Specifically, Mr. Goggin finds that
16 retaining CTS capacity could have a value hundreds of times greater than the
17 \$1.725 million that PSE would receive from its sale under the proposed
18 transaction.

19 **II. NET BENEFITS AND THE PUBLIC INTEREST**

20 **Q. Please explain the public interest standard and how it relates to this case.**

21 **A.** I am not an attorney, but I am testifying regarding my understanding of the public
22 interest standard as a foundation for the basis for my testimony. Under
23 Washington law, no utility "shall sell, lease, assign or otherwise dispose of" any of

1 its property that is “necessary or useful in the performance of its duties to the
2 public” without UTC authorization.⁵ Before authorizing an asset sale, the UTC
3 must conclude that the sale is “consistent with the public interest.”⁶ Initially, the
4 UTC had pointed out in several cases that this statute and administrative rule did
5 not provide specific criteria to determine what was in the public interest.⁷ As a
6 result, the UTC developed an applicable set of standards through case law, which
7 relied upon satisfying a “no harm” standard. The UTC has a long history of
8 utilizing the following four principles in evaluating whether an asset sale meets the
9 “no harm” standard:

- 10 1. A transaction should not harm ratepayers by causing rates or risks to
11 increase, or by causing service quality and reliability to decline.⁸
- 12 2. It should strike a fair balance between the interests of ratepayers,
13 shareholders, and the broader public while preserving affordable, efficient,
14 and reliable service.⁹

5 RCW 80.12.020.

6 WAC 480-143-170.

7 *E.g., In Re Puget Sound Power & Light Co.*, Docket No. UE-960195, Fourteenth
Suppl. Order Accepting Stipulation; Approving Merger at *13 (Feb. 5, 1997)
[hereinafter *Puget Sound P&L*].

8 *Id.* at *15-16.

9 *Id.* (Under the second principle, the UTC considers the direct and indirect effects
that the transaction would have on the broader public, which has included
considerations for existing state policy, environmental concerns, low-income
customers, and gas and electric resource issues).

- 1 3. It should not impair the development of competitive markets where such
2 markets can effectively deliver affordable, efficient, reliable, and available
3 service; and
- 4 4. The jurisdictional effect of the transaction should be consistent with the
5 UTC’s role and responsibility to protect the interests of Washington
6 ratepayers.¹⁰

7 These four principles are not considered a “checklist,” and they do not represent
8 any minimum requirements.¹¹ Rather, the UTC uses them to determine whether
9 there is “at least, no harm to the public interest.”¹² The UTC has also explained
10 that “[o]ver time, and across different industries and transactions, different
11 considerations may prove relevant to determining the public interest.”¹³ Thus,
12 each principle is not necessarily relevant for each case, and when they are relevant,
13 the weight given to each principle will vary in each case.¹⁴

14 **Q. Have there been any changes to the public interest standard that relate to this**
15 **case?**

16 **A.** Yes, in 2009, the Washington State Legislature amended the law, changing how
17 the UTC would determine what is in the public interest for transactions involving

10 The third principle was self-explanatory, and under the fourth principle, the UTC
11 considered any impact a property sale might have on the UTC’s jurisdictional
12 ability to protect the interests of Washington ratepayers. *Id.*
13 *In Re Avista Corp.*, Docket Nos. UE-991255, UE-991262, Second Suppl. Order
14 Approving Sale with Conditions at 7, 11 (Mar. 6, 2000) [hereinafter *Avista Corp.*].
15 *Id.* (citing *PSE, Inc.*, Docket No. UE-990267, Third Suppl. Order at 5 (Sept. 30,
16 1999)).
17 *Id.*
18 *Id.*

1 mergers or acquisitions of controlling interests in a company.¹⁵ In addition to
2 assessing the potential harms of the transfer, the UTC now must conclude that
3 ratepayers will receive a “net benefit” to determine that such a transaction is in the
4 public interest.¹⁶ As discussed further below, I am not testifying about whether the
5 “net benefit” standard is required as a matter of law, but I recommend that this “net
6 benefit” test should apply to PSE’s proposed asset sale at issue here.

7 **Q. Please explain the net benefit test.**

8 **A.** After the Commission approved a major transaction involving PSE under a “no
9 harm” standard,¹⁷ the Washington Legislature in 2009 enacted Senate Bill (“SB”)
10 5055. Now codified as RCW 80.12.020, it requires that

11 [t]he commission shall not approve any transaction under this
12 section that would result in a person, directly or indirectly, acquiring
13 a controlling interest in a gas or electrical company without a finding
14 that the transaction would provide a net benefit to the customers of
15 the company.
16
17

18 In contrast to the older “no harm” standard, the “net benefit” standard requires a
19 property transfer to leave a customer better off than they would be if the transfer
20 never occurred.¹⁸ The UTC explained the difference between the “no harm” and
21 “net benefit” standard as:

15 RCW 80.12.020.

16 *Id.*

17 *In the Matter of the Joint Application of Puget Holdings, LLC, and Puget Sound Energy, Inc.*, Docket. No. U-072375, Order No. 08 Approving and Adopting Settlement Stipulation; Authorizing Transaction Subject to Conditions (Dec. 30, 2008).

18 *Id.* at 29.

1 Before the change in law in 2009, the case law that had developed
2 over time construed the standard for Commission approval of a
3 transfer of property under RCW 80.12.020 as being “no harm.” This
4 standard required that ratepayers be, at worst, indifferent to a
5 proposed transfer of property. In contrast, the net benefit standard
6 requires that the transfer of property leave ratepayers better off as a
7 result.¹⁹
8

9 Presently, the Commission appears to have a two-part test to analyze certain asset
10 transfers. First, the Commission will undertake the “no harm” analysis to
11 determine if the transaction harms customers and whether there are adequate
12 protective measures to prevent those harms. Second, the Commission will
13 determine if the transaction provides positive benefits. The UTC explained:

14 Strong and comprehensive protective measures coupled with
15 demonstrable benefits to customers weigh in favor of Commission
16 approval. If protective matters are found to be inadequate to
17 protect against an unavoidable risk, the level of affirmative
18 benefits to customers would need to be adequate first to offset
19 fully the potential impacts if the risk is realized and, second, to
20 make customers better off than they would be without the
21 transaction in order for the Commission to find net benefits.²⁰
22

23 **Q. In your view, what does “net benefit” mean?**

24 **A.** That is a question the Commission must address, and the Commission should have
25 latitude to interpret and apply that standard. NWECA supported the new standard in
26 hearings on SB 5055 before the Washington State Senate Committee on
27 Environment, Water & Energy on January 21, 2009. The prime sponsor of that

¹⁹ *Id.* at 29 (emphasis in original).

²⁰ *Id.* at 34.

1 bill, Senator Lisa Brown also testified and provided the justification for this
2 “higher standard”:

3 I believe this higher standard is warranted for at least three
4 reasons.

5 First of all, as I have already mentioned, other states do have the
6 standard, so I believe it would afford the same opportunity for the
7 public in Washington State that the members of the public in other
8 states have.
9

10 Number two, whenever there is a change of ownership, a merger/
11 acquisition, there is a certain level of risk that the best analysis
12 cannot completely eliminate and there is also the danger that
13 market conditions change and there is the possibility that
14 intentions, even at the time of the merger and acquisition, are not
15 completely followed through on. So, my second point would be
16 that given this inherent level of risk, in essence we would
17 compensate the public by having the initial agreement
18 demonstrate a net public benefit.
19

20 Third, I believe this creates an opportunity as we move into this
21 era that as we acknowledge we are moving into an era of having
22 both national policy and our state policy reflect a desire to move
23 towards clean energy and take advantage of economic
24 development benefits and the benefits for ratepayers of
25 investments in alternative forms of energy, energy efficiency, etc.,
26 this standard would also provide the opportunity for there to be
27 negotiated some of those benefits in front of the merger and
28 acquisition. These are things that are sometimes negotiated
29 already in the course of a rate case, but particularly in this time of
30 instability of a merger and acquisition, it would be great to have
31 the opportunity to take advantage of things such as in California,
32 a Clean Energy Fund that was formed that benefits for lower
33 income ratepayers could also be negotiated.
34

1 So, for these reasons, I would recommend to you the
2 consideration of applying this net public benefits standard.”²¹

3
4 Senator Brown indicated that, if the Legislature adopted her proposed “net benefit”
5 standard, the Commission could exercise its discretion in imposing and enforcing
6 conditions that would further state and federal policies favoring renewable energy,
7 energy efficiency, and support for low income customers. Subsequently, the
8 Commission has recognized that Washington’s policy framework is intended to
9 “diversify the state’s energy mix while reducing its impact on the environment.”²²
10 NWEC and RNW believe that conditions that further clean energy progress are an
11 integral part of complying with the “net benefits standard.”

12 **Q. Why should the Commission apply the “net benefit” standard in this case if it**
13 **does not involve a merger or sale of a controlling interest in a company?**

14 **A.** Since the legislature’s adoption of the “net benefit” standard, it is my
15 understanding that there have been instances where the UTC has discussed the “net
16 benefit” standard in the context of property transfer cases. NWEC and RNW
17 encourage the Commission to officially extend the “net benefit” standard to asset
18 sales such as the proposed transaction in this proceeding. The proposed sale of
19 Colstrip Unit 4 and the high-value CTS capacity have significant implications for

²¹ *Work Session: Decoupling electric and gas utility rates and incentives for conservation on SB 5055, SB 5072 before the Senate Committee on Environment, Water & Energy, TVW Tape at 10:21 (Jan. 21, 2009), available at <https://www.tvw.org/watch/?eventID=2009011178>*

²² *In the Matter of the Washington Utilities and Transportation Commission’s Investigation into Energy Storage Technologies, Docket UE-151069, Report and Policy Statement on Treatment of Energy Storage Technologies in Integrated Resource Planning and Resource Acquisition at 3 (Oct. 11, 2017).*

1 PSE’s customers that go beyond the cost-and-risk lens of the “no harm” standard.²³
2 Transactions of this nature should be held to the higher “net benefit” standard. We
3 urge the Commission to interpret and apply the “net benefit” standard as
4 enunciated by Senator Brown and require a significant benefit to ratepayers and the
5 public before approving this transaction.

6 **Q. What conditions related to clean energy progress should be considered as part**
7 **of the “net benefit” standard in this case?**

8 **A.** The State of Washington has many policies that specifically address the importance
9 of reducing GHG emissions and other pollutants.²⁴ Several policies also directly
10 support the acquisition of clean energy resources by electric utilities to serve their
11 customers in a manner that reduces environmental impacts—most prominently, the
12 Energy Independence Act and the most recent clean energy legislation, CETA,
13 passed in 2019. Accordingly, NWECA and RNW assert that clean energy resource
14 utilization and acquisition and the reduction of GHG emissions and other
15 pollutants are vital aspects of clean energy progress that should be considered as
16 part of either the “no harm” or the “net benefits” standard in any asset transfer case
17 before the Commission.

18

²³ See e.g., Binz, Exh. RJB-1CT; Goggin, Exh. MSG-1T.

²⁴ See e.g., RCW 70.235.020, RCW 80.80, WAC 173-441, WAC, Chapter 173-442, *Washington Carbon Pollution Reduction and Clean Energy Action*, Exec. Order 14-04 (Apr. 29 2014), *W. Pub. Util. Comm’ns’ Joint Action Framework on Climate Change*, Wash.-Or.-Cal. (Mar. 7, 2017).

1 **Q. Is the proposed asset transfer in this case consistent with the public interest to**
2 **reduce greenhouse gas emissions and other pollutants?**

3 **A.** No. PSE argues that the proposed asset transfer will reduce PSE’s average annual
4 GHG emissions by 350,000 metric tons of carbon dioxide – attributable to the
5 portion (95 MW) of the Colstrip Unit 4 generation asset PSE would sell to
6 NorthWestern and Talen but not purchase back through a PPA.²⁵ While NWECC
7 and RNW agree that figure might be a plausible estimation of the shift in GHG
8 emissions attributable to PSE’s direct owned-generation and purchases of
9 electricity related to Unit 4 through 2025, that figure is largely irrelevant to the
10 question of whether the transaction will result in an actual reduction in overall
11 greenhouse gas emissions. NWECC and RNW assert that, to the contrary, the
12 proposed asset sale will not result in any real reduction in GHG emissions. In fact,
13 PSE admits in their response to NWECC Data Request 001 “*Although the proposed*
14 *sale of Puget Sound Energy’s (“PSE”) interests in Colstrip Unit 4 to NorthWestern*
15 *Energy would reduce PSE’s emissions of greenhouse gas emissions, the transfer of*
16 *ownership to NorthWestern Energy will likely not result in either an increase or a*
17 *reduction in the greenhouse gas emissions in the Western Electricity Coordination*
18 *Council region.*”²⁶

19 While we agree with PSE that the proposed sale will not result in a
20 reduction in GHG emissions in the Western Electricity Coordination Council

²⁵ Roberts, Exh. RJR-1CTr at 3; Hirsh, Exh. NEH-03 (PSE Response to Public Counsel Data Request No. 001).

²⁶ Hirsh, Exh. NEH-04 (PSE Response to NWECC Data Request No. 001)(emphasis added).

1 region, or any other broader regional or national context, we dispute PSE's claim
2 that it is not likely to result in an increase in GHG emissions. The proposed sale
3 could in fact result in an increase in overall regional greenhouse gas emissions by
4 prolonging the life of Colstrip Unit 4 through the sale of the unit to a party that has
5 a vested interest in running the Unit well past 2025,²⁷ the date established under
6 CETA for utilities to stop using coal-powered electricity to serve customers of
7 Washington state. In summary, the proposed transaction at best, shifts the
8 greenhouse gas emissions attributable to Colstrip Unit 4 out of state, or at worst,
9 results in a net increase in greenhouse gas emissions by selling to an owner that is
10 likely to run the unit further into the future.

11 **Q. Please explain your rationale for taking the position that a shift of**
12 **responsibility for greenhouse gas emissions to an entity outside of the State of**
13 **Washington is not consistent with the public interest of Washington State?**

14 **A.** In the area of GHG emissions reduction public policy, it is common practice to
15 ensure that GHG reductions meet additionality criteria.²⁸ Part of the concept of
16 additionality is the amount of GHG emissions is reduced from reaching the
17 atmosphere compared to what would have happened without the project. This is a
18 particularly important concept when considering an environmental hazard such as
19 GHG emissions or air pollution, which impacts environmental factors beyond

²⁷ See Roberts, Exh. RJR-5C, Attachment 21, at 12, 323.

²⁸ See generally Hirsh, Exh. NEH-05 (Gillenwater, Michael, *What is Additionality? Part 1: A long standing problem*, Greenhouse Gas Management Institute; Science, Technology and Environmental Policy Program, Woodrow Wilson School of Public and International Affairs, Princeton University, Princeton, NJ, January 2012).

1 political boundaries such as cities, states, and even nations. GHG and other air
2 pollutant emissions can be easily shifted to other jurisdictions without the proper
3 safeguards, resulting in no net emissions reductions unless additionality is
4 confirmed. In this case, PSE’s claimed reduction of GHG emissions would not
5 meet the condition of additionality and therefore should be assumed not to result in
6 a net reduction in GHG emissions.

7 **III. COMPLIANCE WITH THE CLEAN ENERGY TRANSFORMATION ACT**

8 **Q. CETA requires a utility to “eliminate coal-fired resources from its allocation**
9 **of electricity.” Doesn’t this mean that the transaction meets the statutory**
10 **requirements of CETA, as claimed by PSE?**

11 **A.** RCW 19.405-030(1)(a) requires an electric utility, on or before December 31,
12 2025, to eliminate coal-fired resources from its allocation of electricity. I am not
13 an attorney, but if you look at these narrow requirements, the elements of the
14 proposed transaction that result in the sale of Colstrip Unit 4 to NorthWestern
15 could be one avenue to support one aspect of PSE’s compliance with that section
16 by transferring ownership of Unit 4 in order to stop incurring costs that would have
17 been passed to customers for that resource.

18 However, if you look at the broader intent of CETA, the answer to whether
19 the sale is consistent with CETA takes on a different light. RCW 19.405.010
20 outlines the intent of the CETA and reflects the greater purpose of taking action on
21 climate change and reducing GHG emissions that go beyond Washington state.

22 Among the statements in the intent section that reflect this greater purpose are:

23

1 “The legislature finds that Washington must address the impacts of climate
2 change.” (Section 1).

3
4 “Absent significant and swift reductions in greenhouse gas emissions,
5 climate change poses immediate significant threats to our economy, health,
6 safety and national security.” (Section 3).

7
8 “The legislature finds that Washington can accomplish the goals of [this
9 act] while: . . . protecting clean air and water in the Pacific Northwest.”
10 (Section 4).

11
12 These statements all indicate a legislative intent consistent with Washington State
13 reducing GHG emissions to address climate change, which would include ensuring
14 that the emission reductions meet the condition of additionality and are not merely
15 shifted to another jurisdiction.

16 **Q. Are there other elements of CETA that indicate this intent to reduce**
17 **greenhouse gas emissions beyond Washington State borders?**

18 **A.** Yes. RCW 19.405.040 includes a provision (subsection 11) that allows a
19 multistate electric utility in Washington to apply megawatt-hours of coal-fired
20 electricity eliminated from the utility’s allocation of electricity before December
21 31, 2025 toward its amount of required non-emitting electric generation and
22 renewable resources needed to meet the clean energy standards set forth in the
23 same section. As a condition of this provision, the law requires that the utility
24 demonstrate that “for every megawatt-hour of early action compliance credit there

1 is a real, permanent reduction in greenhouse gas emissions in the western
2 interconnection directly associated with that credit.” To me, this requirement
3 illustrates the legislative intent that GHG emission reductions associated with
4 CETA’s requirements not merely be shifted from Washington to other geographic
5 areas, but rather that compliance actions result in real, permanent, additional
6 greenhouse gas emissions beyond Washington state.

7 **Q. In your opinion, is the proposed asset transaction consistent with the public**
8 **interest in Washington State to reduce greenhouse gas emissions?**

9 **A.** No. PSE has not demonstrated that the proposed transaction results in any actual
10 GHG emissions reductions. Our review of the transaction leads us to conclude that
11 there are no attributable GHG reductions associated with the transaction and that
12 the proposed transaction may, in reality, lead to increases in GHG emissions.

13 **Q. In your opinion, is the proposed asset transaction consistent with CETA?**

14 **A.** No. The proposed transaction presents a fairly limited solution, applicable only to
15 Colstrip Unit 4, that serves to reduce shareholder risk associated with the legal
16 requirements of RCW 19.405.030 relating to coal-fired power. The proposed
17 transaction, however, is merely one of several possible options that would facilitate
18 PSE’s compliance with the coal transition requirements of CETA. Other options
19 include shutting down the units prior to the December 31, 2025 deadline, not
20 passing any further costs along to customers that result from contractual
21 obligations associated with Colstrip Units 3 and 4 costs, or other sale options such
22 as short-term market sales. Certainly, PSE has multiple options to comply with
23 CETA. However, PSE has not fully analyzed other compliance paths. As

1 evidenced by their response to NWECC Data Request No. 005,²⁹ PSE failed to
2 “conduct[] analyses to determine alternative replacement resource mixes” aside
3 from its comparison of the proposed transaction to business as usual. PSE further
4 acknowledged in NWECC Data Request 006 that it had “not conducted analyses to
5 determine alternative replacement resource mixes” to replace energy and capacity
6 of Colstrip Unit 4, other than market purchases and the proposed PPA.³⁰ The
7 decommissioning of the unit coupled with clean energy replacement options should
8 have been considered prior to executing the PPA, and implemented instead if found
9 to be less costly and yielding better environmental results.

10 Furthermore, the transaction leaves entirely unaddressed the same
11 compliance issues related to PSE’s ownership of Colstrip Unit 3 and in that
12 respect, is an incomplete approach to addressing compliance with the specific coal-
13 fired requirements in CETA.

14 It is true that CETA requires utilities to divest themselves of fossil fuel
15 power resources by 2045, but the law does not necessarily dictate how the utilities
16 should achieve that goal. Therefore, there are likely several ways that PSE can
17 divest itself of fossil fuels without the UTC approving this specific transaction.
18 And finally, but most importantly, as discussed earlier in my testimony, the
19 transaction is not consistent with the overall intent of CETA to advance clean

²⁹ Hirsh, Exh. NEH-06 (PSE Response to NWECC Data Request No. 005)

³⁰ Hirsh, Exh. NEH-07 (PSE Response to NWECC Data Request No. 006)

1 energy and reduce GHG emissions and, for this reason alone, I view it as
2 inconsistent with my understanding of CETA.

3 **Q. Is the proposed asset transaction consistent with the public interest of**
4 **advancing clean energy resources in Washington State?**

5 **A.** No. There are two primary aspects of the proposed asset transfer that are not
6 consistent with the public interest of advancing clean energy resources. First, as
7 discussed by the testimony of Michael Goggin, the transmission aspects of the
8 transaction pose risks and significant future costs of delivering valuable Montana
9 clean energy resources to Washington.³¹ Selling off this increasingly valuable
10 system resource well below its real value only harms customers financially and
11 does not provide any additional benefits, thereby failing to meet both the “no
12 harm” and “net benefit” standards.

13 Second, PSE failed to do proper analysis regarding alternative resources for
14 the 90 MW of coal-fired electricity that they plan to purchase back from
15 NorthWestern and Talen under the proposed PPA.³² Instead of continuing use of
16 this coal-fired resource, PSE could have, at a minimum, analyzed the benefits of
17 acquiring clean energy resources for that resource need and would likely have
18 found lower cost and less risky options. Furthermore, as discussed in Ron Binz’s
19 testimony, selling the asset while continuing to purchase its output could harm
20 customers to the tune of \$8 million between the present and 2025. Again, aside
21 from merely shifting responsibility for GHG emissions, no benefits arise from the

³¹ Goggin, Exh. MSG-1T.

³² Hirsh, Exh. NEH-6 (PSE Response to NWECC Data Request 005).

1 transaction, and the transaction harms customers by increasing the costs and risks
2 of CETA compliance, while also potentially raising customer bills in the near-term.

3 **Q. Have you identified any environmental benefits of the proposed asset sale?**

4 **A.** No.

5 **Q. Does the proposed asset transfer provide financial benefits to customers that**
6 **will result in maintaining affordable and reliable electric service?**

7 **A.** No. As discussed in Ron Binz's testimony, the proposed transaction, and in
8 particular the PPA, on balance produces financial risk and potential costs to
9 customers.³³ Moreover, as discussed in Michael Goggin's testimony, selling PSE's
10 CTS capacity will significantly increase CETA compliance costs. Thus, in my
11 opinion, not only does the proposed transaction fail to provide financial benefits to
12 PSE customers, it will also increase risks to customers, make it more difficult for
13 PSE to preserve affordable service, and will not protect the interests of Washington
14 ratepayers.

15 **Q. Does the proposed asset transfer satisfy the interests of NVEC and RNW;**
16 **meet either the "net benefits" standard or the "no harm" standard; and is it in**
17 **the public interest?**

18 **A.** No. As discussed above, NVEC and RNW find no clean energy or environmental
19 benefits associated with the proposed transaction and on this basis alone, we can
20 say that it is not in the public interest. Even under the lower "no harm" threshold,
21 the proposed transaction does not pass muster from a clean energy or
22 environmental standpoint because it may cause Colstrip Unit 4 to run longer and
23 emit more GHGs than it would in the absence of the proposed transaction.

³³ Binz, Exh. RJB-1CT.

1 Moreover, as detailed by Michael Goggin, the transmission aspects of the
2 proposed transaction significantly increase the costs and risks of PSE's CETA
3 compliance, and are concerning from a clean energy standpoint in this respect. As
4 noted previously, the costs and risks outlined in the testimony of Ron Binz and
5 Michael Goggin are concerning in and of themselves, leading to significant
6 questions about whether the proposed transaction is in the financial interest of
7 customers. Not only does the proposed transaction offer potential costs and risks
8 to customers that violate a "no harm" threshold, the transaction itself does not
9 provide enough assurances of a net benefit to customers from a financial or
10 environmental perspective that would offset the harms we have identified.

11 **IV. CONCLUSION**

12 **Q. Does this conclude your testimony?**

13 **A. Yes.**