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December 9, 2018

Washington Utilities and Transportation Commission  
PO Box 47250  
Olympus, WA 98504-7250

RE: Comments for Docket No. U-180907

Inquiry into the Adequacy of the Current Regulatory Framework, etc.

Dear Commissioners,

CENSE, the Coalition of Eastside Neighborhoods for Sensible Energy, would like to thank the Commission for opening Docket U-180907 and organizing a workshop to consider the pros and cons of the regulatory framework that governs investor-owned utilities in Washington State. We think this is a very important topic. While work obligations do not allow me to attend the workshop or participate by phone, two board members of CENSE, Norm Hansen and Warren Halverson, will join the phone call. I submit the following written comments on behalf of CENSE.

CENSE is an all-volunteer organization representing over 1,000 residents on the Eastside of Lake Washington, who are committed to technologies that will provide reliable, affordable electricity with the least dependence on fossil fuels. To this end, CENSE has hired experts to analyze and propose alternatives to projects proposed by our utility, Puget Sound Energy. These technologies include demand response, enhanced electrical efficiency, energy storage, distributed generation, and self-healing grids.

Based on our experience, we have the following concerns about the current regulatory framework:

1. **Cost-effectiveness.** Washington's rate-based, rate-of-return incentive for privately-held utilities does not motivate utilities to closely monitor costs. The higher the cost of the project, the higher the utility's revenues will be. Who audits the utilities to make sure they are selecting technologies and components based on lowest reasonable cost? Most transmission projects are not subject to competitive bids, inviting waste or "gold-plated" contracts. There are opportunities for abuse.
2. **Innovative, right-sized solutions.** Utilities have many opportunities to bias selection of technology solutions towards those deemed most profitable. CENSE has seen cases where PSE uses non-essential selection criteria to disqualify less expensive and more modern alternatives. PSE frequently justifies the need for a project by citing studies from consultants who were hired by the company. These consultants may have incentives to produce conclusions that please PSE, especially if they hope to secure future contacts with a powerful Northwest utility. If a consultant arrived at a contrary conclusion, would PSE publish that study, or would they bury it?

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3. **Proper accounting of societal and environmental costs.** Utilities are mandated to find the lowest-cost solution, without truly accounting for the social and environmental costs of their decisions. Recent reports confirm that climate change threatens the quality of life in the Northwest, the existence of native species of salmon and orcas, and even the future availability of hydro power that provides a large part of our electricity and powers our economy. A state known for its environmental ethics should instead be rewarding utilities that invest in non-fossil fuel generation and technologies that reduce dependence on large and vulnerable transmission grids. Utilities should be rewarded for efforts to reduce climate change and preserve the health of our environment and communities. In the long-run, these policies will financially benefit business and government.
4. **Technical review.** In many states, utility commissions review major infrastructure projects before they can move forward. In Washington State, utilities build a project without any review by the Commission. The Commission has a role only after construction is complete, when the utility seeks approval to raise utility rates to recover the cost of the project (plus a fixed rate of return). The Commission can deny the rate increase if it determines the project was not necessary or prudent. Denial of an expensive project would be devastating for the utility's bottom line, while property owners and the environment would be hurt by unnecessary infrastructure.

Prior review of major projects by the Commission would be very helpful for cities and city councils when a utility seeks a land use permit. Council members frequently do not have sufficient expertise or understanding to judge the need for a complex project. Fearing expensive lawsuits from PSE, the city council has a strong incentive to support whatever PSE proposes. When a thorough technical review is not practical at the city level, there is increased risk of imprudent projects being built, setting up the undesirable rate case scenario described above.

5. **Excessive marketing.** PSE's "Energize Eastside" project provides a cautionary example of how PSE tries to market a large infrastructure project and influence the decisions of city councils instead of making a strong technical argument. The company hired Mark Williamson, a marketing consultant from Wisconsin, to direct the company's PR efforts. Mr. Williamson has saturated local media outlets with five years of continuous advertising, rather than justifying the project to technical experts at EFSEC or the WUTC. PSE has even refused to discuss the project at meetings of its advisory group for its Integrated Resource Plan, defying the Commission's strong recommendation that major transmission investments should be considered during in the IRP process. The regulatory framework that allows such excessive behavior needs to be reexamined.
6. **Governance.** Citizen concerns can directly control the behavior of a public utility like Seattle City Light. The city council can dismiss the chief executive of the utility if citizens are unhappy. By contrast, investor-owned utilities are governed by the goals of their investors, which usually prioritize return on investment above most societal and environmental goals. The Commission can penalize illegal behavior, but otherwise commissioners don't have much control.

Commissioners have frequently told us, “We *regulate* PSE; we don’t *manage* the company.” In this framework, there is a lot of room for PSE to prioritize outcomes that favor their investors.

- *How are developing industry trends, new technologies, and public policy in the utility sectors affecting the effectiveness of traditional rate-base, rate-of-return regulation?*

Traditional rate-of-return regulations are not only obsolete and ineffective, they discourage utilities from pursuing projects that better align with community environmental and aesthetic values.

Instead, regulation should reward smart, right-sized, incremental improvements that better match actual needs. This requires utilities to be transparent about where and when peak demands occur. Smaller, smarter grids would increase reliability and resilience in the face of natural disasters such as powerful storms, earthquakes, and fires. Utilities should be hardening our grid against potentially debilitating cyber threats and solar storms.

- *What are the advantages and disadvantages of traditional rate-base, rate-of-return regulation under current market conditions?*

Current market conditions are motivating many utilities and regulators to consider a service-business model using third parties to provide new technologies (see <https://www.icf.com/blog/energy/dc-council-utility-regulation-bill>).

Utilities should be rewarded for any efforts to maximize conservation such as using Distributed Energy Resources, and time-of-use rates.

- *Would potential alternatives to traditional regulation, including performance-based regulation, multi-year rate plans, and other flexible regulatory mechanisms better align the utility business model with customer interests and public policy objectives?*

Yes!

- *What conditions should determine whether the Commission applies these alternative mechanisms?*

Current conditions beg for immediate change. Our utility, PSE, has many disappointed and increasingly cynical customers. This is not healthy. While PSE explores new alternatives, the company is very slow in implementing them, giving the impression that they only do what is state or federally mandated.

- *Does the Commission have sufficient authority to implement alternatives to traditional regulation?*

We don't know, but we are willing to work with the Commission, PSE, and other investor-owned utilities to change state law, if that is necessary to remedy current shortcomings.

- *What rulemaking or policy guidance from the Commission could help make rate regulation more efficient and effective?*

Prior review of a proposed project by the Commission is desirable, as described earlier.

Basing utility compensation on performance rewards seems like it would be more effective than providing lots of regulations for the utilities to chafe against or find ways to game the system. For example, perhaps we could reward utilities for each point of improved reliability metrics, each ton of avoided greenhouse gas emitted, and a reduction in customer complaints. Add penalties for each mature tree destroyed, each property damaged by equipment malfunction or operator error, and each leaky pipe or fallen power line. If rates go up because a utility is surpassing every goal, at least customers will appreciate what we're paying for. In the current framework, customers are disappointed to learn that increased rates are funding the destruction of valuable trees and the industrialization of neighborhoods.

- *What is the appropriate scope and order of priorities for a rulemaking or policy statement on this subject?*

CENSE has been an active participant in Eastside communities and local government, advisory group meetings for PSE's Integrated Resource Plans, and testimony before the WUTC. Our interest in "sensible energy" spans topics of reliability, safety, affordability, community impact, and environmental protection. From the insights we have gained during the past five years, we can think of no higher priority issue before the Commission than how investor-owned utilities are incentivized. It affects everything from the existence of a beloved tree or the safety of a homeowner to the global impact of greenhouse gas emissions. We seek changes that provide substantial relief.

Sincerely,



Don Marsh, President  
CENSE.org