

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

**Docket UE-220066
Docket UG-220067**

**PUGET SOUND ENERGY'S
RESPONSE TO CENSE'S REQUEST
FOR CASE CERTIFICATION**

I. RELIEF REQUESTED

1. Puget Sound Energy ("PSE") hereby submits this response to the Coalition of Eastside Neighbors for Sensible Energy's ("CENSE") request for case certification. PSE requests the Washington Utilities and Transportation Commission ("Commission") deny CENSE's request because CENSE has not demonstrated it represents broad customer interests as required under RCW 80.28.430.

II. BACKGROUND

A. Basis for Participatory Funding

2. The Washington legislature recently enacted RCW 80.28.430, which authorizes a utility to enter into a funding agreement with certain organizations to provide financial assistance for those organizations' participation in regulatory proceedings before the Commission. The organizations receiving funding shall represent broad customer interests, including

“organizations representing low-income, commercial, and industrial customers, vulnerable populations, or highly impacted communities.”¹ The funding agreement must be approved by the Commission, and organizations representing vulnerable populations or highly impacted communities must be prioritized for funding.² On February 24, 2022, in Docket U-210595, the Commission entered Order 01, approving with modifications a participatory funding agreement between PSE, four investor utilities, and six other parties (“Agreement”).³ The Agreement as approved by the Commission outlines a process for the distribution of up to \$300,000 from PSE to organizations representing “broad customer interests.”⁴

3. Also in Docket U-210595, the Commission issued a Policy Statement to provide additional guidance to utilities and stakeholders engaged in proceedings during 2022, the first year that funding is available. The Policy Statement provides high-level guidance regarding the amount of financial assistance that may be provided to organizations, the way it is distributed to participants and recovered in the rates of gas or electrical companies, and other matters necessary to administer funding agreements.⁵

4. Pursuant to RCW 80.28.430, participatory funding is limited to eligible organizations representing “broad customer interests.”⁶ This term is not defined in the statute, and the Commission declined to define the term in its Policy Statement. The Agreement, however, excludes funding for-profit and government organizations, and organizations must be “able to

¹ RCW 80.28.430 (1).

² RCW 80.28.430 (4).

³ Docket U-210595, Order 01 (Feb. 24, 2022).

⁴ Agreement at pp. 6-7.

⁵ Docket U-210595, Policy Statement on Participatory Funding for Regulatory Proceedings (“Policy Statement”) ¶ 3 (Nov. 19, 2021).

⁶ Policy Statement at ¶ 22.

effectively represent the particular customers it seeks to represent.”⁷ Additionally, no other certified stakeholder should be able to adequately represent those interests.⁸

5. Before an organization can receive funding, it must submit a “Request for Case Certification and Notice of Intent” to request funding (“Request”) by identifying the specific sub-fund and describing how the organization meets the criteria for receiving support from that sub-fund.⁹ By requiring interested parties to submit the Request, the burden is on the parties to demonstrate how they meet the criteria in the Agreement and RCW 80.28.430.

B. CENSE’s Request for Funding

6. CENSE is a non-profit organization that represents certain East King County residents and business owners who oppose PSE’s transmission line project known as Energize Eastside.¹⁰ While CENSE has not identified the individuals and entities that CENSE represents, it is generally understood that they are property owners in the upscale neighborhoods that have built houses around PSE's existing transmission line and now are concerned that an upgrade to the line will impact their property values. CENSE does not purport to represent a broad view of perspectives on the Energize Eastside project but is focused on opposing the project. At the prehearing conference in this proceeding, CENSE acknowledged, and in fact promised, that its participation in this proceeding would be limited to the single issue of opposing Energize Eastside.¹¹

⁷ Agreement at p. 6.

⁸ *Id.*

⁹ Agreement at pp. 7-8.

¹⁰ Petition of CENSE for Leave to Intervene, Dockets UE-220066/UG-220067 at ¶ 3 (Feb. 22, 2022).

¹¹ Order 03, Prehearing Conference Order; Notice of Hearing (“Order 03”) at ¶ 14 (March 3, 2022).

7. Also at the prehearing conference, the presiding officer questioned counsel for CENSE about the group’s intent to request participation funding and whether its East King County members represent vulnerable or highly impacted communities as defined by the Clean Energy Transformation Act.¹² This question stumped counsel, “I don’t know -- I’ve not looked into that matter at this point.” “It may be that CENSE does not meet those requirements, but that is under consideration.”¹³ The discussion then dug deeper into the question of the group’s financial resources, with Public Counsel addressing CENSE’s prior “unsubstantiated representations” that CENSE is in a better financial position than Public Counsel to address the prudence of Energize Eastside costs.¹⁴ Counsel for CENSE then apologized, while reemphasizing the group’s financial abilities. “I apologize to Public Counsel that I may have overstated the situation, but I think we have the resources to proceed to address the prudence and public interest issues, and so the petition for intervention should be granted.”¹⁵ The Commission did grant CENSE’s petition to intervene, on the condition that its participation is limited to the single issue of prudence of the Energize Eastside investments.¹⁶

8. On March 14, 2022, CENSE filed a Request for participatory funding. In its Request CENSE asks for funds from the “Customer Participation Sub-Fund”¹⁷ and purports it should be eligible for funding pursuant to Section 5.2.1 of the Funding Agreement despite its single focus and narrow interest in this proceeding.

¹² ALJ Howard, TR. 23:21-24.

¹³ Aramburu, TR. 23:25-24:9.

¹⁴ Gafken, TR. 34:25-35:2.

¹⁵ Aramburu, TR. 37:1-5.

¹⁶ Order 03 ¶ 18.

¹⁷ This sub-fund does not exist, presumably CENSE meant the Customer Representation Sub-Fund.

9. CENSE argues it represents the “broad customer interests who are being asked to pay for the Energize Eastside project,” but does not identify what those interests are, other than opposition to a project that goes through the communities where CENSE members live or work.¹⁸ CENSE acknowledges it has a singular purpose as an organization: it was created to “address the PSE proposal for a sixteen-mile, 230 kV transmission line, branded by the company as Energize Eastside.”¹⁹ CENSE does not represent broad customer interests, and it is ineligible for funding under the Agreement and RCW 80.28.430.

III. ARGUMENT

10. RCW 80.28.430 establishes a process and requires a utility to provide financial assistance by entering into a funding agreement with certain organizations that wish to participate in proceedings before the Commission.²⁰ The law places restrictions on the type of organization that is eligible for financial assistance by requiring the organization represent “broad customer interests,” which the law provides as including “organizations representing low-income, commercial, and industrial customers, vulnerable populations, or highly impacted communities.”²¹ Notably, RCW 80.28.430 omits residential customers from its description of qualifying broad interests. Alternatively, to ensure certain organizations representing residential customers are not entirely omitted, the law states the priority for funding should be organizations representing vulnerable populations or highly impacted communities.²²

¹⁸ Request at ¶ 4(b).

¹⁹ *Id.*

²⁰ RCW 80.28.430.

²¹ RCW 80.28.430 (1).

²² RCW 80.28.430 (1) and (4).

11. The Agreement outlines the process for an organization to obtain funding. First, and consistent with RCW 80.28.430, any organization requesting approval for funding must demonstrate it is eligible.²³ Parties demonstrate eligibility by submitting a request for case certification describing how they meet the criteria for funding, particularly how the party represents broad customer interests and is able to effectively represent those customer interests.²⁴ Without this showing, funding would be spread among a large number of single-interest organizations, diluting the participatory resources available to organizations who represent broader interests like those identified in the statute, including vulnerable populations or highly impacted communities.
12. The burden is on CENSE to demonstrate it meets the criteria in the statute and complies with the Commission order approving the Agreement. CENSE fails to show it represents broad customer interests as contemplated in the statute. RCW 80.28.430 identifies the type of interests that would constitute broad interests: low-income, commercial, and industrial customers, vulnerable populations, or highly impacted communities.²⁵ While this list is not exhaustive, it provides guidance for the category of organizations for which participatory funding is intended. For organizations representing these broad issues in a rate case or other proceeding, usually an organization will need to address multiple topics covered by the interests the organization represents. CENSE will not.
13. CENSE does not represent any of the broad interests identified in RCW 80.28.430, nor could it. The Commission prohibited CENSE from representing broad interests when it ordered

²³ Agreement at p. 6-8.

²⁴ *Id.*

²⁵ RCW 80.28.430 (1).

CENSE's participation in this proceeding to focus on only one issue in this proceeding: the prudence of costs of the Energize Eastside transmission project.²⁶ Further, CENSE's arguments for intervention directly contradict its arguments for requesting funding. As described above, CENSE argues that it should be allowed to intervene because its members have the financial resources to address its singular issue, but then CENSE asks for intervenor funding, presumably because its members are not financially able to address its singular issue.

14. The participation funds fulfill a specific statutory purpose, and the statute limits which types of groups are eligible for monetary support. The universe of available funds is finite, meaning if one organization receives funding, other qualifying organizations will receive less. Here, funding for CENSE and the property owners it represents would mean less funding for other groups that more broadly represent customer interests.
15. The Commission should reject CENSE's request for certification because it does not represent broad customer interests as required by RCW 80.28.430, and it is therefore ineligible to receive these limited funds.

RESPECTFULLY SUBMITTED this 18th day of March, 2022.

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²⁶ Order 03 ¶ 18.