

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION)	DOCKETS UE-220066 and UG-220067 (<i>Consolidated</i>)
)	
Complainant,)	
)	RESPONSE TO CENSE’S REQUEST FOR CASE CERTIFICATION OF THE ALLIANCE OF WESTERN ENERGY CONSUMERS
v.)	
PUGET SOUND ENERGY)	
)	
Respondent.)	

I. INTRODUCTION

1 Pursuant to WAC § 480-07-370(4), the Alliance of Western Energy Consumers (“AWEC”) files this Response to the Coalition of Eastside Neighbors for Sensible Energy’s (“CENSE”) Request for Case Certification (“Request”) in the above-referenced dockets. CENSE’s interest in this proceeding is on a limited, narrow issue, and therefore its participation in this case does not meet the requirements for case certification under either RCW 80.28.430 or the Washington Interim Participatory Funding Agreement (“Interim Agreement”).¹ Additionally, CENSE’s participation does not advance RCW 80.28.430’s intent to provide funding to organizations that “frequently advocate for stable and affordable rates.”² AWEC is directly affected by CENSE’s request for case certification, as it is also seeking funding in this proceeding and funds are limited. As such, AWEC joins Puget Sound Energy in requesting that the Washington Utilities and Transportation Commission (“Commission”) deny CENSE’s Request.

¹ See Docket U-210595, Washington Interim Participatory Funding Agreement (“Interim Agreement”) ¶ 5.2.

² Docket U-210595, Policy Statement on Participatory Funding for Regulatory Proceedings (“Policy Statement”) ¶ 7 (Nov. 19, 2021).

II. BACKGROUND

2 In 2021, the Washington State Legislature passed Engrossed Substitute Senate
Bill 5295 (ESSB 5295), which includes authorization for energy utilities to provide financial
assistance to organizations meeting specific criteria to participate in regulatory proceedings
before the Commission. The requirements for agreements related to financial assistance are now
codified in RCW 80.28.430 and include that the organization “represent broad customer interests
in regulatory proceedings conducted by the commission...including but not limited to
organizations representing low-income, commercial, and industrial customers, vulnerable
populations, or highly impacted communities.”³

3 On November 19, 2021, in order to ensure that statutory requirements related to
eligible organizations are met, the Commission issued a Policy Statement “to provide high-level
guidance regarding the amount of financial assistance that may be provided to organizations, the
manner in which it is distributed to participants and recovered in the rates of gas or electrical
companies, and other matters necessary to administer agreements pursuant to RCW 80.28.430
for the first year of the funding agreements.”⁴ The Commission’s Policy Statement also referred
to the background and legal context of the ESSB 5295, which includes legislative recognition of
the benefits of participation by organizations that represent broad customer interests frequently
before the Commission, as well as organizations representing vulnerable populations or highly
impacted communities, which have historically not participated in Commission proceedings.⁵
The Commission specifically noted that “incumbent” organizations such as AWEC and The

³ RCW 80.28.430(1).

⁴ Policy Statement ¶ 3.

⁵ *Id.* at ¶ 7.

Energy Project were the organizations “eligible to receive financial assistance as they continue to appear before the Commission,”⁶ as well as organizations that represent highly impacted communities and vulnerable populations for funding. As part of its Policy Statement, the Commission offered guidance on how it would consider whether an organization represents “broad customer interests,” and indicated its preference for organizations to articulate their positions in later proceedings; however, the Commission declined to specifically define what constitutes “broad customer interests” in the Policy Statement.⁷

4 On February 24, 2022, in accordance with the requirements of RCW 80.28.430, the Commission approved, with limited modifications, the Interim Agreement. The Interim Agreement allows for funding for two general types of organizations – customer representatives and Prioritized Organizations. Customer representative groups are those organizations that represent broad customer interests in regulatory proceedings conducted by the Commission, which include organizations that represent low-income, commercial and industrial customers.⁸ Prioritized Organizations are those organizations that represent vulnerable populations or highly impacted communities.⁹ In order to be eligible for funding as a customer representative via the Customer Representation Sub-Fund, an organization must file for case certification and demonstrate that it “represents broad customer interests, as determined by the Commission.”¹⁰

5 On March 14, 2022, CENSE filed its Request for Case Certification and Notice of Intent to Request a Fund Grant, stating its intent to request funds as a customer representative from the Customer Representation Sub-Fund. In support of its Request, CENSE states that it was

⁶ *Id.* at ¶ 18.

⁷ *Id.* at ¶ 27.

⁸ *See* RCW 80.28.430 and Interim Agreement at ¶ 5.2.1.

⁹ *See* RCW 80.28.430 and Interim Agreement at ¶ 5.2.2.

¹⁰ Interim Agreement at ¶ 5.2.1.

“organized as a non-profit corporation in 2014, specifically to address the PSE proposal for a sixteen-mile, 230 kV transmission line, branded by the Company as Energize Eastside”¹¹ and that it has “participated in various land use, legislative and permit proceedings regarding the proposal.”¹² CENSE’s Request also notes that its sole purpose for intervening in the case is to address the prudence of Energize Eastside.

6 For the reasons set forth below, CENSE has failed to demonstrate that its participation in this case represents broad customer interests, a prerequisite for eligibility for funds from the Customers Representation Sub-Fund.¹³ Additionally, granting CENSE’s request for case certification does not advance the purpose of providing funding for organizations that represent broad customer interests.

III. ARGUMENT

7 The genesis for stakeholder funding is the Legislature’s recognition that the public interest is served by participation from organizations that represent broad customer interests in regulatory proceedings before the Commission and frequently advocate for stable and affordable rates, as well as those organizations that represent highly impacted communities and vulnerable populations.¹⁴ Accordingly, RCW 80.28.430 enumerates the types of organizations that generally meet such requirements – those that represent low-income, commercial, and industrial customers, as well as organizations that represent vulnerable populations and highly impacted communities. The Commission implemented this requirement in approving the Interim Agreement, which requires organizations to demonstrate that they represent broad customer

¹¹ CENSE’s Request for Case Certification at 2.

¹² *Id.*

¹³ AWEC’s Response does not address whether CENSE would have a basis to claim case certification for the Prioritized Organizations Sub-Fund, as CENSE did not make such a request in this case and AWEC is not considered a Prioritized Organization under the Interim Agreement.

¹⁴ See Policy Statement ¶ 7.

interests, as determined by the Commission, prior to being eligible for funds from the Customer Representation Sub-Fund.

8 As stated above, CENSE is seeking case certification for the Customer Representation Sub-Fund. In order to demonstrate eligibility for case certification, CENSE must demonstrate that it represents broad customer interests. As noted above, the Commission has thus far declined to define what constitutes a “broad customer interest.” The Commission also need not comprehensively define this phrase here. It is enough that, however this phrase is understood, CENSE does not meet its requirements for several reasons.

9 First, CENSE is an organization with a limited purpose that goes well beyond proceedings before the Commission. By its own admission, CENSE is focused on raising issues related to the “need, feasibility and cost” of Energize Eastside.¹⁵ Indeed, CENSE has a long history with Energize Eastside, having participated in “various land use, legislative and permit proceedings regarding the proposal.”¹⁶ A long history with an issue across several regulatory bodies, however, should not be construed as meeting the intended purpose of funding for organizations that have an ongoing interest in representing broad customer interests before the Commission. In fact, to the extent that CENSE has a customer interest in this proceeding, it is narrow. CENSE’s stated interest in opposing Energize Eastside is rooted in those living and working near the project, which is a very small portion of PSE’s customer base.¹⁷ While one could also argue that Energize Eastside impacts all customers in the sense that its costs are proposed for inclusion in revenue requirement, all revenue requirement items have an impact on customers. As such, that basis alone should not be construed as a distinguishing factor for what

¹⁵ CENSE’s Request for Case Certification at 3.

¹⁶ *Id.* at 2.

¹⁷ Petition of Coalition of Eastside Neighborhoods for Sensible Energy for Leave to Intervene at ¶ 3 (Feb. 22, 2022).

constitutes a broad customer interest. CENSE has not asserted that it has a broad, continued interest in Commission proceedings beyond the Energize Eastside issue, which will likely reach a final resolution at the Commission in this proceeding. As such, CENSE’s participation in this case should not be construed as representing broad customer interests.

10 Second, CENSE’s participation in this case has already been limited. CENSE was granted intervention in this docket upon the finding that “it has a substantial interest in a limited issue in this proceeding that is not adequately represented by other statutory parties.”¹⁸ At the prehearing conference, CENSE “committed to focusing its case solely on the prudence of PSE’s Energize Eastside investments,”¹⁹ and the Commission placed several conditions on CENSE’s participation in this case: (1) CENSE’s participation in this proceeding is limited to the prudence of PSE’s Energize Eastside project investments; (2) CENSE will participate in discovery and cross-examination *only* with respect to the Energize Eastside Project; and (3) CENSE will – to the extent reasonably possible – coordinate the presentation of its case with Public Counsel.”²⁰ CENSE’s substantial interest in the Energize Eastside project is not sufficient to warrant intervenor funding, given that other parties that represent broader interests will also address this issue that have an ongoing interest in Commission proceedings.

11 More broadly, as acknowledged by the Commission, the Legislature “recognized the value of diverse voices in Commission regulatory proceedings and ways in which monetary resources can help or hamper equitable representation of those voices.”²¹ The Interim Agreement provides valuable financial support for organizations, but those funds are limited in nature. For

¹⁸ Dockets UE-220066 and UG-220067 (Consolidated), Order 03 at ¶ 16 (Mar. 3, 2022).

¹⁹ *Id.* at ¶ 17.

²⁰ *Id.* at ¶ 18 (emphasis added).

²¹ Policy Statement ¶ 18.

the Customer Representation Sub-Fund, that amounts to \$200,000 annually for PSE. While AWEC understands the Commission's desire not to unnecessarily foreclose participation from organizations due to lack of access to intervenor funding from the outset, it urges the Commission to nevertheless apply scrutiny to organizations that seek funding for a single issue within a complex general rate case, particularly when the issue will also be addressed by other organizations that have a history of advocating for broad customer interests before the Commission, such as Public Counsel, AWEC and The Energy Project. Allowing CENSE to reserve a portion of this limited funding to advance its narrow interests in this proceeding will necessarily reduce the effectiveness of other parties eligible for funding that represent broader interests and intend to address issues of broader scope, which is contrary to the public interest.

12 Contrary to the requirements for case certification for the Customer Representation Sub-Fund and with the policy underlying RWC 80.28.430, CENSE has failed to demonstrate that it represents broad customer interests in this proceeding. As such, its request for case certification should be denied.

IV. CONCLUSION

13 For the reasons set forth above, AWEC respectfully requests that CENSE's Request for Case Certification be denied, consistent with the requirements and underlying policy of the Interim Agreement.

Dated this 18th day of March, 2022.

Respectfully submitted,

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