

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKETS UE-220066 and UG-  
220067 (*Consolidated*)

ORDER 08

GRANTING REQUESTS FOR CASE  
CERTIFICATION

**BACKGROUND**

- 1 On January 31, 2022, Puget Sound Energy (PSE or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-60, Tariff G, Electric Service, and its currently effective Tariff WN U-2, Natural Gas.
- 2 On February 28, 2022, the Commission convened a virtual prehearing conference before administrative law judge Michael S. Howard.
- 3 On March 3, 2022, the Commission entered Order 03, Prehearing Conference Order and Notice of Hearing, noticing a hearing for October 3-4, 2022 (Order 03). The Commission granted petitions to intervene filed by The Energy Project (TEP) and other intervenors. Pursuant to the Interim Agreement filed in Docket U-210595,<sup>1</sup> the Commission required the parties to file any requests for case certification and notices of intent to seek funding on or before March 14, 2022. The Commission indicated that proposed budgets would be due 30 days later, on April 13, 2022.
- 4 On March 11, 2022, TEP filed a Request for Case Certification and Notice of Intent to Request a Fund Grant. TEP indicated that it intended to request a fund grant from the Customer Representation Sub-fund of the customer access fund for PSE. TEP submits

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<sup>1</sup> Washington Interim Participatory Funding Agreement, Docket U-210595 (February 28, 2022) (Interim Agreement).

that this proceeding, PSE's general rate case, is an "eligible proceeding" under the Interim Agreement.

- 5 Citing Sections 5.2.1 and 6.2 of the Interim Agreement, TEP requests case-certification. TEP submits that it is a non-profit organization; that it represents "broad customer interests," including thousands of low-income customers; and that TEP has a history of effective representation in regulatory proceedings over the last two decades. TEP submits that it is the only party focusing solely on the interests of low-income customers and that its participation will not unduly delay the proceeding.
- 6 On March 14, 2022, the Alliance of Western Energy Consumers (AWEC) filed a Request for Case Certification and Notice of Intent to Seek Fund Grant. AWEC submits that this is an "Eligible Proceeding" within the meaning of the Interim Agreement. Furthermore, AWEC is a non-profit organization representing "broad customer interests." AWEC maintains that it is eligible for participatory funding.
- 7 That same day, March 14, 2022, NW Energy Coalition (NVEC) filed a Request for Case Certification and Notice of Intent to Request Funding Grant. NVEC submits that it is a non-profit organization and that it is an alliance of more than 100 organizations, including more than 40 organizations in Washington state, and individual members. NVEC focuses on energy efficiency, renewable energy, low-income and consumer protections, and informed public involvement in renewable energy. NVEC also focuses on issues that have a material impact on vulnerable populations and highly impacted communities. NVEC routinely participates in Commission proceedings involving PSE, participating in advisory groups, submitting formal comments to the Commission, and intervening in previous PSE general rate cases.
- 8 That same day, March 14, 2022, the Puyallup Tribe of Indians (Puyallup Tribe) filed a Request for Case Certification and Notice of Intent to Request a Fund Grant. The Puyallup Tribe intends to request funds from the Prioritized Organizations Sub-Fund of the Consumer Access Fund for PSE. The Puyallup Tribe submits that it meets the criteria for case-certification, noting that the Interim Agreement specifically prioritizes organizations representing vulnerable populations and highly impacted communities.
- 9 That same day, March 14, the Coalition of Eastside Neighbors for Sensible Energy (CENSE) filed a Request for Case Certification and Notice of Intent to Request Fund Grant. CENSE submits that it is a non-profit organization, that it represents broad customer interests, and that it otherwise meets the requirements for case-certification. CENSE notes that it has a long history of involvement with PSE's Energize Eastside investment and submits that the Energize Eastside investment represents more than half of the specific adjustments to PSE's rate base.

- 10 On March 15, 2022, Front and Centered filed a Petition to Intervene. The Commission addresses this Petition to Intervene in a separate order.
- 11 That same day, March 15, Front and Centered filed a Request for Case Certification and Notice of Intent to Request a Fund Grant. Front and Centered intends to request a fund grant from the Prioritized Organizations Sub-Fund of the Customer Access Fund for PSE. Front and Centered submits that it meets the criteria for case certification. It is a non-profit organization and a climate justice coalition of over 70 organizations led by and serving communities of color in Washington state. Front and Centered notes that Black, indigenous, and people of color (BIPOC) and low-income communities experience the harmful effects of climate change and inequities in systems of power at a higher rate than white and wealthier communities.
- 12 On March 18, 2022, PSE filed a Motion for Leave to Respond to CENSE’s Request for Case Participation. PSE attached a proposed response to its motion, arguing that CENSE did not represent “broad customer interests” as required by RCW 80.28.430. The Commission granted this Motion in Order 06 in this Docket.
- 13 On the same day, March 18, 2022, AWEC filed a Response to CENSE’s Request for Case Certification. AWEC also argued that CENSE did not represent “broad customer interests” and that its Request for Case Certification should be denied.

### DISCUSSION

- 14 We grant each of the parties’ requests for case certification. We instruct certain parties, however, to provide additional information in support of any proposed budgets. We also remind the parties that case-certification does not guarantee a Fund Grant.
- 15 Pursuant to RCW 80.28.430, utilities must enter into funding agreements with organizations that represent broad customer interests. The Commission is directed to determine the amount of financial assistance, if any, that may be provided to any organization; the way the financial assistance is distributed; the way the financial assistance is recovered in a utility’s rates; and other matters necessary to administer the agreement.<sup>2</sup>
- 16 On November 19, 2021, the Commission issued a Policy Statement on Participatory Funding for Regulatory Proceedings (Policy Statement).<sup>3</sup> The Commission provided

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<sup>2</sup> RCW 80.28.430(2).

<sup>3</sup> *In the Matter of the Commission’s Examination of Participatory Funding Provisions for Regulatory Proceedings*, Docket U-210595 (November 19, 2021).

“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.”<sup>4</sup>

- 17 On February 24, 2022, the Commission issued Order 01, Approving Agreement with Modifications (Order 01).<sup>5</sup> The Commission approved the Interim Agreement filed by the parties on February 23, 2022, subject to certain modifications, and adopted the Interim Agreement as Appendix A to the Order. Among other points, the Commission clarified that it is not bound by the timeframes set forth in the Interim Agreement.<sup>6</sup>
- 18 In relevant part, Section 5.2 of the Interim Agreement provides that the Commission will case-certify an organization that is not a for-profit or governmental entity; represents “broad customer interests”; demonstrates it is able to “effectively represent the particular customers it seeks to represent”; demonstrates that no other case-certified stakeholder adequately represents these interests or that the proceeding will benefit from the organization’s participation; and establishes that it will not unduly delay the proceeding.<sup>7</sup>
- 19 This case is PSE’s 2022 general rate case. The Commission has already suspended this proceeding for an adjudication. It is therefore a “regulatory proceeding” within the meaning of the statute, which is appropriate for participatory funding.<sup>8</sup> We continue on to address each Request for Case Certification and Notice of Intent to Seek Funding.
- 20 **TEP.** TEP is a non-profit organization that represents broad customer interests. RCW 80.28.430(1) provides that organizations representing “broad customer interests” includes organizations representing “low-income” customers. In its Policy Statement, the Commission recognized certain “incumbent” organizations that have a history of representing these customer interests before the Commission and specifically referred to TEP in making this statement.<sup>9</sup>

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<sup>4</sup> *Id.* ¶ 3.

<sup>5</sup> *In the Matter of the Petition of Puget Sound Energy, et al.*, Docket U-210595 Order 01 (February 24, 2022).

<sup>6</sup> *E.g., Id.*

<sup>7</sup> Interim Agreement § 5.2.

<sup>8</sup> *See* Policy Statement ¶ 33 (interpreting the term “regulatory proceeding” broadly). *See also* Interim Agreement § 1(c) (defining “Eligible Proceeding”).

<sup>9</sup> Policy Statement ¶ 18.

21 TEP also demonstrates that it can effectively represent the particular customers it seeks to represent. TEP routinely appears before the Commission, participates in settlements, and offers testimony at evidentiary hearings without causing undue delays.<sup>10</sup> We agree that the public interest is served by TEP's participation and that TEP establishes it will not unduly delay the proceeding. We therefore grant TEP's Request for Case Certification.

22 We also find that TEP has properly filed a Notice of Intent to seek funding, stating that the organization intends to seek funds from PSE's Customer Representation Sub-fund.

23 Pursuant to Section 6.5 of the Interim Agreement, the Commission will not address any funding proposals until after the deadline for submitting proposed budgets. However, any proposed budget submitted by TEP should detail and explain how overlapping interests between TEP and other intervenors, such as NWECA, differ and how each intervenor's specific perspectives on these topics are not adequately represented by the other intervenor. Where TEP's interests overlap with other intervenors, TEP should explain how the public interest will benefit from the participation of both intervenors.

24 **AWEC.** AWEC is also a non-profit organization that represents broad customer interests. RCW 80.28.430(1) provides that organizations representing "broad customer interests" includes organizations representing "industrial" customers. In its Policy Statement, the Commission recognized certain "incumbent" organizations that have a history of representing these customer interests before the Commission and specifically referred to AWEC in making this statement.<sup>11</sup>

25 AWEC demonstrates that it can effectively represent the particular customers it seeks to represent. AWEC routinely appears before the Commission, participates in settlements, and offers testimony at evidentiary hearings without causing undue delays. Although AWEC recently opposed a settlement in a power-cost only rate case, the Commission was still provided sufficient opportunity to reinstate a procedural schedule, and AWEC did not seek to delay the proceeding beyond what was necessary to present its opposition.<sup>12</sup> We agree that the public interest is served by AWEC's participation and

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<sup>10</sup> TEP's Request for Case Certification ¶ 5(c). *See also WUTC v. Cascade Natural Gas Corporation*, Docket UG-200568 Order 05 ¶¶ 335-357 (May 18, 2021) (discussing and relying in part on TEP's testimony regarding a utility's disconnection moratorium and low-income programs).

<sup>11</sup> Policy Statement ¶ 18.

<sup>12</sup> *See WUTC v. PacifiCorp d/b/a Pacific Power & Light Company*, Docket UE-210402 Order 5 (November 2, 2021) (reinstating and modifying procedural schedule given AWEC's opposition to a settlement).

that no other party adequately represents the interests of industrial customers. We therefore grant AWEC's Request for Case Certification.

26 We also find that AWEC has properly filed a Notice of Intent to seek funding, stating that the organization intends to seek funds from PSE's Customer Representation Sub-fund. Pursuant to Section 6.5 of the Interim Agreement, however, the Commission will not address any funding proposals until after the deadline for submitting proposed budgets.

27 **NWEC.** NWEC is also a non-profit organization that represents broad customer interests. In its Policy Statement, the Commission found that the term "broad customer interests" should not be limited to organizations representing larger groups of customers.<sup>13</sup> The Commission specifically agreed with NWEC's comments that an organization representing specific customers may implicate broader public interests.<sup>14</sup> We find that NWEC meets this standard. NWEC has appeared before the Commission on numerous occasions.<sup>15</sup> For instance, NWEC appeared in PSE's 2019 general rate case and argued that the Company should be required to revert back to its previous natural gas line extension allowance calculation methodology.<sup>16</sup> Although the Commission did not adopt NWEC's recommendation in that case, the Commission later cited to and adopted NWEC's recommendation in an October 28, 2021, open meeting.<sup>17</sup>

28 NWEC demonstrates that it can effectively represent the particular customers it seeks to represent. NWEC routinely appears before the Commission without causing undue delays.<sup>18</sup> We agree that the public interest is served by NWEC's participation. We therefore grant NWEC's Request for Case Certification.

29 We also find that NWEC has properly filed a Notice of Intent to seek funding, stating that the organization intends to seek funds from PSE's Customer Representation Sub-fund.

30 Pursuant to Section 6.5 of the Interim Agreement, the Commission will not address any funding proposals until after the deadline for submitting proposed budgets. However, any proposed budget submitted by NWEC should detail and explain how overlapping

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<sup>13</sup> Policy Statement ¶ 28.

<sup>14</sup> *Id.*

<sup>15</sup> NWEC's Petition at 2.

<sup>16</sup> *WUTC v. Puget Sound Energy*, Dockets UE-190529, UG-190530 *et al.*, Order 08/05/03 ¶ 600 (July 8, 2020).

<sup>17</sup> *In the Matter of Chair Danner's Motion*, Docket UG-210729 Order 01 ¶ 7 (October 29, 2021) (noting NWEC's earlier testimony in PSE's 2019 general rate case).

<sup>18</sup> *See* NWEC's Request for Case Certification at 3.

interests between NVEC and other intervenors, such as TEP, differ and how each intervenor's specific perspectives on these topics are not adequately represented by the other intervenor. Where NVEC's interests overlap with other intervenors, NVEC should explain how the public interest will benefit from the participation of both intervenors.

- 31 **Puyallup Tribe.** The Puyallup Tribe is a tribal government. It is an “Eligible Organization” under Section 5.2.2 of the Interim Agreement, because the restriction on governmental entities does not encompass tribal governments.
- 32 The Puyallup Tribe represents broad customer interests. RCW 80.28.430(1) requires utilities to enter into agreements for participatory funding with organizations representing “broad customer interests,” specifically organizations that represent “vulnerable populations” and “highly impacted communities.” RCW 80.28.430(4) further states that “[o]rganizations representing vulnerable populations or highly impacted communities must be prioritized for funding under this section.” The Clean Energy Transformation Act (CETA)<sup>19</sup> defines “vulnerable populations” as communities that experience a disproportionate cumulative risk from environmental burdens due to adverse socioeconomic factors and sensitivity factors.<sup>20</sup> CETA defines “highly impacted communities” as a community designated by the Department of Health based on cumulative impact analysis or a community located within “Indian country” as defined by federal law.<sup>21</sup> The Puyallup Tribe's land base is commonly referred to as the 1873 Survey Area, and this area meets the definition of Indian Lands as set forth in 11 U.S.C. § 1151. The Puyallup Tribe credibly submits that it represents prioritized communities. We therefore find that the Puyallup Tribe represents broad customer interests.
- 33 The Puyallup Tribe demonstrates that it can effectively represent the particular customers it seeks to represent, noting that it routinely represents the interests of its members in various courts and administrative agencies.
- 34 We agree that the public interest is served by the Puyallup Tribe's participation and that no other party adequately represents the interests represented by the Puyallup Tribe. We therefore grant the Puyallup Tribe's Request for Case Certification.
- 35 We also find that the Puyallup Tribe has properly filed a Notice of Intent to seek funding, stating that the organization intends to seek funds from PSE's Prioritized Communities

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<sup>19</sup> Because RCW 80.28.430 does not itself define the terms “vulnerable populations” or “highly impacted communities,” we read these terms in light of the definitions in the Clean Energy Transformation Act, RCW 19.405 *et seq.*

<sup>20</sup> RCW 19.405.020(40).

<sup>21</sup> RCW 19.405.020(23) (citing 18 U.S.C. § 1151).

sub-fund. Pursuant to Section 6.5 of the Interim Agreement, the Commission will not address any funding proposals until after the deadline for submitting proposed budgets. On or before the date that it submits any proposed budget, the Puyallup Tribe should also file a signature page indicating that it has agreed to the Interim Agreement in Docket U-210595.

36 Finally, we note that the Puyallup Tribe did not provide a courtesy copy of its Request for Case Certification and Notice of Intent to Seek Fund Grant to the presiding administrative law judge. The Puyallup Tribe, and all other parties, should be mindful of this requirement.

37 **Front and Centered.** Front and Centered is also a non-profit organization that represents broad customer interests. RCW 80.28.430(1) requires utilities to enter into agreements for participatory funding with organizations representing “broad customer interests,” specifically organizations that represent “vulnerable populations” and “highly impacted communities.” RCW 80.28.430(4) further states that “[o]rganizations representing vulnerable populations or highly impacted communities must be prioritized for funding under this section.” In this case, Front and Centered intends to request funds from the Prioritized Communities sub-fund and describes its organization as a coalition of over 70 organizations representing Black, Brown, Indigenous, and other communities of color. We therefore find that Front and Centered represents broad customer interests.

38 Front and Centered demonstrates that it is able to effectively represent the particular customers it seeks to represent. Although Front and Centered does not explicitly address this requirement of the Interim Agreement in its Request for Case Certification, Front and Centered submits that it is “prepared and competent” to address issues relevant to highly impacted communities and vulnerable populations.<sup>22</sup> Front and Centered also participates in PSE’s Equity Advisory Group.

39 Front and Centered did file its Request for Case Certification on March 15, 2022, one day after the deadline provided in Order 03. However, we find that Front and Centered has established good cause for this late filing. As Front and Centered explains in its Petition to Intervene, filed the same day, it has “only recently come to the attention of Front and Centered that it was in the interest and capacity of the coalition to engage in this case” and that this decision came from its “member-led leadership structure.” Front and Centered is also proceeding *pro se* at the present time, which is a factor that should be considered in evaluating the organization’s appearance before the Commission. The organization therefore has good cause for its late filing.

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<sup>22</sup> Front and Centered’s Request for Case Certification at 2.



- 40 We agree that the public interest is served by Front and Centered’s participation and that no other party adequately represents the interests represented by Front and Centered. We therefore grant Front and Centered’s Request for Case Certification.
- 41 We also find that Front and Centered has properly filed a Notice of Intent to seek funding, stating that the organization intends to seek funds from PSE’s Prioritized Communities sub-fund. Pursuant to Section 6.5 of the Interim Agreement, the Commission will not address any funding proposals until after the deadline for submitting proposed budgets.
- 42 **CENSE.** CENSE is also a non-profit organization that represents broad customer interests. In its Policy Statement, the Commission generally declined to interpret the term “broad customer interests.”<sup>23</sup> Yet the Commission agreed that the term “should not be limited to organizations representing larger groups of customers.”<sup>24</sup> The Commission also agreed “with NVEC’s observation that an organization representing specific customers may implicate broader customer interests.”<sup>25</sup> In this case, the Commission granted CENSE’s Petition to Intervene, finding that CENSE demonstrated a substantial interest in the prudence of PSE’s Energize Eastside investment.<sup>26</sup> While CENSE may represent a relatively limited number of PSE customers, the Energize Eastside investment implicates broader customer interests in PSE’s transmission system capability and reliability.<sup>27</sup> CENSE therefore represents “broad customer interests.”
- 43 We do not agree with PSE’s and AWEC’s arguments that CENSE should be denied case-certification. The statute in question, RCW 80.28.430, broadly states that organizations representing “broad customer interests” may include, but are not limited to, organizations representing low-income customers, industrial customers, and prioritized communities. While CENSE may represent customers from a geographically limited area, it seeks to address a significant investment that implicates broader issues around transmission system capability and reliability. To the extent that PSE and AWEC suggest that CENSE’s concerns are adequately represented by other parties or that CENSE does not require participatory funding, we will consider these arguments further when evaluating the parties’ proposed budgets.

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<sup>23</sup> See Policy Statement ¶ 28.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> See Order 03 at 16.

<sup>27</sup> See WUTC Acknowledgment Letter Attachment, Docket UE-160918, *et al.*, at 10 (May 7, 2018)

44 CENSE demonstrates that it can effectively represent the particular customers it seeks to represent. CENSE attaches the curriculum vitae for a proposed witnesses, Robert McCullough, Richard Lauckhart, and Randall M. Johnson.<sup>28</sup> The Commission has previously observed that Lauckhart's concerns are best addressed in the context of an IRP or general rate case.<sup>29</sup>

45 To be clear, we do not fully agree with all of CENSE's assertions about its past appearances before the Commission. CENSE submits that it provided comments to the Commission in the past on issues such as PSE's 2017 Integrated Resource Plan (IRP).<sup>30</sup> CENSE states that it was "the stakeholder" that raised issues noted in the Commission's IRP Acknowledgment Letter.<sup>31</sup> This may be an overstatement. CENSE certainly raised concerns regarding Energize Eastside in PSE's 2017 IRP, but the Commission's Acknowledgment Letter quoted Staff's comments, not CENSE's.<sup>32</sup> CENSE was not the primary source for the Commission's discussion of PSE's Energize Eastside project in that docket.

46 Ultimately, we agree that the public interest is served by CENSE's participation and that no other party adequately represents CENSE's interests with respect to the Energize Eastside investment. We therefore grant CENSE's Request for Case Certification.

47 We also find that CENSE has properly filed a Notice of Intent to seek funding, stating that the organization intends to seek funds from PSE's Customer Representation sub-fund. Pursuant to Section 6.5 of the Interim Agreement, however, the Commission will not address any funding proposals until after the deadline for submitting proposed budgets.

48 We note that CENSE did not provide a courtesy copy of its Request for Case Certification or its Notice of Intent to Seek Fund Grant to the presiding administrative law judge. CENSE, and all other parties, should be mindful of this requirement.

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<sup>28</sup> CENSE's Request for Case Certification, Exhibits 3, 4, 5.

<sup>29</sup> *In the Matter of the Joint Application of Puget Sound Energy, et al.*, Docket U-180680 Order 04 ¶ 17 (December 13, 2018) (denying interlocutory review of an order denying Lauckhart's petition to intervene).

<sup>30</sup> CENSE's Request for Case Certification at 2.

<sup>31</sup> *Id.* at 2-3.

<sup>32</sup> *Compare* Commission Staff Comments, Docket UE-160918, *et al.*, at 16 (February 6, 2018) with WUTC Acknowledgment Letter Attachment, Docket UE-160918, *et al.*, at 10 (May 7, 2018).

49 Finally, we remind CENSE and the other parties that case-certification does not  
guarantee a Fund Grant. The amount of funding in each Consumer Access Fund is  
limited, and it may be required for more than one Eligible Proceeding. These funds are  
also sourced from ratepayers, many of whom are faced with their own economic  
challenges. The Commission must therefore determine the highest and best use of these  
funds, and whether the needs of intervenors justify the burdens imposed on ratepayers to  
fund the party's participation in Commission proceedings. The Commission "will  
determine the amount, *if any*, of Fund Grants that will be made available" for the  
proceeding and how those funds will be allocated among the case-certified parties.<sup>33</sup>

**ORDER**

50 **THE COMMISSION ORDERS:**

- 51 (1) The Energy Projects' Request for Case Certification is GRANTED.
- 52 (2) The Alliance of Western Energy Consumers' Request for Case Certification is  
GRANTED.
- 53 (3) The NW Energy Coalition's Request for Case Certification is GRANTED.
- 54 (4) The Puyallup Tribe of Indians' Request for Case Certification is GRANTED.
- 55 (5) Front and Centered's Request for Case Certification is GRANTED.
- 56 (6) The Coalition of Eastside Neighbors for Sensible Energy's Request for Case  
Certification is GRANTED.

DATED at Lacey, Washington, and effective March 24, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Michael S. Howard*  
MICHAEL HOWARD  
Administrative Law Judge

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<sup>33</sup> Interim Agreement § 6.5 (emphasis added).

**NOTICE TO PARTIES: This is an Interlocutory Order of the Commission.  
Administrative review may be available through a petition for review, filed within  
10 days of the service of this Order pursuant to WAC 480-07-810.**