

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of  PUGET SOUND ENERGY, INC.  2021 Clean Energy Implementation Plan	DOCKET UE-210795
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,  Complainant,  v.  PUGET SOUND ENERGY,  Respondent.	DOCKETS UE-220066 and UG-220067 <i>(Consolidated)</i>  <b>NW ENERGY COALITION AND FRONT AND CENTERED'S RESPONSE TO PUGET SOUND ENERGY'S MOTION TO CONSOLIDATE PROCEEDINGS AND MOTION FOR EXEMPTION FROM WAC 480-100-645(2)</b>

INTRODUCTION AND RELIEF

Front and Centered and the NW Energy Coalition agree that the Washington Utilities and Transportation Commission (UTC) should exercise its discretion to consolidate Puget Sound Energy's (PSE's) Clean Energy Implementation Plan (CEIP) proceeding, Docket UE-210795, with PSE's general rate case, Dockets UE-220066 and UG-220067. *See* WAC 480-07-320. Accordingly, Front and Centered and the NW Energy Coalition do not oppose PSE's motion to consolidate.

This CEIP is the first filed by PSE under the Clean Energy Transformation Act (CETA), RCW Ch. 19.405, Washington's transformative new clean energy and equity law. There are substantial overlapping issues of law and fact between the CEIP docket and the rate case: simply put, the CEIP is meant to include PSE's proposed actions for the next four years, and the rate case includes PSE's proposal to pay for those actions. Critical aspects of both the CEIP and

PSE's proposals in the general rate case must be substantially revised before the UTC approves either. Adjudicating these issues in a single, consolidated proceeding reduces the risk of inconsistent judgments, or of an order in one proceeding unintentionally constraining necessary relief in the other. Additionally, the UTC, as a condition of consolidation, should direct the parties to confer and propose a procedural schedule that allows for incorporation of the results of both the all-source Request for Proposals (RFP) in Docket UE-210220 and the DER/DR (distributed energy resources/demand response) RFP in Docket UE-210878 into this case.

While Front and Centered and the NW Energy Coalition do not oppose waiver of the open meeting requirement in order to facilitate consolidation of the dockets, they request that the UTC schedule a public comment hearing on the CEIP, at a date that is early enough to inform the adjudication, prior to (or contemporaneously with) a decision to exempt PSE from the requirements of WAC 480-100-645(2). Specifically, the public comment hearing should be held between July 19 and August 23, concurrent with the general rate case public hearing. Allowing ample opportunity for public comment, and ensuring those comments are submitted early enough to inform the adjudication, must be preconditions to any waiver of the open meeting requirement of WAC 480-100-645(2).

## STATEMENT OF FACTS

### I. CETA'S REQUIREMENTS

CETA establishes transformative new clean energy and equity mandates that apply to all utilities. Under CETA, by 2045, utilities must ensure that they rely solely on electricity from renewable resources and non-emitting generation to supply Washington retail electric customers. RCW 19.405.050. As an interim target, by 2030, utilities must rely solely on electricity from renewable resources and non-emitting generation to supply at least 80% of their Washington

retail electric load, and must also offset any emissions associated with the generation that supplies the remaining 20% of their Washington retail electric load. RCW 19.405.040.

CETA requires utilities to ensure that this transition to clean energy is equitable, by taking steps to ensure “the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency.” RCW 19.405.040(8).

CETA requires utilities to develop, and the UTC to review, CEIPs to ensure that utilities are making sufficient progress toward CETA’s clean energy and equity mandates. RCW 19.405.060. CEIPs must include interim clean energy targets, and the “specific actions” a utility will take to increase its reliance on clean energy and equity. *Id.* Under UTC rules implementing CETA, CEIPs must include “customer benefit indicators,” developed in consultation with an equity advisory group and informed by public participation, to assess whether the utility’s actions advance equity in each of the categories specifically enumerated in CETA. WAC 480-100-640(4).

The UTC must review a CEIP and “approve, reject, or approve with conditions” the plan and its targets, and must consider the equitable distribution of benefits in doing so. RCW 19.405.060(1)(c)(iii). UTC rules implementing CETA additionally provide that the UTC will set a CEIP for an open public meeting to consider the filing, and will initiate an adjudication to consider the filing at the request of “any person who has a substantial interest in the subject matter of the filing.” WAC 480-100-645.

## II. PSE’S CEIP

On December 17, 2021, PSE filed its first final CEIP under CETA. *See* Docket UE-210795. PSE’s final CEIP incorporates significant renewables, representing 63% of PSE’s load

service obligation. It includes PSE's first attempt at adopting customer benefit indicators (CBIs) to measure and comply with CETA's equity mandate. It also includes PSE's plans for modest customer-side distributed energy resources (DERs) as part of its CETA compliance strategy. Consistent with WAC 480-100-645(1), the UTC provided an opportunity for comment on PSE's final CEIP until March 2, 2022.

Comments filed by Front and Centered, the NW Energy Coalition, and others identified many critical flaws in PSE's CEIP, ranging from numerous shortcomings in the CBIs and associated metrics, to a lack of specific proposed actions as required by CETA, to errors in PSE's cost estimates that may have led to interim renewable targets that are too low. Front and Centered, the NW Energy Coalition, and others raised many of these issues in earlier comment periods and other processes during the development of the CEIP. In its comments filed March 2, 2022, Front and Centered also requested that the UTC initiate an adjudicative proceeding to consider the CEIP. To date, the UTC has not publicly scheduled any additional proceedings, adjudicative or otherwise, to consider and act on PSE's CEIP.

### III. PSE'S GENERAL RATE CASE

On January 31, 2022, PSE filed a general rate case in Dockets UE-220066 and UG-220067. PSE's rate case includes a request for a substantial increase in rates over the multi-year rate plan term. In the rate case, PSE attributes a significant portion of this requested rate increase to costs necessary to comply with CETA.

#### STATEMENT OF ISSUES

1. Whether the UTC should consolidate PSE's CEIP proceeding with its general rate case, and whether the UTC should order the parties to propose a procedural schedule that allows necessary information from two RFPs to be incorporated into this case?

2. Whether the UTC should schedule a public comment hearing no later than between July 19 and August 23, 2022 concurrent with the general rate case public hearing, as a condition of waiving the open meeting requirement of WAC 480-100-645(2)?

## DISCUSSION

### I. THE UTC SHOULD CONSOLIDATE PSE'S CEIP AND GENERAL RATE CASE PROCEEDING

The UTC should exercise its discretion to consolidate PSE's CEIP proceeding, Docket UE-210795, with PSE's general rate case, Dockets UE-220066 and UG-220067. *See* WAC 480-07-320. Consolidation is appropriate given the substantial overlap in factual and legal issues between the two dockets. Moreover, consolidation will help ensure that a decision in one docket does not inappropriately limit decisions in the other. In addition, consolidation will prevent undue delay in the CEIP docket and is consistent with the legislature's explicit direction to align a multi-year rate plan with a CEIP. Finally, the UTC should ensure that the procedural schedule for the consolidated proceedings does not extend past the end of the year, in order to avoid delaying implementation of CETA.

First, consolidation is appropriate because there is substantial overlap in the factual and legal issues in the two dockets. These include questions related to PSE's CBIs and associated analysis and metrics necessary to implement CETA's equity mandate, and questions surrounding CETA's cost compliance pathway, such as which costs may appropriately be attributed to CETA and the appropriate proceeding in which a utility may demonstrate compliance via the cost pathway. PSE also identifies several areas of overlap in its motion, but neither the above-mentioned issues nor those identified by PSE are exhaustive, and it may take months for the parties to fully develop and agree to an issues list for both dockets. Accordingly, the UTC, in ordering consolidation, should not preemptively limit the scope of issues that can be raised in the

consolidated proceeding to any subset of issues presented in the CEIP docket.

Second, consolidation is appropriate because it limits the risk that an order in one docket could limit or prejudice the adjudication in the other docket. For example, the CEIP adjudication could result in an order that PSE must include additional specific actions that benefit named communities, or an order that PSE increase its acquisition of demand response or energy efficiency resources. If the UTC's order in the general rate case forecloses such expenditures, however, it could effectively limit the range of conditions the UTC could order in the CEIP docket.

Third, consolidation will prevent undue delay in the resolution of the CEIP. Utilities and parties need clear direction from the UTC in order to move forward with implementation of CETA's clean energy and equity mandates. Delaying consideration and approval of PSE's CEIP beyond the end of the year risks delaying implementation of the legislature's critical clean energy and equity mandates. Consolidation, on the other hand, comports with the legislature's direction that the UTC shall "align, to the extent practical, the timing of approval of a multiyear rate plan of an electrical company submitted pursuant to this section with the clean energy implementation plan of the electrical company" pursuant to CETA. RCW 80.28.425(9).

Finally, the UTC should condition approval of PSE's motion on PSE's agreement to work with the parties to propose a modified procedural schedule to allow for supplemental testimony and exhibits incorporating the results of both the all-source RFP in docket UE-210220 and the DER/DR RFP in docket UE-210878 into this case. PSE must also update its CEIP resource costs and associated analysis and conclusions. The modified procedural schedule must also allow an opportunity for discovery and responsive testimony related to these updates. Under CETA, PSE is required to propose specific actions that it will take over the next four years

in its CEIP. RCW 19.405.060(1)(b)(iii). Until PSE has updated its CEIP with information from the RFPs on the specific actions it intends to pursue, PSE's submission is incomplete and cannot be approved by the UTC. Accordingly, these modified dates for supplemental testimony and analysis are necessary to the resolution of the CEIP and general rate case consolidated dockets, and PSE must propose a modified procedural schedule that allows resolution of these issues prior to the suspension date.

In its motion to consolidate, PSE has offered to work with the parties to establish a "separate but congruent" procedural schedule for the CEIP within the consolidated docket. Front and Centered and the NW Energy Coalition are also willing to work with parties to establish a schedule, so long as any separate schedule offers meaningful opportunities for responsive and cross-answering testimony, discovery, an evidentiary hearing, post-hearing briefing, settlement conferences, a public comment hearing, and supplemental testimony incorporating the results of both RFPs, as discussed above. Additionally, the UTC in its order on consolidation should clarify that by consolidating the dockets, the existing filings in Docket UE-210795 are available for admission as exhibits in the general rate case record.

II. THE UTC SHOULD SCHEDULE A PUBLIC COMMENT HEARING AS A CONDITION OF WAIVING THE OPEN PUBLIC MEETING REQUIREMENT OF WAC 480-100-645(2)

Public process is a cornerstone of CETA and the UTC's rules. CETA requires the UTC to hold a hearing to consider and act on a utility's CEIP. RCW 19.405.060(c). The UTC's rules further require utilities to develop and implement substantial public engagement plans on CEIPs, including advisory groups, community outreach, and customer notices. WAC 480-100-655. These substantial public engagement protections are meant to ensure that communities have a voice in the CEIP development and approval process.

An adjudication on a CEIP, which the UTC must initiate on request, offers a critical but

separate set of procedural protections designed to allow parties to thoroughly vet a utility's submission through adversarial testimony, discovery, and an evidentiary hearing. While these procedures can shed critical light on a utility's filing, they serve a fundamentally different role than the public participation provisions for CEIPs. Accordingly, an adjudicative proceeding should not automatically substitute for an open public meeting, which allows broader public participation than an adjudication.

A public comment hearing associated with an adjudication may reasonably substitute for an open public meeting on PSE's CEIP, as long as the UTC and PSE take steps to ensure that the comment opportunity is meaningful. Specifically, the UTC should schedule the public comment hearing between July 19 and August 23, 2022, concurrent with the general rate case public hearing, so that all parties may incorporate public comments into their advocacy and the UTC may consider the comments as it evaluates the CEIP. A public comment hearing that comes too late would unfairly deprive the public of a meaningful opportunity to influence the UTC's decision on the CEIP.

#### CONCLUSION

For the foregoing reasons, the UTC should exercise its discretion to consolidate PSE's CEIP proceeding, Docket UE-210795, with PSE's general rate case, Dockets UE-220066 and UG-220067, and grant PSE's motion to consolidate proceedings. *See* WAC 480-07-320. Additionally, as a condition of waiving the open meeting requirement of WAC 480-100-645(2), the UTC should schedule a public comment hearing on PSE's CEIP between July 19 and August 23 in the consolidated proceeding.

Dated this 6th day of April, 2022.

Respectfully submitted,



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