

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

| | |
|--|---|
| WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PUGET SOUND ENERGY, Respondent. | DOCKETS UE-220066 AND UE-220067 PROPOSED BUDGET OF CENSE IN SUPPORT OF FUND GRANT |
|--|---|

1. I. INTRODUCTION.

2. This budget request is filed by Intervenor CENSE, an all-volunteer, non-profit organization formed in 2014 to represent Eastside residents and businesses who have concerns regarding the need, safety and cost of PSE’s proposed 16-mile 230 kV transmission line from the Sammamish substation in Redmond to the Talbot Hill substation in Renton.¹
3. This Proposed budget² requests allocation of \$66,000 in attorney fees, \$3,000 for support staff, and \$12,000 in expert witness and consulting fees from the fund created by PSE.

¹ CENSE’s Request for case certification was approved in Order 08 (March 24, 2022).

² Exhibit A hereto.

Herein, we provide discussion and submissions consistent with the “Washington Interim Participatory Funding Agreement (“IPFA”) Attachment A to Order 01 in Docket 210595. This submission also takes into account this Commission’s “Policy Statement on Participatory Funding for Regulatory Proceedings” in Docket 210595 dated November 19, 2022.

4. In summary, we ask for approval of the requested fund grant to allow CENSE to participate in this proceeding with regard to the Energize Eastside proposal.
5. **II. SUBSTANCE OF REQUEST.**
6. As described on its budget request, CENSE seeks funding in the amount of \$12,000 for expert witnesses and \$69,000 in attorney and support staff fees for this proceeding as set forth on the attached Budget Request Form.
7. CENSE is an all-volunteer community organization organized and existing to address the Energize Eastside project. CENSE differs from other intervenors that request funding as it does not maintain permanent offices or staff.
8. In support of its Budget Request, CENSE submits the following discussion addressing criteria as set forth in the IPFA at Paragraph 6.3.
9. **2.1 Statement of Work to be Performed by CENSE.**
10. CENSE will prepare a case concerning Energize Eastside for presentation to the Commission, which will include some or all of the general areas to be investigated as set forth below. CENSE contemplates review of the materials presented by PSE, data requests, further discovery, preparation of direct testimony, legal briefing, participation in settlement conferences and cross examination of witnesses during the evidentiary hearings.

11. **2.2 Description of General Areas to be Investigated by CENSE.**
12. CENSE will generally investigate and provide evidence on the prudence of the proposed Energize Eastside transmission line. In general, this work will address the claims made by PSE that the project is justified as generally described in the testimony and accompanying exhibits of Dan'l Koch found at Exhibit DRK-1T, at pages 43-83.
13. In particular, CENSE will address the following areas which are included in PSE's presentation.
14. 2.2.1 Whether the existing and forecasted peak loads justify the construction of this transmission.
15. 2.2.2 Whether "Corrective Action Plans" are appropriate and necessary to resolve claimed shortfalls in the capacity of the existing lines and transformers.
16. 2.2.3 Whether the several studies and reports submitted in support of Energize Eastside by PSE are current and accurate to existing circumstances and conditions.
17. 2.2.4 Whether peak load forecasts provided are accurate.
18. 2.2.5 Whether the peak loads of concern are related to summer and/or winter loads.
19. 2.2.6 Whether there are reasonable, appropriate and useful alternatives to the transmission plan proposed by PSE, including non-wire measures, energy storage, demand response, distributed generation and energy efficiency, among others.
20. 2.2.7 Whether there is a joint utility analysis of all available transmission and potential interconnections that can address or resolve the need for the Energize Eastside proposal.
21. 2.2.8 Whether the proposal is supported or justified by regional loads or transmission deficiencies.

22. 2.2.9 Whether the contingency events used for the reliability studies were appropriate, including, but not limited to, modeling the loss of Puget Sound area generation.
23. 2.2.10 Whether the summer 2021 hot spell resulted in a need to reset load forecasts or needs.
24. 2.2.11 Whether PSE staff adequately informed the Board of Directors of options for the permitting process.
25. 2.2.12 Whether the current or projected costs for the project are reasonable.
26. The ability of CENSE to present or investigate thoroughly the foregoing will depend on the complexity of each issue and the funding available.
27. **2.3. Identification of Sub-Fund from which CENSE is Seeking a Fund Grant and an Estimate of the Amount of Funds Available.**
28. CENSE requests funds from the “Customer Representation Sub-Fund” found in the IPFA at Paragraph 4.2. Though there will be funding requests from other case-certified parties, the IPFA at Article 4, page 4 indicates that \$200,000 is available.
29. **2.4 Budget Amounts: Attorney Fees and Support Staff.**
30. CENSE requests funding for its attorneys totaling 220 hours at \$300 per hour (a total of \$66,000) in preparing for and participating in the general rate case, addressing the issues presented above. Given the circumstances, it is likely that total time expended by CENSE’s attorney will exceed that request. The hourly rate for Mr. Aramburu is reasonable. He has worked on Energize Eastside matters for six years and is familiar with all issues in the case. In addition, he has been counsel in a variety of electric power issues including a wind project before EFSEC, a hydro project on Baker Lake, issues relating to Washington Public

Power Supply System projects and the Seattle City Light proposal to raise Ross Dam. He has been continually listed in Best Lawyers in Washington as well as other lawyer recognition publications. In addition, \$3,000 in support staff fees should be included. Carol Cohoe has been a member of Mr. Aramburu's support staff for many years, has supported Mr. Aramburu in his work on Energize Eastside issues for the last six years; the fees charged to CENSE for these support services are very reasonable at \$40/hour. These amounts are preliminary and the number of actual hours may increase or decrease depending on the degree of controversy that arises during the hearing process.

31. **2.5 Budget Amounts: Consultant and Expert Witness Fees and Support Staff.**

32. In addition, CENSE requests a grant of \$12,000 for consultants and expert witness fees.

Again this amount is preliminary and may increase or decrease depending on the degree of controversy that arises during the hearing process.

33. **III. THE BUDGET PROPOSED BY CENSE MEETS COMMISSION CRITERIA.**

34. **3.1 Commission Policy and Funding Agreement.**

35. In 2021, the Washington Legislature adopted RCW 80.28.430, which authorized final assistance for organizations representing broad customer interests in regulatory proceedings before this commission. CENSE is aware that customer representative organizations began discussions concerning the implementation of this new statute during the latter part of 2021. At the time these discussion were ongoing, CENSE was unaware that PSE would be seeking to include its Energize Eastside project for inclusion in the rate base, especially where PSE lacks permits for over 50% of the intended route. Indeed, the first CENSE was aware of PSE intentions regarding Energize Eastside before this Commission was its filing

with this Commission on January 31, 2022. If CENSE had received advance notice of PSE's intended filing, it would have participated in the development of the IPFA.

36. As will be demonstrated below, CENSE meets the criteria for a substantial fund grant to support its continuing investigations of the prudence of the Energize Eastside project.

37. **3.2 Breadth and Complexity of Issues.**

38. As indicated in the filings of PSE, particularly of Dan'l Koch, Exhibit DRK-1T and the supporting exhibits, the issue of need for and alternatives to the Energize Eastside project involves numerous studies and reports. Mr. Koch's List of Exhibits includes fourteen separate reports³ as well as three lengthy excerpts from environmental impact statements prepared for the project. For instance, Exhibit DRK-15 is a 53 page portion of the Draft EIS from January, 2016, Exhibit DRK-16 is a 47 page portion of the "Phase 2" Draft EIS and Exhibit DRK-1 is a 40 page section of the Final EIS for the project.

39. The testimony also references other reports relied upon by Mr. Koch that go back to 2008, 2009 and 2010, though not (yet) submitted as exhibits.⁴ Though many of these reports are out of date, they still must be addressed in testimony. Apparently more reports will be forthcoming, as illustrated by PSE's response to Staff's DR 095, which included a heretofore undisclosed Outage Cost Study from 2015.

40. In addition, PSE claims⁵ these numerous reports have identified "four major areas of

³ Exh. DRK-1T, page ii.

⁴ Exh. DRK-1T, page 49, Fn. 13.

⁵ Exh. DRK-1T, Section 52-53

concern,” one of which is: “Impacts to interconnections identified by ColumbiaGrid”⁶ under item iv. PSE claims: “it is a federal requirement to study all electric transmission projects to ensure there are no material adverse impacts to reliability or operating characteristics of PSE’s or any surrounding utilities’ electric systems.”⁷ The Company goes on to reference “a Biennial Transmission Plan that addresses system needs in the Pacific Northwest, including the PSE system.”⁸ Though this document is not offered as an exhibit, this is a lengthy and complex report that brings into this proceeding claimed regional benefits from the Energize Eastside project.

41. As seen, the issues presented are complex, involving planning studies, non-wire alternatives to transmission, load forecasts, system reliability assessments, thermal overloads to transformers,⁹ application of NERC reliability standards,¹⁰ audits by the Western Electricity Coordinating Council¹¹ and regional planning.¹²
42. The number and complexity of studies, issues and documents submitted by PSE support a fund grant of a sufficient amount to allow thorough consideration in the hearing on the Energize Eastside issue, though additional funds may be required.
43. **3.3 Significance of Policy Issues.**

⁶ Exh. DRK-1T, Section 52-53 .

⁷ *Id.*

⁸ *Id.*

⁹ Exh. DRK-1T, page 49, lines 4-12.

¹⁰ Exh. DRK-1T, page 49, lines 14-19.

¹¹ Exh. DRK-1T, page 50, lines 16-21.

¹² Exh. DRK-1T, pages 52-53.

44. The Energize Eastside project presents multiple and very important policy issues.
45. Initially, there is significant question as to whether the project is needed given recent developments in the use of transmission as opposed to other alternatives.
46. One of the policy issues presented in the current hearing will be whether the Commission will look to “transformational approaches” to address congestion impacts claimed by PSE, which could eliminate or substantially reduce the financial burden of customers who are asked to pay approximately \$300,000,000 for the project.
47. In addition, this proceeding will address important policy issues of a utility embarking on the construction of a project without land use permits necessary to complete the line.¹³ There are no permits for Energize Eastside project segments in Newcastle, North Bellevue or Redmond. These segments total 8.74 miles, more than half of the sixteen mile proposed line.¹⁴
48. Further, this proceeding will address decision-making for multi-jurisdictional large transmission projects. As described above, PSE has chosen to seek five separate permits from four municipalities: Redmond, North Bellevue, South Bellevue, Newcastle and Renton.¹⁵ This segmented process involves more than 35 separate permits over the five jurisdictions, with multiple separate public meetings and hearings with multiple and separate comment periods. PSE’s preferred process involves significant expense and time

¹³ See Exh. DRK-19.

¹⁴ Compare Exh. DRK-1T, page 43, line 10 with Exh. DRK-16, page 5 (Corridor Summary by Segment).

¹⁵ Exh. DRK-19.

for PSE and wearying process for interested members of the public. A policy issue exists for this Commission as to whether projects like Energize Eastside should use the Energy Facilities Site Evaluation Council (EFSEC) procedures for review of a project in which the applicant contends that a “major area of concern” is to “study all electric transmission projects to ensure there are no material adverse impacts to the reliability or operating characteristics of PSE’s or other surrounding utilities electric systems.”¹⁶ EFSEC provides a one-stop process for all local and state permit, with authority to supercede local land use regulations.

49. One question raised by Commission Staff during the 2017 PSE IRP process specific to the Energize Eastside project is also now ripe for consideration and determination by the Commission:

The Company complied with the letter of the law in Chapter 8 where it provided a history of its Needs Assessment Reports. However, the Plan did not answer many questions that are needed for determining if the Company’s conclusions are justified. For instance, it is still not clear if a joint utility analysis of all available transmission and potential interconnections in the Puget Sound region might solve the Energize Eastside reliability issues.¹⁷

50. Another important policy issue in this proceeding will be how the Commission will address significant expenditures made by a company on a project during the pendency of a rate case. In the present case, as described in Section 3.5 below, PSE plans to spend more than \$58 million on the Energize Eastside project in 2022, when it only has permits for half of the line.

¹⁶ Exh. DRK-1T, pages 52-53.

¹⁷ Docket UE-160918, 2017 Electric and Natural Gas Integrated Resource Plan, Comment letter to PSE, May 7, 2018, page 10.

51. **3.4 Procedural Schedule.**

52. CENSE has committed to comply with the procedural schedule established by the Administrative Law Judge in this proceeding.¹⁸

53. **3.5 Dollar Magnitude of Issues at Stake.**

54. PSE says the current cost of the Energize Eastside project is \$238,000,000.¹⁹ However, if AFUDC is included, as it is in the Kensok testimony, the cost increases to \$296,802,951.²⁰ As these figures were current as of November, 2021, the cost of the project as of this submission likely exceeds \$300M.

55. The Company indicates²¹ the “actual costs for the Energize Eastside project are \$122 million through November 2021.” Though transformers have been installed at the new substation at Richards Creek, and “many new steel poles” have been installed,²² the vast majority of these “actual costs” have been funds spent on studies, reports, consultants, public relations and attorney fees, not actual construction.

56. The “estimated cost for the south phase is \$188 million.”²³ According to PSE, the “south phase” includes completion of the Richards Creek Substation in Bellevue and “upgrad[ing] the transmission lines in south Bellevue, Newcastle and Renton first, then construct the

¹⁸ Order 03, March 3, 2022, Appendix B.

¹⁹ PSE Exhibit DRK-1T page 47, lines 4-8.

²⁰ Exhibit JAK-5, page 4, line 38.

²¹ Exhibit DRK-1T, page 78, lines 11-12.

²² Exhibit DRK-1T, page 46 at lines 2-11.

²³ Exhibit DRK-1T, page 78, lines 16-18.

northern portion in north Bellevue and Redmond.”²⁴ However, as PSE admits, it does not have a permit for the project in Newcastle, which means it may not be able to close the circuit between the Talbot Hill and Richard Creek substations. Nonetheless, according to Table 3 at page 79,²⁵ the Company plans to spend \$58,261,637 on the project in calendar year 2022, which roughly coincides with the length of this proceeding.

57. The \$300M cost of this project is substantial and, if approved, would be included in the rate base for all PSE customers, whether on the Eastside side or not. A determination the project is not prudent would substantially benefit “broad customer interests.”
58. **3.6 Participation of Other Parties to Adequately Represent the Interests of Customers.**
59. CENSE has carefully reviewed the requests of the other intervenors that have been approved for case certification in this matter. It does not appear any of them will be focusing on the Energize Eastside issue. The proposal benefits a relatively small part of PSE’s customer base on the “Eastside,” in affluent communities such as Beaux Arts, Bellevue, Medina, Clyde Hill, Mercer Island, Yarrow Point and Hunts Point.²⁶
60. Front and Centered explains in its Petition that it is “a climate justice coalition of organizations led by and serving communities of color in Washington.” The coalition represents customers who constitute vulnerable populations and highly impacted communities. TEP representation of “broad customer interests” includes organizations representing “low-income” customers. NWECC presents larger groups of consumers, but

²⁴ Exh. DRK-1T, page 76, lines 13-17.

²⁵ Exhibit DRK-1T, page 79.

²⁶ Exh. DRK-1T, page 51, lines 11-13.

does not identify that it will address Energize Eastside. The Puyallup Tribe represents particular interests such as those related to the Tacoma LNG facility, but has no identified interest in Energize Eastside.

61. Intervenor AWEC opposed both CENSE’s petition to intervene and its request for case certification and now requests funding from the Customer representation Sub-Fund. In its opposition to the CENSE Request for Case Certification at page 7, it claims the Energize Eastside issue “will be addressed by other organizations which have a history of advocating for broad customer issues before the Commission, such as Public Counsel, AWEC and The Energy Project.”²⁷ However, the budget request by The Energy Project mentions nothing about the Energize Eastside project, nor does AWEC’s.
62. AWEC claims it is “an incorporated, non-profit association of large energy consumers in the Pacific Northwest and represents some of Puget Sound Energy’s (‘PSE’ or the ‘Company’) largest customers.”²⁸ Its Petition for Case Certification and Notice of Intent says it “is a non-profit organization formed for the benefit of its members.”²⁹ However, it claims that the names of “PSE’s largest customers” constitutes “Confidential Information” as stated in its “Confidential Amended Petition to Intervene of the Alliance of Western Energy Consumers” dated March 18, 2022.³⁰ But in the 2019 General Rate Case before the

²⁷ 220066-67-AWEC-Resp-to-CENSE-3-18-22.pdf (emphasis supplied).

²⁸ 220066-220067-AWEC-Amended-Pet-Int-3-18-22-R.pdf.

²⁹ 220066-67-AWEC-Pet-Case-Cert-and-Notice-3-14-22.pdf.

³⁰ This “Amendment” to its Petition to Intervene came two weeks after AWEC was granted intervention in Order 03 in this matter on March 3, 2022. AWEC did not request leave to file this amended petition or to designate AWEC members as confidential.

Commission, AWEC filed its “Petition to Intervene of the Alliance of Western Energy Consumers” in Dockets UE-190529 and UG-190530 (Consolidated) similarly stating “AWEC represents some of Puget Sound Energy’s (‘PSE’ or the ‘Company’s’) largest consumers” at page 2. However in its 2019 petition, AWEC identified these “largest consumers” on Attachment A, including Boeing, Intel, Georgia Pacific and International Paper. Why PSE’s “largest consumers” now seek confidential status is not explained.

63. As noted, AWEC listed Boeing as one of its members in the 2019 rate case. Boeing is a member of a pro-Energize Eastside lobbying group called “Communities United for Reliable Energy” or “CURE” which maintains this website:

<http://www.communitiesunitedforreliableenergy.org/>

64. The CURE website lists Boeing as one of its business members.³¹ The website also includes the “CURE Steering Committee” which includes: “Rich White, Boeing, Everett Resident.”³²
65. In bold print on the CURE home page on its website is the following: “**We support Puget Sound Energy’s Energize Eastside project.**”
66. The foregoing presents important policy issues regarding grants under the Consumer Representation Sub-Fund.
67. First, is it appropriate to provide funds to a nominal non-profit organization that is the creation in part of large “Fortune 500” companies that are clearly for-profit organizations? Commission policy that funding should be limited to non-profits surely does not mean that

³¹ <http://www.communitiesunitedforreliableenergy.org/businesses--community-organizations.html>.

³² <http://www.communitiesunitedforreliableenergy.org/cure-steering-committee.html>.

multiple of the “largest PSE customers” can form a non-profit organization to fit within the funding parameters. AWEC claims that it will “address” the Energize Eastside project, but its involvement to this point has been actions to limit CENSE’s efforts to question the project.

68. Second, should funding be granted to these non-profit organizations that seek to keep their membership “confidential?” As the Commission explores ongoing policy issues regarding distribution of the Consumer Representation Sub-Fund, it may be important to publicly discuss the participants, not keep them secret, as AWEC requests.
69. Third, to what extent should the strictures of the IPFA be considered in deciding on funding issues? CENSE is mindful that the IPFA has been approved by the Commission, but, because it was negotiated before the Energize Eastside project was requested to be included in the current General Rate Case, CENSE did not provide input to it. The parties to the IPFA included provisions that are problematic for citizen organizations like CENSE for two practical reasons. One, even if a funding request is approved, request for payment cannot be made until the end of the proceeding.³³ Two, in Exhibit B to the IPFA, the “Form of Payment Request,” under “Expert Witness Fees” requires that there will be a “20% Discount” applied to such fees. As a practical matter, this means that attorneys and expert witnesses must work without compensation for the months the GRC continues, and expert witnesses, even after waiting months for payment, must discount their services by

³³ IPFA at page 16, paragraph 39.

20%.³⁴ For grant recipients such as AWEC with support from large industrial concerns, delayed payments and mandatory discounts are of little consequence, but the conditions may greatly impact smaller public citizen organizations like CENSE without regular grant funds or large corporate backers. One of the “goals” identified in this Commission’s Policy Statement on Participatory Funding for Regulatory Proceedings (Docket 210595) is “to increase participation of groups of people who historically have not been part of our proceedings, including the statute’s named priority communities.”³⁵ However, the rules discussed above place restrictions on funding that tend to continue the institutional interests of some of the parties to IFPA.

70. 3.7 Amount of Funds Being Provided by Intervenor.

71. Prior to PSE’s filing with this Commission on January 31, 2022, CENSE has been involved in a multi-year effort to investigate issues of the need for the Energize Eastside project. In addition, CENSE has investigated whether, if such a need indeed exists, there are prudent alternatives at less cost to the rate-payer to meet the need. In the process, CENSE has engaged experts and undertaken considerable research as appropriate for a non-profit community association. The results of these privately funded efforts will be included with CENSE’s participation before the Commission. However, these efforts have greatly diminished its ability to raise additional funds.

72. 3.8 Qualification of the Party and Experience Before the Commission.

³⁴ CENSE is not aware of any Commission ruling that requires PSE or other regulated utilities to require its expert witnesses or consultants to take a 20% discount for their own expert witness fees as a condition to including their fees in the rate case.

³⁵ Id. at page 4, paragraph 14.

73. As described above, CENSE has spent several years preparing information regarding need and reliability specifically for the Energize Eastside project. Those efforts include presentation before the local governments on the Eastside (Bellevue, Renton and Newcastle) and extensive comments on both Phase 1 and Phase 2 Draft environmental impact statements. CENSE members also participated in Community Advisory Groups organized by the Company, and made comments on PSE's Integrated Resource Plans.
74. Recently, CENSE prepared testimony and exhibits for a five day hearing before the Hearing Examiner for the City of Newcastle. CENSE cross examined multiple PSE witnesses on questions of need, reliability and alternatives during these hearings. Several PSE witnesses supporting the Energize Eastside project before the UTC were also witnesses before the Newcastle Hearing Examiner, including Dan'l Koch and Catherine Koch.
75. CENSE is highly qualified to continue its investigations regarding the Energize Eastside project in these proceedings.
76. **3.9 Other Eligible Proceedings.**
77. CENSE does not contemplate use of funds in other proceedings.
78. **IV. CONCLUSION.**
79. The Commission should approve the budget request at Exhibit A.

Respectfully submitted this 25th day of April, 2022.



J. Richard Aramburu, WSBA #466

Attorney for Coalition of Eastside Neighbors for
Sensible Energy