

**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 PROPOSED  
BUDGET IN SUPPORT OF FUND  
GRANT**

**I. RELIEF REQUESTED**

- I.* Puget Sound Energy ("PSE") hereby submits this response to the Coalition of Eastside Neighbors for Sensible Energy's ("CENSE") request for \$81,000 from funds established in a participatory funding agreement between PSE, four investor-owned utilities, and six other parties (the "Funding Agreement").<sup>1</sup> PSE requests the Washington Utilities and Transportation Commission ("Commission") deny CENSE's request. CENSE requests more than forty percent of the available funds in the Customer Representation Sub-Fund for all eligible PSE regulatory proceedings in 2022, and more than any other party seeking funding from the Customer Representation Sub-Fund in this multi-year rate proceeding. The Commission should deny

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<sup>1</sup> *In the Matter of the Commission's Examination of Participatory Funding Provisions for Regulatory Proceedings*, Docket U-210595, Order 01 (Feb. 24, 2022)(the Funding Agreement is Attachment A to Order 01).

CENSE’s funding request because CENSE is focused on only one issue in this proceeding, CENSE enters the proceeding with a preestablished position on that issue rather than broadly investigating and considering the merits, CENSE has not demonstrated that it needs funding assistance to participate, and other parties will also be addressing the issue CENSE plans to address. In the alternative, if the Commission is inclined to grant CENSE’s request for participatory funding, PSE requests that the Commission limit the amount of the funds granted to CENSE consistent with the requests made by other parties to the proceeding that are addressing multiple issues and as provided in the Funding Agreement.

## II. BACKGROUND

### A. Basis for Participatory Funding

2. In 2021 the Washington legislature 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.”<sup>2</sup> The funding agreement must be approved by the Commission, and organizations representing vulnerable populations or highly impacted communities must be prioritized for funding.<sup>3</sup> On February 24, 2022, in Docket U-210595, the Commission entered Order 01, approving with modifications the Funding Agreement.<sup>4</sup> The

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<sup>2</sup> RCW 80.28.430 (1).

<sup>3</sup> RCW 80.28.430 (4).

<sup>4</sup> Docket U-210595, Order 01 (Feb. 24, 2022).

Funding 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” for all eligible PSE proceedings throughout calendar-year 2022.<sup>5</sup> Of this total amount, \$200,000 is included in the Customer Representation Sub-Fund, which is the fund from which CENSE seeks funding. The \$200,000 in the Customer Representation Sub-Fund is not exclusively reserved for the multi-year rate proceeding, rather the funds are available for participants in all eligible PSE Commission proceedings in 2022. Although the multi-year rate proceeding will be the largest PSE proceeding in 2022, it undoubtedly will not be, the only eligible PSE proceeding in 2022.

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 participatory funding is available.<sup>6</sup> 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.<sup>7</sup>

4. Pursuant to RCW 80.28.430, participatory funding is limited to eligible organizations representing “broad customer interests.”<sup>8</sup> This term is not defined in the statute, and the Commission declined to define the term in its Policy Statement. The Funding Agreement, however, prohibits funding for-profit and government organizations, and an organization must be

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<sup>5</sup> Funding Agreement at pp. 4, 6-7.

<sup>6</sup> Docket U-210595 (Nov. 19, 2021)(“Policy Statement”).

<sup>7</sup> Policy Statement at ¶ 3.

<sup>8</sup> Policy Statement at ¶ 22.

“able to effectively represent the particular customers it seeks to represent.”<sup>9</sup> Additionally, no other certified stakeholder should be able to adequately represent those interests.<sup>10</sup>

5. Before an organization can receive funding, it must submit a “Request for Case Certification and Notice of Intent to Request a Fund Grant” (“Request for Case Certification”).<sup>11</sup> A party that is granted Case Certification that is interested in obtaining funding to support its participation must submit a proposed budget.<sup>12</sup> By requiring an interested party to submit a budget request, the burden is on the party to demonstrate that it meets the criteria in RCW 80.28.430, the Funding Agreement, and the Policy Statement, and it is therefore reasonable for the Commission to allocate financial assistance to that party.<sup>13</sup>

**B. CENSE’s Budget and 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.<sup>14</sup> While CENSE has not identified the individuals and entities that CENSE represents, it is generally understood that they are affluent 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

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<sup>9</sup> Agreement at p. 6.

<sup>10</sup> *Id.*

<sup>11</sup> Agreement at pp. 7-8.

<sup>12</sup> Funding Agreement at pp. 8-9.

<sup>13</sup> RCW 80.28.430(1); *see also*, Policy Statement at ¶ 60 (party must demonstrate need as a threshold for eligibility for interim funding).

<sup>14</sup> Petition of CENSE for Leave to Intervene, Dockets UE-220066/UG-220067 at ¶ 3 (Feb. 22, 2022).

prehearing conference in this proceeding, CENSE was ordered to limit its participation in this proceeding to the single issue of the prudence of the costs of the Energize Eastside project.<sup>15</sup>

7. Also at the prehearing conference, the presiding officer questioned counsel for CENSE about, among other things, the group's membership and whether it represents vulnerable or highly impacted communities as defined by the Clean Energy Transformation Act.<sup>16</sup> Public Counsel dug into the question of CENSE's financial resources and prior representations by CENSE that it is in a better financial position than Public Counsel to address the prudence of Energize Eastside costs.<sup>17</sup> Counsel for CENSE then reemphasized the group's financial abilities stating, "...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."<sup>18</sup> The Commission granted CENSE's petition to intervene, on the conditions that its participation is limited to the single issue of prudence of the Energize Eastside investments and that it will coordinate the presentation of its case with Public Counsel.<sup>19</sup>

8. On March 14, 2022, CENSE filed a Request for Case Certification. On March 24, 2022, the Commission granted the CENSE Request for Case Certification as well as the Requests for Case Certification submitted by five other parties.<sup>20</sup> In Order 08 of Dockets UE-220066 and UG-220067, the Commission made it clear that "case-certification does not guarantee" a case-certified party will receive grant funds under the Funding Agreement.<sup>21</sup>

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<sup>15</sup> Order 03, Prehearing Conference Order; Notice of Hearing ("Order 03") at ¶¶ 14, 17 (March 3, 2022).

<sup>16</sup> ALJ Howard, TR. 23:21-24.

<sup>17</sup> Gafken, TR. 34:25-35:2.

<sup>18</sup> Aramburu, TR. 37:1-5.

<sup>19</sup> Order 03 ¶ 18.

<sup>20</sup> *WUTC v. Puget Sound Energy*, Dockets UE-220066 and UG-220067, Order 08 (March 24, 2022).

<sup>21</sup> *Id.* at ¶ 14, *see also*, ¶ 48 ("we remind CENSE and the other parties that case-certification does not guarantee a Fund Grant").

9. On April 25, 2022, CENSE filed a Proposed Budget in Support of Fund Grant (“Proposed Budget”) seeking \$81,000 of the \$200,000 Customer Representation Sub-Fund established in the Funding Agreement,<sup>22</sup> which is more than forty percent of the total funds available in the Customer Representation Sub-Fund for the entire year, and more than any other intervenor requested from the Customer Representation Sub-Fund for this multi-year rate proceeding.

10. Each of the Alliance of Western Energy Consumers (“AWEC”), the NW Energy Coalition (“NWEC”), and The Energy Project (“TEP”) filed a proposed budget request seeking funds from the Customer Representation Sub-Fund for this rate proceeding. AWEC is seeking \$50,000 to investigate all aspects of PSE’s multi-year rate filing, including capital expenditures; AWEC anticipates it will spend \$200,000 on attorney fees, expert fees, and other costs in these dockets. NWEC requested \$50,000 to address PSE’s proposed performance metrics, investments related to CEIP, and compliance with Washington state climate and clean energy policy; NWEC states that its request does not cover the entire cost of its participation in this proceeding. TEP also requested \$50,000 to partially offset the expense of expert consulting services and retaining counsel to represent TEP in this docket on matters including, the multi-year rate plan and cost of service issues. Together with the Budget Request from CENSE, these requests exceed the amount of funding in the Customer-Representation Sub-Fund for the entire year. Yet, CENSE is the only organization requesting funding from the Customer Representation Sub-Fund that is expressly limited to addressing only one single issue in the proceeding.

11. CENSE is requesting over forty percent of the dollars in the Customer Representation Sub-Fund designated for all eligible PSE regulatory proceedings in 2022, to allow CENSE to

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<sup>22</sup> Budget Request at ¶¶ 3, 6, 28.

participate in this single proceeding with regard to just one issue, “the Energize Eastside proposal.”<sup>23</sup> In its Request for Case Certification, CENSE argued that it represents the “broad customer interests who are being asked to pay for the Energize Eastside project,” but it did not identify what those interests are, other than opposition to a project that goes through the communities where CENSE members live or work.<sup>24</sup> In its Budget Request, CENSE admits that it “has been involved in a multi-year effort to investigate issues of the need for the Energize Eastside project”<sup>25</sup> and that it “has spent several years preparing information regarding need and reliability for the Energize Eastside Project.”<sup>26</sup> CENSE has already staked out its position on the Energize Eastside project and it would be unfair to provide CENSE any amount of the funds available under the Funding Agreement established under RCW 80.28.430, let alone forty percent of the funds in the Customer Representation Sub-Fund.

### III. ARGUMENT

12. 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.<sup>27</sup> 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 describes as including “organizations representing low-income, commercial, and industrial customers, vulnerable populations, or highly impacted

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<sup>23</sup> *Id.* at ¶ 4.

<sup>24</sup> Request for Case Certification at ¶ 4(b).

<sup>25</sup> Budget Request at ¶ 71.

<sup>26</sup> *Id.* at ¶ 73.

<sup>27</sup> RCW 80.28.430.

communities.”<sup>28</sup> 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.<sup>29</sup>

13. The Commission issued the Policy Statement to provide high-level guidance regarding the amount of financial assistance that may be provided to participating organizations and the manner in which the financial assistance will be distributed.<sup>30</sup> In the Policy Statement, the Commission stated further that it “will evaluate the reasonableness of any reimbursement requests and ‘[t]he amount of financial assistance, if any’ that may be awarded to the organization.”<sup>31</sup> The Commission also stated that a threshold for eligibility for funding is that the participant demonstrate need for the participatory funding.<sup>32</sup> The Commission also explained that requests for funding and proposed budgets will be reviewed on a case-by-case basis, and if “costs are unreasonable or contrary to the public interest,” it has authority to adjust or reject a funding request.<sup>33</sup>

14. CENSE has the burden to demonstrate it meets the criteria in the statute and the requirements established in the Policy Statement for the Commission to grant its Budget Request. CENSE has failed to meet its burden. Nothing in the CENSE Budget Request demonstrates that CENSE has a need for participatory funding. To the contrary, counsel for CENSE represented to the Commission at the February 28 prehearing conference that CENSE

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<sup>28</sup> RCW 80.28.430 (1).

<sup>29</sup> RCW 80.28.430 (1) and (4).

<sup>30</sup> Policy Statement ¶ 3.

<sup>31</sup> *Id.* at ¶ 20.

<sup>32</sup> *Id.* at ¶ 60.

<sup>33</sup> *Id.* at ¶ 64.



had the “resources to proceed to address the prudence and public interest issues” presented by the Energy Eastside project. CENSE’s ability to participate in administrative proceedings has not been hindered due to financial constraints, as evidenced by its active participation in almost every permitting proceeding involving the Energize Eastside project over the past seven years.<sup>34</sup> Indeed, CENSE is largely comprised of property owners who reside 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. PSE’s customer base should not be required to pay for these homeowners’ “not-in-my-back-yard” campaign, which opposes a much-needed transmission line.<sup>35</sup>

15. The CENSE Budget Request for \$81,000 of the \$200,000 in the Customer Representation Sub-Fund for all eligible PSE proceedings in 2022 is also unreasonable. CENSE represents a relatively limited number of PSE customers and its participation is limited to addressing only one issue, the prudence of the Energize Eastside investment, in one eligible PSE regulatory proceeding. The sole issue that CENSE is allowed to address--the prudence of the Energize Eastside project--will be addressed by numerous other parties such as Public Counsel, Commission Staff, and AWEC, as is the usual case for large capital expenditures, thus negating the need for CENSE to seek the largest share of the Customer Representation Sub-Fund. Moreover, CENSE has been working on the Energize Eastside issue for over seven years and has a predetermined viewpoint on that issue.<sup>36</sup>

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<sup>34</sup> Aramburu, TR. 24:20-25:13.

<sup>35</sup> See Order 08 at ¶ 49 (noting that the Commission will consider whether the needs of an intervenor such as CENSE justifies the burdens imposed on ratepayers to fund participation in the case.)

<sup>36</sup> See, Budget Request at ¶ 57 (“a determination the project is not prudent would substantially benefit ‘broad customer interests’”).

16. A comparison of the CENSE Budget Request to the requests for participatory funding submitted by AWEC, NWEC, and TEP also demonstrates that CENSE’s Budget Request is unreasonable. Each of AWEC, NWEC, and TEP requested \$50,000 of participatory funding and each party stated in its request for funding that its costs to participate in this docket would be significantly greater than the amount it was requesting. In contrast, it appears that CENSE is seeking all or nearly all of its costs in the proceeding, stating only that it is “likely” that the total time expended by its attorney would exceed the budgeted time, and further stating that consultant time and staff time may increase or decrease from the budgeted amount.<sup>37</sup>

17. In addition, each of AWEC, NWEC, and TEP will be addressing numerous issues in the multi-year rate proceeding. Indeed, AWEC stated that it intends to investigate all aspects of PSE’s filing, TEP listed at least twenty issues it intends to investigate, and NWEC stated it intends to address PSE’s proposed performance metrics and investments related to CEIP, as well as PSE’s compliance with the state’s climate and clean energy policy. The scope of these parties’ participation and the fact that they requested lower amounts of funding than CENSE requested to oppose a single issue, demonstrates the unreasonableness of CENSE’s Budget Request.

18. The participatory funds fulfill a specific statutory purpose, and the universe of available funds is finite, meaning if one organization receives funding, other qualifying organizations will receive less. The funding is intended to address all regulatory proceedings during the year, but CENSE’s request combined with the others described above, would more than exhaust the designated Customer Representation Sub-Fund for the entire year. Here, funding for CENSE

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<sup>37</sup> See *id.* at ¶¶ 30-32.

and the property owners it represents “that have the resources” to participate on a single issue in the proceeding, would mean less funding for other organizations that will be addressing a multitude of issues in the proceeding.

19. The Commission should reject CENSE’s request for \$81,000 of the Customer Representation Sub-Fund in its entirety. In the alternative, if the Commission determines that CENSE has met its burden to show it is eligible to receive participatory funds, the Commission should approve an amount of participatory funding commensurate to a party whose participation is expressly limited to one single issue in this multi-year rate proceeding.

RESPECTFULLY SUBMITTED this 29th day of April, 2022.

**PERKINS COIE LLP**

By 

Sheree Strom Carson, WSBA #25349  
Donna L. Barnett, WSBA #36794  
Pamela J. Anderson, WSBA #37272  
David S. Steele, WSBA #45640  
Byron C. Starkey, WSBA #55545  
Attorneys for Puget Sound Energy