

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKETS UE-220066 and
TRANSPORTATION COMMISSION)	UG-220067 (<i>Consolidated</i>)
)	
Complainant,)	
)	THE ALLIANCE OF WESTERN
v.)	ENERGY CONSUMERS' RESPONSE
)	TO CENSE'S PROPOSED BUDGET IN
PUGET SOUND ENERGY)	SUPPORT OF FUND GRANT
)	
)	
Respondent.)	

I. INTRODUCTION

1 Pursuant to WAC § 480-07-370, the Alliance of Western Energy Consumers (“AWEC”) files this Response to the Coalition of Eastside Neighborhoods for Sensible Energy’s (“CENSE”) Proposed Budget of CENSE in Support of Fund Grant (“Budget Request”) in the above-referenced dockets. CENSE’s Budget Request goes beyond the scope of supporting its Customer Representation Sub-Fund Grant request, objecting to AWEC’s budget request and advocating for a change to the Washington Interim Participatory Funding Agreement (“Interim Agreement”). AWEC is concerned by CENSE’s use of its Budget Request to raise objections to AWEC’s proposed budget and to relitigate issues previously decided by the Commission, irrespective of previously settled law and policy. The Commission should disregard CENSE’s objections to AWEC’s budget request in this case, and if necessary, reaffirm the policy and procedural requirements of the Interim Agreement and clarify that the 20 percent match for expert witness fees is not applicable. Finally, the Commission should proportion any budget

approved for CENSE with the scope of its participation within this proceeding.¹

II. BACKGROUND

2 RCW 80.28.430 requires electric and natural gas companies to, upon request, enter into written agreements with organizations that “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.”² Organizations representing vulnerable populations or highly impacted communities must be prioritized for funding.³ Such agreements must also be approved by the Commission.⁴

3 To facilitate the implementation of RCW 80.28.430, the Commission opened Docket U-210595, in which 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.”⁵ The Commission specifically noted that “incumbent” organizations such as AWEC and The Energy Project (“TEP”) were the organizations “eligible to receive financial assistance as they continue to appear before the

¹ See Dockets UE-220066 and UG-220067 (Consolidated), Order 08 at ¶ 43 (Mar. 24, 2023) (Commission noting that “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.”).

² RCW 80.28.430(1).

³ RCW 80.28.430(4).

⁴ RCW 80.28.430(1).

⁵ Docket U-210595, Policy Statement on Participatory Funding for Regulatory Proceedings (“Policy Statement”) ¶ 3 (Nov. 19, 2021).

Commission,”⁶ as well as organizations that represent highly impacted communities and vulnerable populations for funding.

4 On February 24, 2022, the Commission approved with limited modifications the Interim Agreement. The Interim Agreement sets forth the substantive and procedural requirements necessary to be eligible to receive a Fund Grant, including case-certification requirements and information necessary to support a proposed budget. Case-certification is granted to organizations meeting the criteria set forth in Sections 5.2.1 or 5.2.2., as applicable.⁷ Proposed budgets must include certain information so that the Commission can determine how an organization intends to use the funds received.⁸ In order to receive payment, eligible organizations must also provide detailed information so that the Commission can ensure that funds were spent appropriately.⁹

5 On March 3, 2022, the Commission issued Order 03, Prehearing Conference Order, Notice of Hearing, wherein it established the procedural schedule for this proceeding and required parties seeking fund grants to file proposed budgets on or before April 13, 2022.

6 On March 14, 2022, in accordance with Article 5 of the Interim Agreement, AWEC filed its Petition for Case Certification and Notice of Intent to Request a Fund Grant from the Customer Representation Sub-Fund. Three other organizations – The Energy Project (“TEP”), the NW Energy Coalition (“NVEC”), and CENSE – made similar filings related to funding from the Customer Representation Sub-Fund.¹⁰ No party opposed AWEC’s petition for case certification.

⁶ *Id.* at ¶ 18.

⁷ Docket U-210595, Washington Interim Participatory Funding Agreement (“Interim Agreement”) ¶ 5.2.

⁸ Interim Agreement, Article 6.

⁹ Policy Statement at ¶ 60; Interim Agreement at Article 7.

¹⁰ *See* Order 08 at ¶¶ 4-13.

7 On March 24, 2022, the Commission granted case-certification for the Customer Representation Sub-Fund to AWEC, CENSE, NVEC and TEP, finding that each organization met the requirements necessary to demonstrate eligibility to file a fund grant request.¹¹

8 On April 4, 2022, AWEC's Attorney, Sommer Moser, e-mailed the other case-certified organizations eligible to submit a Customer Sub-Fund Grant request in this proceeding to coordinate on budgets requested by each organization, specifically seeking to understand if there were concerns with AWEC's anticipated budget request.¹² Flowing from this initial correspondence, CENSE's attorney, Mr. Aramburu, asked a number of questions, including whether AWEC was going to review the Energize Eastside project.¹³ Ms. Moser responded to Mr. Aramburu's questions, confirming that AWEC was planning to review the Energize Eastside project, and invited further communication should other issues or questions remain.¹⁴ Mr. Aramburu followed up with one question about the confidentiality of AWEC's membership list.¹⁵ This correspondence concluded on April 11, 2022.¹⁶ At no point did CENSE communicate an objection to AWEC regarding its budget request prior to CENSE filing its Budget Request.¹⁷

9 On April 12, 2022, Administrative Law Judge Howard issued Notice Extending Deadline for Proposed Budgets (Due by April 25, 2022), wherein the Commission granted case-certified parties until April 25, 2022 to file any proposed budgets.¹⁸

¹¹ Order 08 at ¶¶ 51-56.

¹² Attachment A.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ See Notice Extending Deadline for Proposed Budgets at 2 (Apr. 12, 2022).

10 On April 22, 2025, AWEC filed its Proposed Budget for Fund Grant, wherein it indicated its attempts to confer with other case-certified organization to coordinate on budget requests and noted that it was not aware of any objections to its proposed budget.¹⁹

11 On April 25, 2022, CENSE filed its Proposed Budget, wherein it included discussion of the participation of other parties that adequately represent the interests of customers. In addition to arguing why CENSE is best situated to represent the interests of its members in this proceeding regarding the Energize Eastside project, paragraphs 62-68 of CENSE’s filing go on to raise several questions, concerns and arguments related to AWEC’s request for a fund grant in this case. CENSE argues that AWEC’s participation “presents important policy issues regarding grants under the [Customer] Representation Sub-Fund,”²⁰ ultimately concluding that the Commission’s policy for funding should not apply to AWEC because its members allegedly represent Fortune 500 companies that are clearly for-profit organizations and its membership is confidential.²¹ More broadly, in paragraph 69 of its filing, CENSE argues that the provisions of the Interim Agreement itself should be reconsidered, arguing that its provisions are problematic because payment cannot be made until the end of the proceeding and the Form of Payment Request contains an entry for Expert Witness Fees being subject to a 20 percent discount.²²

III. ARGUMENT

12 Paragraphs 62-69 of CENSE’s budget request raise two general categories of issues to which AWEC is compelled to respond—the first is related to AWEC’s eligibility for a

¹⁹ Dockets UE-220066 and UG-220067 (Consolidated), Proposed Budget of the Alliance of Western Energy Consumers at ¶ 12 (Apr. 22, 2022).

²⁰ CENSE Budget Request at ¶ 66.

²¹ *Id.* at ¶ 67-68.

²² CENSE Budget Request at ¶ 69.

Customer Representation Sub-Fund Grant; the second is related to requirements within the Interim Agreement itself.

13 Regarding AWEC, CENSE raises, and then answers, several “policy” questions related specifically to AWEC’s request for a fund grant, appearing to conclude that the financial status and makeup of AWEC members, as well as potential positions that it could take in this case, provide probative value for whether AWEC should be awarded a fund grant. CENSE does not make similar arguments about any other organization. Relating to the Interim Agreement, CENSE argues that the timing of payment in the recently approved Interim Agreement should effectively be amended, at least for certain intervenors like CENSE, as part of the Commission’s budget determinations in this case. CENSE also argues that it is inequitable to require a 20 percent discount for Expert Witness Fees, which will “tend to continue the institutional interests of some of the parties to the [Interim Agreement].”²³

14 With the exception of clarifying that a 20 percent discount for Expert Witness Fees is not a requirement for any case-certified organization, both categories of issues should not be afforded weight by the Commission in making determinations about budget requests in this proceeding, as they are out of scope, untimely, and fail to recognize the legal and policy considerations already determined by the Washington Legislature and the Commission. The Commission should also limit CENSE’s approved budget to correspond with its limited participation in this proceeding.

A. CENSE’s objections to AWEC’s funding request should be disregarded as out of scope, untimely, and unsupported.

15 CENSE first asks whether it is “appropriate to provide funds to a nominal non-

²³ *Id.*

profit organization that is the creation in part of large ‘Fortune 500’ companies that are clearly for-profit organizations,”²⁴ and then concludes that “surely” the Commission’s policy that funding should be limited to non-profits “does not mean that multiple of the ‘largest PSE customers’ can form a non-profit organization to fit within the funding parameters.”²⁵

16 CENSE’s assumptions in support of its position are perplexing and obviously incorrect for several reasons. First, the Commission’s policy, as well as the Legislature itself, confirms the opposite. Non-profit organizations advocating for industrial customer interests were explicitly contemplated by both the Legislature and the Commission. The Commission went so far as to recognize AWEC as an “incumbent” organization as contemplated by the Legislature.²⁶ As also evidenced by RCW 80.28.430, a party’s ability to cover the costs of participation in cases before the Commission is not a consideration for eligibility to receive fund grants. Interestingly, applying CENSE’s logic to its own budget request could be construed as weighing against providing funding to an organization whose stated purpose is representing constituents in “affluent communities.”²⁷

17 Second, AWEC was not formed to “fit within the funding parameters.” The legislation paving the way for stakeholder funding in Washington was passed in 2021. As stated on AWEC’s website, it was formed on April 1, 2018, through joining the Industrial Customers of Northwest Utilities and the Northwest Industrial Gas Users into a single entity,²⁸ both of which existed for decades prior to combining as AWEC and have participated in proceedings before the Commission over that period. AWEC is a non-profit primarily in order to ensure that it does not

²⁴ CENSE Budget Request at ¶ 67.

²⁵ *Id.* at ¶ 67.

²⁶ Policy Statement at ¶18.

²⁷ CENSE Budget Request at ¶ 59.

²⁸ See <https://www.awec.solutions/>

profit from the dues of its members throughout the Northwest, not to leverage a recently developed stakeholder funding agreement in Washington.

18 Third, stakeholder participation through trade organizations is both common and administratively efficient not only for members, but also for the Commission and other parties to administrative proceedings. This is recognized by the Legislature by the passage of RCW 80.28.430, which specifically contemplates funding for organizations that represent broad customer interests.

19 Finally, all industrial customers, as well as other customers classes, benefit from AWEC's participation regardless of whether they are members of AWEC. The concept of free-ridership supports funding for organizations that routinely appear before the Commission and advocate for broad customer interests. Several industrial customers are not AWEC members, but they still receive the benefits of AWEC's advocacy. The Interim Agreement allocates the costs of any funds AWEC receives under the Interim Agreement to industrial rate schedules, thus ensuring that all industrial customers pay some amount toward AWEC's advocacy on their behalf.

20 CENSE also takes issue with AWEC's membership list being designated as confidential in this proceeding. While CENSE does not formally challenge this designation of confidentiality, it seems to argue that this designation should have some bearing on the Commission's determination on AWEC's fund grant requests in this case. Why this is of consequence is not clear, but AWEC notes that no other organization has provided a list of members that are represented in this case – including CENSE itself.²⁹ Why public disclosure

²⁹ See Dockets UE-220066 and UG-220067 (Consolidated), CENSE Reply to Puget Sound Energy's Response to Coalition of Eastside Neighborhoods for Sensible Energy's Petition for Intervention at 6 (Feb. 25, 2022).

should be a specific consideration for AWEC and no other organization is unsupported and should not be considered relevant by the Commission.

21 To the extent that CENSE is advocating for the use of membership lists to attempt to extrapolate what could possibly be a party’s position as a basis to determine whether a party should receive fund grants, that is similarly unsupported by sound policy. It is antithetical to the concept of providing funding for organizations that represent broad customer interests, including those that represent low-income, commercial and industrial customers “that frequently advocate for stable and affordable rates,”³⁰ to first screen for party positions as a basis for receiving funding. Not only is this effectively impossible because parties do not have final positions from the outset of the case, but this could also lead to some parties and issues having the ability to participate while others do not—an outcome the legislation and Commission specifically sought to avoid. Such administration of the Interim Agreement would also compromise the Commission’s role as an impartial arbiter, as it could be seen to be expressing a preference for particular issues or positions on issues through the provision of stakeholder funding. As previously recognized by the Commission, “the Legislature recognized the value of diverse voices in Commission regulatory proceedings and the ways in which access to monetary resources can help or hamper equitable representations of those voices.”³¹

22 More generally, the issues raised in CENSE’s petition could have been minimized or avoided altogether. Prior to filing its budget request, AWEC’s attorney, Ms. Moser, conferred with the case-certified parties seeking funding from the Customer Representation Sub-fund in an effort to coordinate budget requests and address concerns ahead of budgets being filed.³² Though

³⁰ Policy Statement at ¶ 7; RCW 80.28.430.

³¹ Policy Statement at ¶ 18.

³² Attachment A.

Mr. Aramburu, on behalf of CENSE, asked a number of questions related to AWEC's interest in this case, at no point until CENSE filed its budget request was AWEC made aware of CENSE's objections to AWEC's budget request. To the extent it had concerns about AWEC's eligibility to seek a fund grant, CENSE should have raised its objections in response to AWEC's petition for case certification, as that filing speaks to eligibility rather than to the amount of funding justified by AWEC's participation in this case. Additionally, by refusing to relay those concerns and its procedural concerns with the Interim Agreement in a timely manner, even at the request of Ms. Moser to confer on budget issues, CENSE's approach has led to the need to expend additional Commission and party resources than otherwise necessary—ultimately without reason because CENSE's arguments are procedurally inappropriate and without merit. AWEC's proposed budget should be granted for the reasons set forth in its Budget Request.

B. CENSE's attempt to amend the timing of payment provisions in this case should be denied.

23 Setting aside the unsupported assumption that due to its membership, “delayed payments and mandatory discounts are of little consequence” to recipients such as AWEC, CENSE raises a concern that delayed payments are a hardship in some circumstances. AWEC is concerned that CENSE is proposing procedurally inappropriate ad hoc modifications to the Interim Agreement. The Commission's Policy Statement explicitly limited interim funding to Prioritized Organizations,³³ not organizations certified to seek funding from the Customer Representation Sub-fund, and the Interim Agreement reflects that policy preference. CENSE's unpersuasive excuses notwithstanding,³⁴ it existed as an organization long before the Commission opened Docket U-210595 and it could have, but chose not to, provide comment in

³³ Policy Statement ¶ 59.

³⁴ CENSE Proposed Budget ¶ 69.

that docket and participated in negotiating the Interim Agreement to achieve the outcome it now seeks to obtain. Moreover, Customer Representation Sub-fund grants are not intended to be the lifeblood of organizations that represent broad customer interests before the Commission.

C. The Commission should clarify that the inclusion of the 20 percent discount for Expert Witness Fees in Exhibit B is in error.

24 CENSE’s Budget Request also raises concerns with the 20 percent discount for Expert Witness Fees as reflected in Exhibit B to the Interim Agreement. AWEC supports the Commission providing clarification that the 20 percent discount in Exhibit B is in error. A similar form from the Oregon intervenor funding agreement was used as a basis for this exhibit and appears to include an errant holdover from a requirement that is included in Oregon. Nothing in the Commission’s Policy Statement, Order approving the Interim Agreement or the Interim Agreement itself suggests that a 20 percent match should apply to experts.

D. The Commission should proportion CENSE’s approved budget to the scope of its participation in this case.

25 CENSE was granted intervention on a limited basis and subject to several conditions, one of which is to coordinate with Public Counsel on the Energize Eastside issue.³⁵ In considering funding requests, the Commission noted that the Commission was a steward for ratepayer funded grants, and must “determine the highest and best use of these funds, and whether the needs of the intervenors justify the burdens imposed on ratepayers to fund the party’s participation in Commission proceedings.”³⁶

26 CENSE itself acknowledges that its focus on Energize Eastside will only “benefit[] a relatively small part of PSE’s customer base”³⁷ Meanwhile, this proceeding

³⁵ Order 03 at ¶ 18.

³⁶ Order 08 at ¶ 49.

³⁷ CENSE Budget Request ¶ 59.

contains a substantial amount of other technical and policy issues that represent the overwhelming majority of PSE's proposed rate increase. Moreover, the Energize Eastside project will be addressed by other parties. It is disingenuous of CENSE to suggest that no other entity is reviewing the Energize Eastside project based on two parties' proposed budgets.³⁸ First, as indicated by the e-mail exchange between Ms. Moser and Mr. Aramburu, AWEC explicitly confirmed that it will be reviewing the project as part of this case.³⁹ Second, CENSE provides no indication that it sought to ask any other case-certified party other than AWEC whether it was reviewing this issue. Third, as noted by the Commission, Public Counsel will also be addressing this issue.⁴⁰

27 As such, it would be disproportionate to grant up to \$84,000⁴¹ – 42 percent of PSE's entire 2022 Customer Representative Sub-Fund – to an organization that is focusing on a single issue in what is otherwise a complex general rate case proceeding. TEP, NWEC and AWEC all requested \$50,000 fund grants, despite all acknowledging that the costs of litigating the issues in this proceeding will likely far exceed \$50,000. Granting no more than \$50,000 to each case-certified party would at least allow for equal distribution among the parties. AWEC has serious concerns about whether allocating that level of funding to CENSE, given its limited participation in this case, represents the “highest and best use of the funds” or otherwise justifies the burdens imposed on ratepayers who ultimately bear the burden of funding the Interim Agreement. The Commission should proportion CENSE's approved budget, if granted at all, to

³⁸ See CENSE Budget Request at ¶¶ 59-61.

³⁹ Attachment A.

⁴⁰ See Dockets UE-220066 and UG-220067 (Consolidated), Prehearing Conference Order; Notice of Hearing at ¶¶ 16-18 (Mar. 3, 2022).

⁴¹ CENSE's Budget Request at ¶ 3 totals to \$81,000 in requested funding. However, Exhibit A to CENSE's Proposed Budget totals to \$84,000, despite the “Fund Request” line. This may be due to CENSE's assumed 20 percent discount on Expert Witness Fees. Assuming the Commission determines that there is no 20 percent matching requirement for expert witness fees, CENSE may argue that its entire \$84,000 budget should be approved.

be more in line with its scope of participation in this case, particularly considering the broader issues the other case-certified parties will address.

IV. CONCLUSION

28 For the reasons set forth above, AWEC respectfully requests that the Commission afford no consideration to paragraphs 62-69 of CENSE's budget request in the disposition of parties' funding requests in this case, other than to clarify that Expert Witness Fees are not subject to a 20 percent discount at the time payment of grant funds is sought.

Dated this 2nd day of May, 2022.

Respectfully submitted,

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