

**Exh. BLH-1T
Dockets UE-240004,
UG-240005, UE-230810
Witness: Byron Harmon**

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

PUGET SOUND ENERGY,

Respondent

**DOCKETS UE-240004,
UG-240005 and UE-230810
(Consolidated)**

TESTIMONY OF

BYRON LLOYD HARMON

**STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

Energy Equity Strategies and Development

August 6, 2024

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- Exh. BLH-3 2022 Tribal Energy Vision – CRITFC
- Exh. BLH-4 Historic and Ongoing Impacts of Federal Dams on the Columbia River Basin Tribes
- Exh. BLH-5 PSE Response to Staff Data Request No. 201 with Attachment A
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- Exh. BLH-11 Excerpt from Puget Sound Energy’s Resource Planning Advisory Group June 12, 2024 meeting, Equity in the Integrated Resource Plan (Slides 1 and 7)
- Exh. BLH-12 PSE Response to Staff Data Request No. 193
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1 I. INTRODUCTION

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Q. Please state your name and business address.

A. My name is Byron Lloyd Harmon, and my business address is 621 Woodland Square Loop SE, Lacey, Washington, 98503. My business mailing address is P.O. Box 47250, Olympia, Washington, 98504-7250. My email address is Byron.harmon@utc.wa.gov.

Q. By whom are you employed and in what capacity?

A. I am employed by the Washington Utilities and Transportation Commission (Commission) as a regulatory analyst in the energy planning section.

Q. Would you please state your educational and professional background?

A. I have a Bachelor’s degree in philosophy, a Master’s degree in economics from the New School: A University in New York City, and a Juris Doctor degree from Lewis and Clark Law School. I completed Public Utilities Reports Guide’s “Principles of Public Utilities Operations and Management” in May 2024. I attended New Mexico State University’s rate case basics workshop in October 2022. I have been employed by the Commission since 2022.

Q. Have you previously testified before the Commission?

A. No.

1 website on a clearly titled page to be found under the “Who We Are” and “In
2 Your Community” headings to be published no later than nine months from the
3 date of the Commission’s order in this case.

4 • work with EAG and named communities at the Involve, Collaborate, or
5 Empower public participation levels, as appropriate, and to update and maintain
6 the content of this page.

7 • demonstrate how its historical research and understanding informs its other
8 ongoing equity justice work in the future by providing testimony that explains
9 the historic and ongoing dynamics that have led to inequities and how each
10 proposed modification to their rates, practices, or operations works to interrupt,
11 undo those dynamics.

12 Staff recommends that the Commission order PSE to do the following with
13 respect to Procedural Justice:

14 • post guidelines, instructions, and templates on the company’s CEIP, IRP, and ISP
15 webpages for interested parties to effectively participate in company
16 proceedings.

17 • provide more non-English accessible materials both in print and online. Starting
18 with the most accessed documents or upon customer request, PSE should begin a
19 process of translating downloadable documents from its website into languages
20 based on service area demographics and other languages requested by customers.

21 • engage with the Equity Advisory and Low-income Advisory groups, as well as
22 Commission Staff, at the Consult, Involve, Collaborate, or Empower public
23 participation levels, as appropriate. The inform level should only be used where

1 necessary, for example when providing reading materials before a meeting or for
2 informational level setting before discussing an issue.

3 Staff recommends that the Commission order PSE to do the following with
4 respect to Distributive Justice:

- 5 • commit to ongoing improvements in data analysis regarding vulnerable
6 populations.
- 7 • quantify the benefits and reductions of burdens to named communities.
- 8 • draft clearer contract terms with vendors more clearly articulating the equity
9 related expectations and goals, the expected means of achieving those
10 expectations and goals, an expectation of adaptive management and due
11 diligence, and liquidated damages clauses if the goals are not met.
- 12 • develop more consistent communication of its 30 percent equity distributive
13 goals.
- 14 • resolve the ambiguity between the definition and calculation of the proposed
15 Energy Burden Efficacy metric
- 16 • Adopt “ $Z_i = 1 - (Bill_i - EA_i) / Bill_i$ ” as the calculation of Energy Burden Efficacy,
17 while retaining the variable definitions provided by PSE.
- 18 • to adopt an additional energy burden metric, Standard Deviation of Energy
19 Burden Efficacy, which I will describe later in my testimony.

20 Staff recommends that the Commission order PSE to do the following with respect to
21 Restorative Justice:

- 1 • to examine its hiring and employment practices to identify any inequities within
2 nine months of the Commission’s order in this case. If inequities are identified,
3 then PSE should develop and implement a plan to remedy those inequities.

4 Staff recommends that the Commission order PSE to do the following with
5 respect to Equity Investment Zones (EIZ):

- 6 • if PSE pursues its EIZ proposal further, to ensure that its selection criteria for
7 EIZ social networks aligns with the Clean Energy Transformation Act (CETA)
8 imperative to include Native nations, and that it does not exclude or neglect other
9 named communities within the demarcated geographic areas.
- 10 • if PSE pursues its EIZ proposal further, to more clearly articulate the nature of
11 investments intended to flow to EIZs.

12

13 **Q. Does staff have additional equity suggestions?**

14 A. In addition to the recommendations I set forth above, Staff believes that PSE’s
15 internal equity work, procedural equity, and equity work with Native nations can be
16 improved. My recommendations on this topic are designed to encourage and guide
17 PSE to more meaningful engagement.

18 Staff suggests PSE to do the following with respect to Recognition Justice:

- 19 • broaden the scope of its research beyond utility-related scholarship and sources
20 to include (1) historical, civil rights, anthropological, sociological, and
21 philosophical scholarship related to the demographics and geographies served by
22 PSE, and (2) the various treaties and legal cases that enshrine the rights of the
23 various tribes in PSE’s service territory.

1 Staff suggests PSE to do the following with respect to Procedural Justice:

- 2 • work with the EAG to build its capacity to engage in PSE dockets such that its
3 members feel encouraged and competent to submit comments to UTC’s dockets.

4 Staff suggests that PSE to do the following with respect to Native Nations
5 (both federally recognized and non-recognized) and Energy Justice:

- 6 • through EAG input and consultation with Native nations, provide evidence that
7 PSE has incorporated Native nations’ priorities in future filings and that PSE is
8 engaging with Native nations in a manner that honors their dignity as sovereign
9 nations. Staff emphasizes that the list below is for PSE’s consideration to further
10 engagement with the Native nations. Ultimately, specific issues addressed should
11 be driven by the interest of Native nations.

- 12 • Based on the evidence and process delineated immediately above, develop
13 metrics (e.g., non-exhaustively, for Request for Proposal analysis or Customer
14 Benefit Indicators) and taking specific actions within the scope of PSE’s future
15 filings that consider the following priorities, to the degree that these priorities do
16 not conflict with those set immediately above:

- 17 a. Consider the impacts of projects sited ecologically upstream/upwind of, or
18 otherwise impacting, their respective sovereign territories or lands associated
19 with their treaty rights such as, but not limited to, usual and accustomed
20 fishing, hunting, or gathering sites.²

- 21 b. Honor Native nations’ treaty rights to hunt and gather,³

² Harmon, Exh. BLH-3, [2022 Tribal Energy Vision - CRITFC](#), at 10. This is a 2022 Columbia River Inter-Tribal Fish Commission document outlining energy-related recommendations for the Columbia River Basin.

³ Harmon, Exh. BLH-3, [2022 Tribal Energy Vision - CRITFC](#), at 10.

- 1 c. Honor the religious and cultural practices and resources⁴ of Native nations.
- 2 d. Honor the integrity and preservation and/or promote the restoration of
- 3 culturally significant sites of Native nations, including but not limited to
- 4 historic hunting and fishing sites, historic habitation and village sites,
- 5 transportation routes, cemeteries, archeological sites, and religious sites.⁵
- 6 e. Prioritize the stewardship, longevity and sustainability, vitality and
- 7 abundance, and Native nations’ access to first foods and culturally significant
- 8 species.⁶
- 9 f. Reduce the exposure of Native Nations’ first foods and culturally significant
- 10 species to environmental contaminants and pollution.
- 11 g. Enhance anadromous fish passage and the numbers of culturally significant
- 12 species like the lamprey.⁷
- 13 h. Recognize the ongoing harms associated with Natural Gas sourcing,
- 14 extraction, and “Man Camps” including, but not limited to, violence against

⁴ Harmon, Exh. 4, Historic and Ongoing Impacts of Federal Dams on the Columbia River Basin Tribes, Department of the Interior, at 44 (June 2024), citing Shoshone-Bannock Tribes, Comment Letter on the CRSO Draft EIS, at 5 (Apr. 13, 2020) (“Plainly speaking, a cultural resource is any material, resource, or practice of a cultural nature. The unique relationship of a Tribal member and the environment influences a worldview where the geographic location, the equipment used to harvest, the oral history and songs, and the species sought by that member are all one cultural resource that defines our Tribal existence. The fish is as inseparable from the river as a cultural resource as it is in a biological sense; each of these relationships define our culture, they make us who we are as Shoshone and Bannock peoples.”).

⁵ Harmon, Exh. BLH-3, [2022 Tribal Energy Vision - CRITFC](#) at 10 and 13.

⁶ Harmon, Exh. BLH-3, [2022 Tribal Energy Vision - CRITFC](#) at 10 and 13

⁷ Harmon, Exh. BLH-3, [2022 Tribal Energy Vision - CRITFC](#) at 10.

1 indigenous women, issues of Tribal sovereignty, and destruction of cultural
2 resources.^{8,9}

3 i. eliminate the harms associated with sourcing and extraction of Natural Gas,
4 particularly harms to indigenous women, issues of tribal sovereignty, and
5 destruction of cultural resources.

6 j. Engaging in riparian, beaver, and wetland habitat restoration projects to
7 improve landscape water retention, lower water temperatures, and promote
8 more reliable hydroelectric water flows, as directed by Native nations.¹⁰¹¹

9

10 **Q. Have you prepared any exhibits in support of your testimony?**

11 A. Yes. I prepared Exhibits BLH-2 through BLH-13.

- 12 • Exh. BLH-2 IAP2 Spectrum of Public Participation
- 13
- 14 • Exh. BLH-3 2022 Tribal Energy Vision – CRITFC
- 15
- 16 • Exh. BLH-4 Historic and Ongoing Impacts of Federal Dams on the Columbia
17 River Basin Tribes
- 18
- 19 • Exh. BLH-5 PSE Response to Staff Data Request No. 201 with Attachment A
- 20

⁸ “Man Camps” a term used in this field of scholarship to refer to large temporary housing facilities, largely populated with men, constructed near resource extraction projects. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/illlr116§ion=17 (Condes, A. (2021). "Man Camps and Bad Men: Litigating Violence Against American Indian Women." *Northwestern University Law Review*, 116(2), 515-559.)

⁹ Supernant, Kisha, Baxter, Jane Eva, Lyons, Natasha (2020). *Archaeologies of the Heart* at 51 (Chapter 3: Armstrong, Chelsey & Anderson, Eugene. (2020). *Ecologies of the Heart: People, Land, and Heritage Management in the Pacific Northwest*). This essay includes examples from the Pacific Northwest. Staff urges PSE to research and recognize similar practices from its suppliers of natural gas. Available with free subscription at: https://www.academia.edu/download/62331014/Arch_of_the_Heart_2020_full_volume20200310-90042-hp4vm0.pdf#page=51

¹⁰ Robert J. Hawley, Ph.D., P.E., M.ASCE; Jeffrey A. Thomas; and Shelby N. Acosta. *Watershed-Scale Strategies to Increase Resilience to Climate-Driven Changes to Surface Waters: North American Electric Power Sector Case Study*, *J. Water Resour. Plann. Manage.*, 2023, 149(5): 05023001 (2023); available online here: <https://ascelibrary.org/doi/pdf/10.1061/JWRMD5.WRENG-5768>.

¹¹ Harmon, Exh. BLH-3, [2022 Tribal Energy Vision – CRITFC](#) at 10.

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- Exh. BLH-6 PSE Response to Staff Data Request No. 181
- Exh. BLH-7 PSE Response to Staff Data Request No. 185
- Exh. BLH-8 PSE Response to Staff Data Request No. 197
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III. PSE’S EQUITY WORK

21

22

A. Standard of Review for Equity

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24

Q. How does PSE present equity issues in this case?

25

A. PSE primarily presents its evidence for equity with PSE witness, Troy Hutson, the Director of Equity for PSE. Hutson is responsible for leading and managing PSE’s equity efforts.¹² Hutson provides descriptions of PSE’s equity efforts across the company. PSE also provides narrower discussions of equity with PSE Witnesses, Gilbert Archuleta, Carol Wallace, Josh Kensock, Aaron August, David Landers, among others. PSE also hired an equity expert, Monica Martinez, to provide a

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¹² Hutson, Exh. TAH-1T at 1:15-16.

1 generalized analysis of PSE’s equity efforts and a comparative analysis between PSE
2 and other utilities.

3

4 **Q. What is the statutory basis for equity regulation by the UTC?**

5 A. Commission Staff looks to RCW 80.28.425(1), which addresses multiyear rate plans,
6 and RCW 19.405.040(8) of the CETA for guidance. RCW 80.28.425(1) include
7 equity as an element, among many others, of the public interest determination.¹³
8 RCW 19.405.040(8) communicates a much more explicit imperative to ensure that
9 all customers benefit from the energy transition.¹⁴ CETA places a clearer emphasis
10 on the distribution and flows of benefits to named communities. It also requires that
11 utilities consider equity in broad terms, noting public health, environmental benefits,
12 costs, energy security.

13

14 **Q. Other than statute, has the Commission provided guidance regarding internal
15 education and equity?**

16 A. Yes. The Commission provided the following guidance in a recent rate case order:
17 “Companies likewise should be prepared to provide testimony and evidence to
18 support their position. Meeting this expectation will require a comprehensive
19 understanding of the ways in which systemic racism and other inequities are self-
20 perpetuating in the existing regulatory framework absent corrective intervention.

¹³ RCW 80.28.425(1) (“In determining the public interest, the commission may consider such factors including, but not limited to, environmental health and greenhouse gas emissions reductions, health and safety concerns, economic development, and equity, to the extent such factors affect the rates, services, and practices of a gas or electrical company regulated by the commission.”).

¹⁴ RCW 19.405.040(8) (“In complying with this section, an electric utility must, consistent with the requirements of RCW 19.280.030 and 19.405.140, ensure that all customers are benefiting from the transition to clean energy: Through 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.”).

1 It is incumbent upon regulated companies to educate themselves on topics related
2 to equity just as it is incumbent upon the Commission to do the same.”¹⁵
3

4 **Q. How does Staff interpret this guidance?**

5 A. This excerpt from the Cascade GRC Order, contains two parts. First, utilities are
6 expected to support their equity work with evidence. Invariably, this will mean some
7 type of quantification of equity efforts. Second, utilities are required to develop a
8 deep understanding of the dynamics of inequities: how inequities came to be and
9 how they continue. Staff interprets the imperative for the utility and Commission to
10 educate themselves as a call for broad spectrum and targeted research.
11

12 **Q. Broadly speaking, how does Staff view PSE’s efforts on addressing equity?**

13 A. Generally, Staff is supportive of the efforts made by PSE. For example, Staff
14 appreciates that PSE has developed an internal staff equity education program, and
15 that PSE applied the 30 percent flow of benefits to named communities CEIP
16 condition to other contexts. However, Staff raises concerns and highlights
17 considerable gaps in PSE’s analysis, especially as they relate to Native nations.
18

19 **B. Internal Equity Work**
20

21 **Q. What has PSE done to educate themselves on topics related to equity?**

22 A. PSE has taken the following initiatives to educate company staff on equity:

¹⁵ 2021 Cascade GRC Order, ¶ 58.

- 1 • PSE publishes “Friday Focus” emails for its staff with infrequent equity-related
2 content.¹⁶
- 3 • PSE equity team staff are reviewing utility-related equity research and
4 scholarship.
- 5 • PSE developed an internal education program to inform PSE staff on equity-
6 related issues.¹⁷
- 7 • PSE has worked with various organizations, including universities, Lawrence
8 Berkeley National Labs, E-Source's Equity in a Clean Energy Economy
9 Collaborative, and Chartwell’s Vulnerable Customer Leadership Council.

10
11 **Q. Does Staff identify in any gaps in PSE’s internal research.**

12 A. Yes. When asked to share a list of sources that were representative of the breadth of
13 its research, PSE did not share with Staff any non-utility related scholarship or
14 sources aside from the Puget Sound Regional Council.¹⁸ PSE states that it
15 “Collaborate[s] with other organizations and utilities to learn about their energy
16 equity practices.”¹⁹ However, when asked which utilities that it worked with, PSE
17 did not provide any specific utilities, nor did it specify that any of the organizations
18 containing utilities that it shares membership with were northwest regional utilities.²⁰

19

¹⁶ Harmon, Exh. BLH-5, PSE Response to Staff Data Request No. 201 with Attach. A. In the two-month period (Jan. and Feb. of 2024), only two articles related to equity.

¹⁷ Hutson, Exh. TAH-1T at 39:7-14.

¹⁸ Harmon, Exh. BLH-6, PSE Response to Staff Data Request No. 181; Harmon, Exh. BLH-7, Puget Sound Energy PSE Response to Staff Data Request No. 185.

¹⁹ Hutson, Exh. TAH-1T at 38:15-17.

²⁰ Harmon, BLH-8, PSE Response to Staff Data Request No. 197.

1 **Q. Does Staff have any recommendations for the Commission regarding internal**
2 **research?**

3 A. No. Staff believes current Commission guidance is sufficient.
4

5 **Q. Does Staff have any suggestions for the Company regarding internal research?**

6 A. Yes. Staff suggests that PSE broaden the scope of its research beyond utility-related
7 scholarship and sources to include:

- 8 • historical, civil rights, anthropological, sociological, and philosophical
9 scholarship related to the demographics and geographies served by PSE,
- 10 • the treaties and legal cases that enshrine the rights of the Native nations in PSE's
11 service territory.

12

13 **C. Recognition Justice**

14

15 **1. Definition.**

16

17 **Q. What definition has the Commission provided for Recognition Justice?**

18 A. The Commission states that “[Recognition Justice] requires an understanding of
19 historic and ongoing inequalities and prescribes efforts that seek to reconcile these
20 inequalities.”²¹

21

²¹ 2021 Cascade GRC Order at 56, *see also* RCW 80.28.425.

1 **2. Historic recognition.**

2

3 **Q. How has PSE reflected this definition in its work?**

4 A. PSE witness Hutson defines recognition justice as “acknowledging historical,
5 cultural, and institutional dynamics and structures that created past and current
6 inequities or disparities in the energy system.”²² Or, alternatively, Hutson states
7 “...Recognition justice acknowledges the forces that have shaped ... the reality in
8 which PSE operates its business.”²³

9

10 **Q. Has PSE provided evidence demonstrating an understanding of historic**
11 **inequalities?**

12 A. No. Despite PSE witness Hutson clearly acknowledging the two central aspects of
13 recognition justice, PSE provided no evidence demonstrating that PSE understands
14 historic inequalities in any systematic and intentional way beyond mapping of
15 current conditions.

16

17 **Q. What has PSE done to advance an understanding of historic inequalities?**

18 A. Like much of PSE’s equity work, the communication of imperatives on this issue is
19 muddled. For example, PSE witness Huston shares an Energy Equity Guidance
20 Tool,²⁴ which provides ‘additional guidance’ asking, “What are the disparities & root
21 factors that have led to historic and current inequalities?” However, the Company’s

²² Hutson, Exh. TAH-1T at 16:1-8.

²³ Hutson, Exh. TAH-1T at 19:2-3.

²⁴ Hutson, Exh. TAH-1T at 36:1-2, Figure 7.

1 Energy Equity Three-Year Roadmap,²⁵ provides no activities associated with historic
2 inequalities or research on this front. PSE provided little evidence of *historic*
3 recognition justice efforts by the company in its initial filing. However, PSE witness,
4 Hutson provided three links to the same resource, Puget Sound Regional Council,
5 when asked for sources regarding historical recognition justice.²⁶ When asked how
6 PSE has historically contributed to inequities, PSE witness, Hutson, categorically
7 denied any role by PSE in contributing to past inequities.²⁷

8
9 **Q. What is Staff’s recommendation regarding historic recognition justice?**

10 A. In order to further the goal of developing “a comprehensive understanding of the
11 ways in which systemic racism and other inequities are self-perpetuating”²⁸ Staff
12 recommends that the Commission order PSE:

- 13 1. to commit to ongoing research and understanding the historical, cultural, and
14 institutional dynamics that have shaped the current reality in which PSE operates
15 its business. Further, that PSE share that research and understanding on its
16 website on a clearly titled page to be found under the “Who We Are” and “In
17 Your Community” headings to be published no later than nine months from the
18 date of the order.

²⁵ Hutson, Exh. TAH-1T at 38:9-10, Figure 8.

²⁶ Harmon, Exh. BLH-7, PSE Response to Staff Data Request No. 185.

²⁷ Harmon, Exh. BLH-9, PSE Response to Staff Data Request No. 187 (“PSE acknowledges existing disinvestment in[sic] environmental burdens, but does not connect those to PSE.”).

²⁸ 2021 Cascade GRC Order at 58.

- 1 2. to work with EAG and named communities at the Involve, Collaborate, or
2 Empower public participation levels, as appropriate, to update and maintain the
3 content of this page.
- 4 3. to demonstrate how its historical research and understanding informs its other
5 ongoing equity justice work in future rate cases by providing testimony that
6 explains the historic and ongoing dynamics that have led to inequities and how
7 each proposed modification to their rates, practices, or operations works to
8 interrupt, undo those dynamics.

9

10 **D. Procedural Justice**

11

12 **1. Definition.**

13

14 **Q. What definition has the Commission provided for Procedural Justice?**

15 A. The Commission states that “[Procedural justice] focuses on inclusive decision-
16 making processes and seeks to ensure that proceedings are fair, equitable, and
17 inclusive for participants, recognizing that marginalized and vulnerable populations
18 have been excluded from decision-making processes historically.”²⁹

19

20 **2. Developing procedural equity.**

21

22 **Q. Does Staff have any recommendations to improve PSE’s procedural equity?**

²⁹ 2021 Cascade GRC Order at 56.

1 A. Based on Staff’s experience within the IRP, CEIP, and EAG processes, Staff
2 recommends that the Commission order PSE to:

- 3 • Post guidelines, instructions, and templates on the company’s CEIP , IRP, and
4 ISP webpages for interested parties to effectively participate in company
5 proceedings.
- 6 • Provide more non-English accessible materials both in print and online. Starting
7 with the most accessed documents or upon customer request, PSE should begin a
8 process of translating downloadable documents from its website into languages
9 based on service area demographics other languages requested by customers.
- 10 • Staff also suggests that PSE should work with the EAG to build its capacity to
11 engage in PSE dockets such that its members feel encouraged, and competent to
12 submit comments to UTC’s dockets.

13

14 **Q. Does Staff have any remarks about PSE’s use of the International Association**
15 **for Public Participation (“IAP2”) spectrum?**

16 A. Yes. PSE uses the International Association for Public Participation (“IAP2”)
17 spectrum, which defines five levels of public participation: inform, consult, involve,
18 collaborate, and empower. While the inform level is contextually appropriate,
19 overreliance on the inform level is actively counterproductive to procedural justice as
20 it does not include named communities in the decision-making process.

21

22 **Q. How frequently does PSE rely on each level of participation?**

1 A. Staff does not know how frequently PSE uses each level of participation. PSE does
2 not maintain any record or other means of evaluating the amount that it uses each
3 level of the (“IAP2”) spectrum.³⁰ Staff does note, for example, that PSE’s Resource
4 Planning Advisory Group meetings are kept at the inform, consult, and involve
5 levels³¹.

6

7 **Q. Does Staff have any recommendations regarding PSE’s use of the IAP2**
8 **spectrum?**

9 A. Yes. Staff recommends that the Commission order PSE to engage with the Equity
10 Advisory and Low-income Advisory groups, as well as Commission Staff, at the
11 Consult, Involve, Collaborate, or Empower public participation levels, as
12 appropriate. The inform level should only be used where necessary, for example
13 when providing reading materials before a meeting or for informational level setting
14 before discussing an issue.

15

16 **E. Distributive Justice**

17

18 **1. Definition.**

19

20 **Q. What definition has the Commission provided for Distributive Justice?**

³⁰ Harmon, Exh. BLH-10, PSE Response to Staff Data Request No. 190.
³¹ Harmon, Exh. BLH-11, Excerpt from Puget Sound Energy’s Resource Planning Advisory Group June 12, 2024 meeting, Equity in the Integrated Resource Plan (Slides 1 and 7).

1 A. The Commission states that “[Distributional justice] refers to the distribution of
2 benefits and burdens across populations. This objective aims to ensure that
3 marginalized and vulnerable populations do not receive an inordinate share of the
4 burdens or are denied access to benefits.”³²

5

6 **2. PSE’s 30 percent goal.**

7

8 **Q. What are PSE’s Energy Equity Strategy goals regarding distributive Justice?**

9 A. PSE’s Energy Equity Strategy goals are not consistently articulated. The
10 Commission ordered PSE to “...file with the Commission an amendment to this
11 CEIP to designate for Named Communities a minimum of 30 percent of the energy
12 benefits of its DER solar, DER storage, DR, and EE programs, with benefits
13 measured across each tranche of resources.”³³ This condition has been variously
14 articulated by PSE. PSE witness, Hutson, states one of the ‘strategic goals’ is “Meet
15 regulatory commitments.”³⁴ Elsewhere Hutson states, “PSE has set the goal of
16 directing at least 30 percent of clean energy benefits (in addition to those required
17 under CETA) flowing to Named Communities.”³⁵ Yet, PSE witness Archuleta
18 explains, “The programs are intended to provide over 30 percent of energy benefit to
19 named communities customers.”³⁶ With a further permutation, “The program is
20 intended to reach over 30 percent of named communities customers with no

³² 2021 Cascade GRC Order at 56.

³³ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Docket UE-210795, Final Order 08, Appendix A, Condition 20 (June 6, 2023).

³⁴ Hutson, Exh. TAH-1T at 33:1-2, Figure 6.

³⁵ Hutson, Exh. TAH-1T at 32:3-4.

³⁶ Archuleta, Exh.GA-1T at 10:15-16.

1 associated customer costs.”³⁷ Here we see a gamut of goals articulated from just
2 CETA compliance, to CETA plus 30 percent of benefits to named communities, 30
3 percent of benefits to named communities, and 30 percent of participants are from
4 named communities.

5
6 **Q. How has PSE applied this 30 percent goal in practice?**

7 A. PSE has used the 30 percent goal as “...a reference point for employees when setting
8 goals or outcomes in other programs or business areas, such as in delivery system
9 investments and the Targeted Electrification Pilot.”³⁸ So, the clear and consistent
10 communication of this imperative is essential as it impacts work across PSE beyond
11 the condition from the CEIP order.

12
13 **Q. Has PSE included the 30 percent goal in any contracts?**

14 A. Yes. PSE has included this goal in some of its early contracts for Demand Response.
15 This topic is articulated in greater detail by Commission Staff witness Koenig.³⁹ For
16 example, the contractual language with Enel X is representative. It states:

17 “Seller’s work with PSE to ensure at least 30% of the net energy benefit to
18 customers is applied to named communities and vulnerable populations. PSE
19 will work with Seller to identify specific Seller-provided metrics related to
20 this requirement.”⁴⁰

21
22 No further contractual language exists to articulate the 30 percent goal. No further
23 clarification of the goal, articulation of means, adaptive management, nor contractual

³⁷ Archuleta, Exh.GA-1T at 11:8-9.

³⁸ Harmon, Exh. BLH-12, PSE Response to Staff Data Request No. 193.

³⁹ Koenig, Exh. PK-1T at 12:9-13:5.

⁴⁰ Archuleta, Exh. GA-13C at 39.

1 backstops such as liquidated damages. Furthermore, the contractual terms confuse
2 the goal by disaggregating the term “named communities.” “Named communities” is
3 an umbrella term that refers to both highly impacted communities and vulnerable
4 populations. The phrasing “named communities and vulnerable populations” is less
5 clear.

6

7 **Q. Does Staff have any objections to the 30 percent goal?**

8 A. Insofar as the 30 percent goal corresponds to PSE’s identification of high, medium,
9 and low vulnerable populations, Staff again reiterates its testimony responding to the
10 2021 CEIP and PSE’s vulnerability analysis.⁴¹ PSE identified that:

- 11 • “342,000 residential customers (33 percent of all residential electric customers)
12 are in high vulnerability block groups
- 13 • 386,000 residential customers (36 percent of all residential electric customers)
14 are in medium vulnerability block groups
- 15 • 337,000 residential customers (31 percent of all residential electric customers)
16 are in low vulnerability block groups”⁴²

17 Staff reiterates that this division of PSE’s customers into thirds is almost
18 wholly a consequence of PSE’s methodology rather than a reflection of the
19 distributions contained in the data inputs. “Following the k-means analysis, PSE
20 summed the overall score for each block group and divided the results into terciles

⁴¹ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Docket UE-210795, Response Testimony of Jennifer E. Snyder, Exh. JES-1T at 30:1-33:8 (Oct. 10, 2022), available online here: <https://apiproxy.utc.wa.gov/cases/GetDocument?docID=475&year=2021&docketNumber=210795>.

⁴² *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Docket UE-210795, PSE’s 2023 Biennial Clean Energy Implementation Plan Update - Corrected, at 1.5 (Nov. 2023), available online here: <https://apiproxy.utc.wa.gov/cases/GetDocument?docID=1234&year=2021&docketNumber=210795>.

1 labeled high, medium, and low.”⁴³ Any data input, regardless of its initial
2 distributions, – normal, logarithmic, exponential, bi modal, etc. - will yield tercile
3 outputs because PSE’s methodology puts the block groups into rank-ordered terciles.
4 The number of customers in highly vulnerable populations may, in actuality, diverge
5 considerably from the a priori (predetermined) methodological tercile output.
6

7 **Q. Please explain Staff’s level of concern regarding PSE’s 30 percent goal.**

8 A. While Staff has raised concerns above, Staff does not wish to over-problematize the
9 30 percent goal. Staff acknowledges that PSE and UTC Staff are still early in the
10 equity journey required by CETA. It was fully anticipated that regulated utilities
11 would stumble as they come up to speed with the imperatives of CETA. Staff also
12 acknowledges pragmatic concerns when analyzing data. It is reasonable that there
13 will be some lapses in rigor when policies are being implemented with greater
14 immediacy to ensure that some resources are flowing to named communities.
15

16 **Q. In light of Staff’s above acknowledgements, what are Staff’s recommendations?**

17 A. Staff recommends that the Commission order PSE to commit to ongoing
18 improvements in data analysis regarding vulnerable populations. Staff recommends
19 that the Commission order PSE to include in future rate cases quantification of the
20 benefits and reductions of burdens to named communities. Staff recommends that the
21 Commission order PSE to draft clearer contract terms with vendors more clearly

⁴³ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Docket UE-210796, PSE’s 2021 Clean Energy Implementation Plan - Corrected, at 55 (Feb. 1, 2022), available online here: <https://apiproxy.utc.wa.gov/cases/GetDocument?docID=151&year=2021&docketNumber=210795>.

1 articulating the equity related expectations and goals, the expected means of
2 achieving those expectations and goals, an expectation of adaptive management and
3 due diligence, and liquidated damages clauses if the goals are not met. Finally, Staff
4 recommends that the Commission order PSE to develop more consistent
5 communication of its equity goals.

6
7 **3. Metric: energy burden efficacy.**

8
9 **Q. Is PSE proposing any new metrics to evaluate energy equity?**

10 A. Yes. PSE witness Hutson describes a pair of metrics: “(1) median percentage
11 reduction in energy burden from energy assistance, among high energy burden
12 customers who receive energy assistance, and (2) percentage of high energy burden
13 customers who received energy assistance.”⁴⁴

14
15 **Q. What factors does Staff consider in favor of these two metrics?**

16 A. The two metrics are clearly complementary. Considered generally, increasing the
17 number of energy assistance participants while improving reductions in energy
18 burden is a clear complementary interaction between the two metrics and likely to
19 benefit named communities.

20
21 **Q. Are there any ambiguities about the metrics?**

⁴⁴ Hutson, Exh. TAH-1T at 41:6-9.

1 A. Yes. PSE witness Hutson shares a table describing the metrics.⁴⁵ In the table, the
2 ‘Metric Definition’ of ‘Energy Burden Efficacy’ does not align with the ‘Metric
3 Calculation.’

4
5 **Q. Does Staff have any concerns about the metrics?**

6 A. Yes. Staff has concerns about the Energy Burden Efficacy metric: it has a clear
7 defect. Looking at the ‘metric definition,’ “Median percentage reduction in energy
8 burden from energy assistance, among high energy burden customers who receive
9 energy assistance.” The defect is that the metric is most easily improved by
10 allocating bill assistance to customers who are least energy burdened while
11 neglecting customers who are more burdened than the median. That is, between two
12 customers who receive the same nominal benefit from PSE, all other things being
13 equal, the customer with the smaller energy burden will be recorded as a larger
14 percentage reduction. Therefore, focusing on participating customers with lighter
15 energy burdens will yield the strongest results and thereby exacerbate inequalities.

16
17 **Q. What about ‘Metric Calculation’ approach to Energy Burden Efficacy?**

18 A. PSE provides the follow metric calculation⁴⁶:

19 **Table 1: PSE Metric Calculation**

Energy Burden Efficacy = Median (Z) $Z_i = (\text{Bill}_i - \text{EA}_i) / \text{Inc}_i$ $Z_i = \text{Post-assistance energy burden}$
--

⁴⁵ Hutson, Exh. TAH-1T at 41:10-11, Table 4.

⁴⁶ Hutson, Exh. TAH-1T at 41:10-11, Table 4.

<p>for residential customer i</p> <p>$Bill_i$ = Total annual household energy costs for residential customer i</p> <p>EA_i = Total energy assistance received by residential customer i</p> <p>Inc_i = Known or estimated household annual income for residential customer</p>
--

1 In addition to the problem with the ‘Metric Definition’ this calculation introduces
 2 further complications. The value, ‘ Z_i ’ does not measure the percentage benefit to
 3 customers, instead it is measuring the net between their bill and assistance relative to
 4 their income. This means that inclusion of customers with smaller bills or larger
 5 incomes could inflate the Energy Burden Efficacy metric without corresponding to
 6 any assistance actually being provided by PSE.

7

8 **Q. Has PSE offered any other permutations of this metric?**

9 A. Yes. Staff sent PSE a data request noting the inconsistency between the metric
 10 definition and calculation.⁴⁷ PSE responded with an updated metric:

11 **Table 2: PSE Metric Definition and Calculation Update**

Metric Definition	Metric Calculation
median percentage reduction in energy burden from energy assistance, among high energy burden customers who receive energy assistance	Z_i = Pre-assistance burden – Post-assistance burden of customer i $Z_i = (Bill_i / Inc_i) - (Bill_i - EA_i) / Inc_i$ $Z_i = EA_i / Inc_i,$

⁴⁷ Harmon, Exh. BLH-13, PSE Response to Staff Data Request No. 203.

	<p>i = energy-burdened customer (customer whose pre-assistance energy burden is higher than 6 percent) who received energy assistance,</p> <p>Z_i = Reduction in energy burden for residential customer i due to energy assistance,</p> <p>$Bill_i$ = Total annual household energy costs for residential customer i,</p> <p>EA_i = Total energy assistance received by residential customer i during the year,</p> <p>Inc_i = Known or estimated household annual income for residential customer i.</p>
--	--

1 This new pair of metric definition and calculation suffer from similar issues as the
2 initial metric proposal. Namely, that the definition and calculation are not the same.
3 As PSE’s calculation clearly notes, any reference to the customer’s bill is canceled
4 out and yields “ $Z_i = EA_i / Inc_i$.” This means that the calculation is simply measuring
5 energy assistance relative to the median customer’s income rather than any reduction
6 in burden. The customer’s bill is simply not considered in this metric. The company
7 did not voice any concerns about data collection for these metrics, however the
8 ability to get accurate customer income data may be a barrier to accurately assessing
9 this metric. Staff notes that $Z_i = 1 - (Bill_i - EA_i) / Bill_i$ would align with the definition
10 provided while making measurement contingent on data that would be readily on
11 hand by PSE.

12
13 **Q. How would Staff improve the Energy Burden Efficacy metric?**

14 A. A third metric, Standard Deviation of Energy Burden Efficacy would improve the
15 measurement of energy burden efficacy. Narrowing the standard deviation among
16 high energy burden customers who receive energy assistance, while also increasing

1 the number of customers who receive energy assistance, and improving the median,
2 would ensure that inequities among participating customers are not worsened.

3

4 **Q. Does Staff have any recommendations?**

5 A. Yes. Staff recommends that the Commission order PSE to:

- 6 • Resolve the ambiguity between the definition and calculation.
- 7 • Adopt “ $Z_i = 1 - (\text{Bill}_i - \text{EA}_i) / \text{Bill}_i$ ” as the calculation of Energy Burden
8 Efficacy, while retaining the variable definitions provided by PSE.
- 9 • Adopt a third metric, Standard Deviation of Energy Burden Efficacy.

10

11 **F. Restorative Justice**

12

13 **1. Definition.**

14

15 **Q. What definition has the Commission provided for Restorative Justice?**

16 A. The Commission states that “[Restorative justice] is using regulatory government
17 organizations or other interventions to disrupt and address distributional,
18 recognitional, or procedural injustices, and to correct them through laws, rules,
19 policies, orders, and practices.”⁴⁸

20

⁴⁸ 2021 Cascade GRC Order at 56.

1 **2. Hiring practices.**

2

3 **Q. Does PSE offer any evidence indicating that it has assessed or remedied any**
4 **inequities in hiring or employment practices?**

5 A. No. Witness Hutson discusses various strategies that PSE has used to educate its
6 workforce about energy justice and equity.⁴⁹ Relatedly, Proposed Equity-Related
7 Performance Metrics,⁵⁰ includes a metric, “Estimated percentage of PSE suppliers
8 that are minority-owned, women- owned, or veteran-owned.” However, the Energy
9 Equity Strategic Framework,⁵¹ Energy Equity Guidance Tool,⁵² and the Energy
10 Equity Three-Year Roadmap,⁵³ do not outline goals, strategies or timelines for
11 assessing hiring or employment practices.

12

13 **Q. Why does this matter?**

14 A. Just like distributional concerns related to contracting, the demographics of
15 employees has clear distributional implications in terms of which communities
16 benefit from utility employment. It also has clear procedural implications for how
17 every day operating priorities are chosen.

18

19 **Q. Does Staff have any recommendations?**

⁴⁹ Hutson, Exh. TAH-1T at 39:3-40:23.

⁵⁰ Hutson, Exh. TAH-1T at 41:10-42:1, Table 4.

⁵¹ Hutson, Exh. TAH-1T at 33:1-2, Figure 6.

⁵² Hutson, Exh. TAH-1T at 36:1-2, Figure 7.

⁵³ Hutson, Exh. TAH-1T at 37:9-10, Figure 8.

1 A. Yes. Staff recommends that the Commission order PSE to examine its hiring and
2 employment practices to identify any inequities within nine months of the
3 Commission’s order in this case. If inequities are identified, then PSE should
4 develop and implement a plan to remedy those inequities.
5

6 **IV. NATIVE NATIONS AND ENERGY JUSTICE**
7

8 **Q. Are there any gaps in PSE’s equity programs and efforts?**

9 A. Yes. While PSE does do some work with Native nations, the unique interests and
10 challenges of Native nations do not appear to be adequately represented or addressed
11 by PSE’s equity programs.
12

13 **Q. What has PSE done to advance energy justice with Native nations?**

14 A. PSE’s energy justice work has included some work with Native nations. For
15 example:

- 16 • Historically, PSE has worked with Native nations to manage the Baker River
17 Dam to promote Salmon runs.⁵⁴
- 18 • Every year since 2019, PSE has awarded grants for solar installations to Native
19 nations.⁵⁵

⁵⁴ Puget Sound Energy Press Release “Baker River Project breaks record for number of young salmon released“ (June 1, 2017), available online www.pse.com/en/press-release/details/baker-river-project-breaks-record, <https://www.pse.com/en/press-release/details/baker-river-project-breaks-record>.

⁵⁵ Puget Sound Energy website “Past Solar Grant Recipients” available online: www.pse.com/en/green-options/Renewable-Energy-Programs/solar-grant, <https://www.pse.com/en/green-options/Renewable-Energy-Programs/solar-grant>.

- 1 • PSE’s DER Community Engagement Report does list some Native nations
2 among its engagement participants.⁵⁶
- 3 • PSE considers “Intersection with Tribal Land Parcels” as part of its deepest need
4 analysis.⁵⁷
- 5 • PSE notes work with the Nisqually tribe and learnings from the Northwest Tribal
6 Clean Energy Summit in its 2023 Biennial Clean Energy Implementation Plan
7 Update.⁵⁸
- 8 • PSE witness Hutson proposes Equity Investment Zones (EIZ) including zones to
9 direct resources toward regions with recognized Native Nations.⁵⁹

11 **A. Native Nations’ Unique Position as Named Communities**

13 **Q. How are Native nations treated under CETA?**

14 A. Native nations are given unique status as the only community that is explicitly
15 named by the Legislature in the CETA and in Commission rules implementing
16 CETA.⁶⁰

17

⁵⁶ Puget Sound Energy Distributed Energy Resources (DER) Community Engagement Report (Aug. 2023), available online: https://www.pse.com/-/media/PDFs/Storing-your-own-Power/7989_DER_Community_Engagement_Report.pdf.

⁵⁷ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Docket UE-210795, PSE’s 2023 Biennial Clean Energy Implementation Plan Update – Corrected, Appendix I, “Vulnerable Populations and Deepest Need Methodology”, (Nov. 1, 2023), available online here: <https://apiproxy.utc.wa.gov/cases/GetDocument?docID=1204&year=2021&docketNumber=210795>.

⁵⁸ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Docket UE-210795, PSE’s 2023 Biennial Clean Energy Implementation Plan Update - Corrected, at 4.2-4.3 (Nov. 2023), available online here: <https://apiproxy.utc.wa.gov/cases/GetDocument?docID=1234&year=2021&docketNumber=210795>.

⁵⁹ Hutson, Exh. TAH-1T at 21:2-5.

⁶⁰ RCW 19.405.120(4)(a)(ii), RCW 19.405.020(23), WAC 480-100-640(4)(a), WAC 480-100-655(1)(b), WAC 480-100-605.

1 **Q. How should Native nations be considered as a group?**

2 A. Staff wants to be clear that it is not appropriate to treat all Native nations as a
3 monolith. To borrow from PSE’s learnings at the Northwest Tribal Clean Energy
4 Summit “if you know one tribe - you know one tribe” – meaning each Native nation
5 should be considered individually.⁶¹ To that end, Native nations cannot be
6 considered as a single group; however, PSE should consider the Native nations
7 within its service territory in all of its decision-making.

8

9 **Q. Why do Native nations have unique interests and challenges?**

10 A. I can only provide an admittedly outsider perspective and description of some of the
11 reasons that I believe Native nations may have interests and challenges that are
12 unique among named communities, including sovereignty and treaty rights, unique
13 historic trauma, and complex legal issues. My testimony is not meant to be
14 exhaustive, and it is important to hear directly from the Native nations regarding
15 their particular interests.

16

17 **Q. How does sovereignty make the interests of Native nations unique among**
18 **named communities?**

19 A. Native nations are sovereign nations.⁶² They hold rights pursuant to their various
20 treaties and their inherent rights as nations. This gives Native nations a unique claim

⁶¹ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Docket UE-210795, PSE’s 2023 Biennial Clean Energy Implementation Plan Update - Corrected, at 4.21 (Nov. 2023), available online here: <https://apiproxy.utc.wa.gov/cases/GetDocument?docID=1234&year=2021&docketNumber=210795>.

⁶² Slotnick, Stacy, Federal Bar Association, *Understanding Tribal Sovereignty*, (Mar. 1, 2017), available online here: <https://www.fedbar.org/blog/understanding-tribal-sovereignty/>.

1 to land, resources, usufructuary rights, and an interest in sovereignty itself that makes
2 them wholly unique and separate from other interested parties such as individual
3 customers, community-based organizations, or environmental and industry
4 advocates. Therefore, engagement with Native nations must be categorically
5 different from typical engagement with interested parties.

6

7 **Q. How has historic trauma resulted in unique interests and challenges?**

8 A. Staff has a limited understanding of this, and an outsider perspective. However, it
9 seems clear to Staff that there is a shared trauma from their historic experiences
10 surviving and resisting genocide. This experience is varied, but includes violent and
11 as well as treaty-based ethnic cleansing, disease, and cultural genocide through
12 residential schools,⁶³ disestablishment and termination,⁶⁴ adoption out of their tribes,
13 disenrollment of Tribal members to claim federal benefits, prohibitions on traditional
14 practices - such as whaling⁶⁵ - and the destruction of cultural resources.⁶⁶
15 Concomitant with this history is unfair dealings with settler governments, federal

⁶³ Brooks, Brad, *Burial sites found at 53 Native American boarding schools, U.S. Government says*, Reuters (May 11, 2022), available online here: <https://www.reuters.com/world/us/interior-dept-investigation-finds-burial-sites-53-indian-boarding-schools-2022-05-11/>.

⁶⁴ Heckel, Jodi, *How the federal government used bribery to end relationships with Native American tribes: Interview with professor David Beck*, University of Illinois News Bureau (May 23, 2024), available online here: <https://history.illinois.edu/news/2024-05-23t163139/how-federal-government-used-bribery-end-relationships-native-american-tribes>.

⁶⁵ Pailthorp, Bellamy, KNKX, *After nearly 25 years, federal officials approve a limited Makah whale hunt*, (June 13, 2024), available online here: <https://www.opb.org/article/2024/06/13/federal-approval-makah-whale-hunt/>.

⁶⁶ Harmon, Exh. 4, *Historic and Ongoing Impacts of Federal Dams on the Columbia River Basin Tribes*, Department of the Interior, June 2024.

1 neglect of treaty obligations as well as deep poverty and unique public health
2 issues.⁶⁷

3

4 **Q. What are some of the legal complexities faced by Native nations and how have
5 they contributed to some unique interests and challenges?**

6 A. The challenges faced by Native nations are further complicated because Native
7 nations are burdened by a complex patchwork of jurisdiction, treaties, and
8 sovereignty grounded in their status as “Domestic dependent nations.”⁶⁸ This
9 complex legal setting has particularly exposed Tribal women to violence associated
10 with the extraction of natural gas,⁶⁹ and resulted in a long history of caselaw to
11 vindicate Native nations’ access to first foods and natural resources.⁷⁰

12

13 **Q. Can you summarize some of the unique interests and challenges faced by Native
14 nations relevant to PSE?**

15 A. Yes. Again, this list is non-exhaustive; however, many Native nations appear to
16 share the following unique energy justice interests and challenges:

- 17
- Recognition of history and ongoing harms, and distrust for settler institutions

⁶⁷ Norgaard, Kari Marie, Ph.D., *The Effects of Altered Diet on the Health of the Karuk People*, (Nov. 2025), available online here: <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=eb96f89d18dbf8b516b835e8248a76940672c5d3>.

⁶⁸ *Cherokee Nation v. State of Georgia*, 30 U.S. 1, 8 L. 3d 25 (1831).

⁶⁹ *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191, 98 S. Ct. 1011, 55 L. Ed. 2d 209 (1978); Condes, Ana, *Man Camps and Bad Men: Litigating Violence Against American Indian Women*, Northwestern University Law Review, 116(2), 515-559. (Oct. 2021); Martins, Kathleen, *Community on edge as LNG plans ‘man camps’ to start building gas pipeline* (Nov. 30, 2018), available online here: <https://www.aptnnews.ca/national-news/community-on-edge-as-lng-plans-man-camps-to-start-building-gas-pipeline/>.

⁷⁰ *Native American Natural Resources Law: Cases and Materials*, Fifth Edition, by Judith V. Royster, Michael C. Blumm, Elizabeth A. Kronk Warner, Monte Mills, 2023, at 784, casebound, ISBN 978-1-5310-2463-5.

- 1 • To have their sovereignty recognized and respected throughout any processes
- 2 and outcomes
- 3 • Protection of their treaty rights and access to first foods
- 4 • Protection of cultural resources and practices
- 5 • Distributional justice in terms of environmental burdens and poverty.

6

7 **B. PSE’s Equity Metrics Relating to Native Nations**

8

9 **Q. Has PSE been successful receiving the input of Native nations in its equity**
10 **metrics?**

11 A. No. As described in PSE’s 2021 CEIP, PSE failed to develop an appropriate timeline
12 and mechanisms to effectively solicit Native nations’ input.⁷¹ Native nations and
13 their unique interests and challenges represent a substantive gap in PSE’s equity
14 metrics.

15

16 **Q. Are the unique interests and challenges faced by Native nations reflected in**
17 **PSE’s Customer Benefit Indicators?**

18 A. No. There are no Customer Benefit Indicators explicitly tailored to the unique
19 interests and challenges faced by Native nations. The 2023 Biennial Clean Energy
20 Implementation Plan Update contains Customer Benefit Indicators such as

⁷¹ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Docket UE-210795, PSE’s 2021 Clean Energy Implementation Plan - Corrected, at 217 (Feb. 1, 2022), available online here: <https://apiproxy.utc.wa.gov/cases/GetDocument?docID=151&year=2021&docketNumber=210795>.

1 “improved home comfort” and “improved community health.”⁷² While relevant to
2 some members, these metrics don’t speak to the unique experiences of Native
3 nations.

4
5 **Q. Are the unique interests and challenges faced by Native nations reflected in**
6 **PSE’s Vulnerability Metrics?**

7 A. No. There are no vulnerability metrics that are explicitly tailored to the unique
8 interests and challenges faced by Native nations. The corrected 2021 PSE Clean
9 Energy Implementation Plan contains Vulnerable Population Factors such as
10 “Arrearage/Disconnections” and “Access to Digital/Internet Resources.”⁷³ While
11 these factors may affect some Native nations’ members, these metrics don’t speak to
12 the unique experiences of Native nations.

13
14 **Q. Why do CBIs and Vulnerability Metrics matter regarding planning and PSE**
15 **acquisitions?**

16 A. The siting of resources matters to Native nations.⁷⁴ RFPs involve spatial, temporal,
17 lowest reasonable cost, and equity analysis, including WAC 480-107-009, and other
18 resources identified to contribute to an equitable distribution of energy and
19 nonenergy benefits to vulnerable populations and highly impacted communities.

⁷² *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Docket UE-210795, PSE’s 2023 Biennial Clean Energy Implementation Plan Update - Corrected, at 6.2 (Nov. 2023), available online here: <https://apiproxy.utc.wa.gov/cases/GetDocument?docID=1177&year=2021&docketNumber=210795>.

⁷³ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Docket UE-210796, PSE’s 2021 Clean Energy Implementation Plan - Corrected, at 52 (Feb. 1, 2022); available online here: <https://apiproxy.utc.wa.gov/cases/GetDocument?docID=151&year=2021&docketNumber=210795>.

⁷⁴ *See, Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Docket UG-230393, Order 07, ¶¶ 12-20, 56-79, 101-105, 120, 175-176, 189, 220, 254-255, 264-265 (April 24, 2024); *see also*, ESSHB 1216, Clean Energy Project Siting (July 23, 2023).

1 **Q. Are the unique interests and challenges faced by Native nations reflected in**
2 **PSE’s DER or other RFP selection criteria?**

3 A. None that Staff is aware of. There are no DER RFP selection criteria that are
4 explicitly tailored to the unique interests and challenges faced by Native nations.
5 Appendix D of the 2023 Biennial CEIP update includes criteria such as “Does the
6 program increase access to reliable clean energy for highly impacted communities or
7 vulnerable populations?” and “Does the program mitigate the impacts of climate
8 change....”⁷⁵ While these factors may affect some Native nations’ members, these
9 metrics don’t speak to the unique experiences of Native nations.

10
11 **Q. Does Staff have any suggestions to guide engagement with Native nations and**
12 **respond to their unique interests and challenges?**

13 A. Yes. Staff suggests that PSE, through EAG input and consultation with Native
14 nations, provide evidence that PSE has incorporated Native nations’ priorities in
15 future filings, and that PSE is engaging with Native nations in a manner that honors
16 their dignity as sovereign nations. Staff emphasizes that the list below is for PSE’s
17 consideration to further engage with the Native nations. Ultimately, specific issues
18 addressed should be driven by the interests of Native nations.

19 Based on the evidence and process delineated immediately above, develop
20 metrics and take specific actions within the scope of PSE’s future filings that

⁷⁵ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Docket UE-210795, PSE’s 2023 Biennial Clean Energy Implementation Plan Update - Corrected, RFP Quantitative and Qualitative Analysis, Appendix D, at D.5 (Nov. 2023), available online here: <https://apiproxy.utc.wa.gov/cases/GetDocument?docID=1212&year=2021&docketNumber=210795>.

- 1 consider the following priorities, to the degree that these priorities do not conflict
2 with those set in (i):
- 3 k. Consider the impacts of projects sited ecologically upstream/upwind of, or
4 otherwise impacting, their respective sovereign territories or lands associated
5 with their treaty rights such as, but not limited to, usual and accustomed fishing,
6 hunting, or gathering sites.⁷⁶
- 7 l. Honor Native nations' treaty rights to hunt and gather.⁷⁷
- 8 m. Honor the religious and cultural practices and resources⁷⁸ of Native nations.
- 9 n. Honor the integrity and preservation and/or promote the restoration of culturally
10 significant sites of Native nations, including but not limited to historic hunting
11 and fishing sites, historic habitation and village sites, transportation routes,
12 cemeteries, archeological site, and religious sites.⁷⁹
- 13 o. Prioritize the stewardship, longevity and sustainability, vitality and abundance,
14 and Native nations' access to first foods and culturally significant species.⁸⁰
- 15 p. Reduce the exposure of Native Nations' first foods and culturally significant
16 species to environmental contaminants and pollution.

⁷⁶ Harmon, Exh. BLH-3, [2022 Tribal Energy Vision - CRITFC](#) at 10.

⁷⁷ Harmon, Exh. BLH-3, [2022 Tribal Energy Vision - CRITFC](#) at 10.

⁷⁸ Harmon, Exh. 4, Historic and Ongoing Impacts of Federal Dams on the Columbia River Basin Tribes, Department of the Interior, at 44 (June 2024), citing Shoshone-Bannock Tribes, Comment Letter on the CRSO Draft EIS, at 5 (Apr. 13, 2020) ("Plainly speaking, a cultural resource is any material, resource, or practice of a cultural nature. The unique relationship of a Tribal member and the environment influences a worldview where the geographic location, the equipment used to harvest, the oral history and songs, and the species sought by that member are all one cultural resource that defines our Tribal existence. The fish is as inseparable from the river as a cultural resource as it is in a biological sense; each of these relationships define our culture, they make us who we are as Shoshone and Bannock peoples.").

⁷⁹ Harmon, Exh. BLH-3, [2022 Tribal Energy Vision - CRITFC](#) at 10, 13.

⁸⁰ Harmon, Exh. BLH-3, [2022 Tribal Energy Vision - CRITFC](#) at 10, 13.

- 1 q. Enhancing anadromous fish passage and the numbers of culturally significant
2 species like the lamprey.⁸¹
- 3 r. Recognition of the ongoing harms associated with Natural Gas sourcing,
4 extraction and “Man Camps” including but not limited to violence against
5 indigenous women, issues of Tribal sovereignty, and destruction of cultural
6 resources.^{82,83}
- 7 s. RFP Equity considerations to eliminate the harms associated with sourcing and
8 extraction of Natural Gas, particularly harms to indigenous women, issues of
9 tribal sovereignty, and destruction of cultural resources.
- 10 t. Engaging in riparian, beaver, and wetland habitat restoration projects to improve
11 landscape water retention, lower water temperatures, and promote more reliable
12 hydroelectric water flows, as directed by Native nations.^{84,85}
- 13

⁸¹ Harmon, Exh. BLH-3, [2022 Tribal Energy Vision - CRITFC](#) at 10.

⁸² “Man Camps” a term used in this field of scholarship to refer to large temporary housing facilities, largely populated with men, constructed near resource extraction projects. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/illlr116§ion=17 (Condes, A. (2021). "Man Camps and Bad Men: Litigating Violence Against American Indian Women." *Northwestern University Law Review*, 116(2), 515-559.)

⁸³ Supernant, Kisha, Baxter, Jane Eva, Lyons, Natasha (2020). *Archaeologies of the Heart* at 51 (Chapter 3: Armstrong, Chelsey & Anderson, Eugene (2020), *Ecologies of the Heart: People, Land, and Heritage Management in the Pacific Northwest*). This essay includes examples from the Pacific Northwest. Staff urges PSE to research and recognize similar practices from its suppliers of natural gas. https://www.academia.edu/download/62331014/Arch_of_the_Heart_2020_full_volume20200310-90042-hp4vm0.pdf#page=51

⁸⁴ Robert J. Hawley, Ph.D., P.E., M.ASCE, Jeffrey A. Thomas, and Shelby N. Acosta, *Watershed-Scale Strategies to Increase Resilience to Climate-Driven Changes to Surface Waters: North American Electric Power Sector Case Study*, *J. Water Resour. Manage.*, 149(5): 05023001 (2023), available online here: <https://ascelibrary.org/doi/pdf/10.1061/JWRMD5.WRENG-5768>.

⁸⁵ Harmon, Exh. BLH-3, [2022 Tribal Energy Vision – CRITFC](#) at 10.

1 V. EQUITY INVESTMENT ZONES (EIZ) PROPOSAL

2

3 **Q. Has PSE proposed any programs to facilitate the geographic distribution of**
4 **benefits to named communities?**

5 A. PSE is proposing a number of EIZs across its service territory.⁸⁶ Each EIZ covers a
6 geographic area and has an associated ‘existing social network.’ According to PSE,
7 these EIZs will allow PSE to align systems design between the Named Communities
8 framework of the Clean Energy Transformation Act, Overburdened Communities
9 under the Climate Commitment Act, as well as the Disadvantaged Communities
10 pursuant to the Federal Justice 40 Initiative.⁸⁷

11

12 **Q. What are the strengths of this proposal?**

13 A. Aligning overlapping and complementary regulatory regimes and resources can
14 provide economies of scale and streamline resources for the utility and reduce
15 participatory burdens for community-based organizations and customers. The
16 proposal shows some promise in this regard.

17

18 **Q. Are there any shortcomings of this proposal?**

19 A. Yes. The current draft EIZs do not align with the imperatives of the Clean Energy
20 Transformation Act. Most obviously, as Staff noted earlier, Native nations are per se

⁸⁶ Hutson, Exh. TAH-1T at 20:1-3.

⁸⁷ Hutson, Exh. TAH-1T at 18:3-19:1, Table 2.

1 a highly impacted community, one of the named communities in the statute.⁸⁸
2 However, the Muckleshoot Reservation, Port Gamble Reservation, much of the
3 Puyallup Reservation, Swinomish Reservation, Tulalip Reservation, Nooksack
4 Reservation, Lummi Reservation, and Suquamish Reservation are not included in
5 EIZs, and PSE has not explained why they have been excluded. Further, the nature of
6 investments that the EIZ proposal is intended to facilitate is unspecified and the
7 connection between identified vulnerabilities and needs to investments is not
8 articulated. Staff also has reservations about the selection of military families as a
9 focus for EIZs.

10

11 **Q. Please explain PSE’s position on Military Families within PSE’s proposed EIZ**
12 **framework.**

13 A. PSE has identified Military Families as a community to focus resources upon by
14 including them within PSE’s proposed Equity Investment Zones (EIZs) framework.

15

16 **Q. Why does PSE consider Military Families a priority?**

17 A. PSE discusses their selection criteria in the testimony of witness Hutson and in an
18 interactive story map.⁸⁹ PSE states, “Many active-duty service members are
19 contending with the high cost of living in the Pacific Northwest and *may* have a high

⁸⁸ RCW 19.405.020(22) (defining “highly impacted community” as “a community designated by the Department of Health based on cumulative impact analyses in RCW 19.405.140 or a community located in census tracts that are fully or partially on “Indian country” as defined in 18 U.S.C. Sec. 1151.”).

⁸⁹ PSE’s Equity Investment Zones (Feb. 28, 2024) available online here:
<https://storymaps.arcgis.com/stories/1895091220d54ff9bd13550b317cdfdc>.

1 energy burden.”^{90,91} [Emphasis added by UTC Staff] More persuasively, PSE also
2 notes, “PSE recognizes that our active-duty customers are a group with unique
3 turnover circumstances due to frequent reassignments and deployments, and many
4 are not yet familiar with the programs PSE offers.”⁹²
5

6 **Q. Does PSE adequately support inclusion of Military Families as a priority**
7 **“existing social network?”⁹³**

8 A. No. While Staff does appreciate the service of military families, Staff is
9 apprehensive about the inclusion of military families as a category for EIZ
10 implementation. While not a requirement for consideration as a named community,
11 employment by the military is not a legally protected class such as race, ethnicity,
12 sex, age, disability etc. Nor is employment by the military an immutable
13 characteristic. Further, employment by the military is not a historically marginalized
14 category or a historically oppressed group. PSE has not shown any unique
15 vulnerabilities or impacts related to energy justice.
16

17 **Q. Do the military families EIZs contain other named communities?**

18 A. Yes. While PSE notes “While there is data noting that the military is made up of
19 personnel from middle range income families, the allotments given for living

⁹⁰ Hutson, Exh. TAH-1T at 22:3-7.

⁹¹ PSE’s Equity Investment Zones (Feb. 28, 2024); available online here:
<https://storymaps.arcgis.com/stories/1895091220d54ff9bd13550b317cdfdc>.

⁹² PSE’s Equity Investment Zones (Feb. 28, 2024); available online here:
<https://storymaps.arcgis.com/stories/1895091220d54ff9bd13550b317cdfdc>.

⁹³ Hutson, Exh. TAH-1T at 20:5.

1 expenses may not be adequate for local costs.”⁹⁴ The geographic coordinating area
2 associated with the JBLM Military Families EIZ contains a large area from Tacoma
3 to Olympia. This area encompasses many underserved and marginalized
4 communities that are also contending with the high cost of living and *are* energy
5 burdened.

6

7 **Q. Can you please provide more characterization of the types of named**
8 **communities and vulnerabilities experienced in the JBLM Military Families**
9 **EIZ?**

10 A. Yes. There are many non-military families in the Military Families EIZ that suffer
11 from poverty. For example, 12.5 percent of Tacomans live in poverty.⁹⁵ A cursory
12 review of the Tacoma area indicates that 11.0 percent live with a disability, 12.1
13 percent are foreign born, and 48.7 percent are non-white.⁹⁶ PSE’s service territory
14 includes the Puyallup, Nisqually, and Muckleshoot territory in or immediately
15 adjacent to the JBLM Military Families EIZ⁹⁷. Additionally, the Oak Harbor Military
16 Families EIZ is adjacent to, but excludes, the Swinomish Reservation. In summary, it
17 is not clear to Staff why military families should be prioritized in the selected
18 geographic areas to the exclusion or neglect of other customers, nor why the selected
19 areas exclude adjacent Native nations despite Native nations’ per se status as highly
20 impacted communities under the Clean Energy Transformation Act.

⁹⁴ PSE’s Equity Investment Zones (Feb. 28, 2024), available online here:

<https://storymaps.arcgis.com/stories/1895091220d54ff9bd13550b317cdfdc>.

⁹⁵ Poverty Rate in Tacoma, Washington (welfareinfo.org) - https://www.welfareinfo.org/poverty-rate/washington/tacoma/#google_vignette.

⁹⁶ U.S. Census Bureau QuickFacts: Tacoma city, Washington - <https://www.census.gov/quickfacts/fact/table/tacomacitywashington/HSG010222>.

⁹⁷ PSE Locations and Service Area - <https://www.pse.com/en/Customer-Service/pse-locations-2>.

1 **Q. Does Staff support the EIZ proposal?**

2 A. The EIZ proposal is fundamentally underdeveloped. Staff cannot support the EIZ
3 proposal at this time given its state of development.

4

5 **Q. Does Staff have any recommendations?**

6 A. Staff recommends the Commission order PSE, if it pursues the EIZ proposal further,
7 to ensure that its selection criteria for EIZ social networks aligns with the CETA
8 imperative to include Native nations (both recognized and non-recognized nations),
9 and that it does not exclude or neglect other named communities within the
10 demarcated geographic areas. Furthermore, Staff recommends the Commission order
11 PSE, if it pursues the EIZ proposal further, to more clearly articulate connection
12 identified vulnerabilities and needs, and the nature of investments intended to flow to
13 EIZs.

14

15 **Q. Does this conclude your testimony?**

16 A. Yes.

17