

**BEFORE THE**  
**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**In the Matter of the Petition of**

**PUGET SOUND ENERGY**

**For Penalty Mitigation Associated  
with Service Quality Index No. 11-  
Electric Safety Response Time  
Annual Performance for Period  
Ending December 31, 2021**

**DOCKET UE-220216**

**INITIAL BRIEF OF  
PUGET SOUND ENERGY**

**May 24, 2023**

**PUGET SOUND ENERGY**

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## I. INTRODUCTION

1. Puget Sound Energy (“PSE” or “Company”) respectfully requests the Washington Utilities and Transportation Commission (“Commission”) waive the \$613,636 penalty associated with PSE’s Service Quality Index No. 11 (“SQI-11”) Electric Safety Response Time in 2021. Parties agree that mitigation of the penalty should be granted if failure to meet the benchmark was “due to unusual or exceptional circumstances for which PSE’s level of preparedness and response was reasonable.”<sup>1</sup>
2. Generally, SQI-11 measures the time between the beginning of a power outage or emergency intake call and arrival of an Electric First Responder, and performance is measured annually. In 2021, PSE’s average annual response time for SQI-11 outage events was 65 minutes, and this exceeded the benchmark for SQI-11 by 10 minutes. This is the first time that PSE has not met the SQI-11 benchmark since its inception in 2003.
3. As described in its petition (“Petition”), and supported by testimony, PSE was unable to meet the 55-minute benchmark due to a combination of unusual, exceptional, and uncontrollable factors. On top of significant increased workload due to unplanned outages and planned projects, PSE’s Electric First Response team worked overtime and at all hours of the day and night responding to unprecedented extreme weather events. Together, this resulted in resource depletion, fatigue, and increasing SQI-11 dispatch and response time throughout the latter half of 2021. Further exacerbating the issue, COVID-19 impacts continued in 2021 — and in some cases worsened with the arrival of Omicron. Already beleaguered and overworked Electric First Responders missed hundreds of hours of work due to illness, quarantine, and family care duties associated with COVID. The ongoing COVID-19 stressors to first responders and their families led to abnormally high levels of early retirement and

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<sup>1</sup> Murphy, Exh. PRM-14T at 2:4-9, *quoting Wash. Utils. & Transp. Comm’n v. Puget Sound Energy, Inc.*, Dockets UE-011570 and UG-011571 (consolidated), Settlement Agreement, Exh. J, Appx. 2, Service Quality Program Mechanics, p. 3 (June 6, 2002). A copy of the Service Quality Program Mechanics as approved in PSE’s 2001 general rate case is provided as Exh. PRM-4.

departures of local Electric First Responders. With fewer hours and personnel to respond to SQI-11 emergencies, response times increased.

4. Given the cumulative impacts of these unusual and exceptional circumstances, PSE's level of preparedness and response to lessen the adverse effects of an increased SQI-11 response time were reasonable. Electric First Responders worked overtime as much as safely possible. Further, PSE increased the number of Electric First Responder positions and undertook substantial efforts to recruit and train additional personnel. PSE also conducted a market compensation analysis to attract and retain Electric First Responders.
5. Opposing parties' argument that PSE was not ultimately able to recruit all necessary personnel invokes a higher standard of review that is not supported anywhere. The standard for penalty mitigation is whether PSE's actions were "reasonable"—the Commission has never required PSE to show its actions were successful, sufficient, or adequate to meet an SQI benchmark in order to obtain full penalty relief. Indeed, if that were the case, there would be no reason to allow for mitigation petitions, which assume that reasonable actions may nevertheless lead to performance failures due to unusual or exceptional circumstances. This argument also ignores the fact that the same exceptional circumstances impacting electric safety response times (e.g., COVID-19, inflation) also led to increased hiring and retention challenges.
6. Opposing parties also ignore the cumulative impact of the multitude of unusual and unprecedented circumstances impacting SQI-11 response time in 2021. While each alone may not have impeded PSE's ability to meet the benchmark, the substantial data and testimony show that the aggregate impact was successively longer response times throughout the year, as fatigue and resource exhaustion mounted. For the reasons below, PSE meets the standard in this case for full mitigation of the \$613,636 penalty amount.

## II. LEGAL STANDARD AND BACKGROUND

### A. The Service Quality Index Program Was Created and Is Governed by a Merger Stipulation.

7. PSE first implemented its Service Quality Program (“SQ Program”) in 1997 pursuant to Dockets UE-951270 and UE-960195, the dockets approving the merger of Washington Natural Gas Company and Puget Sound Power & Light Company (“Merger Stipulation”). The Company’s SQ Program has evolved over the years. Besides three service guarantees, the SQ Program currently contains ten service-quality indexes (“SQIs”) to protect against deterioration in quality of services and poorly-targeted cost-cutting as a result of the merger. Each SQI has a defined benchmark representing the Company’s required minimum (or maximum) performance. If the Company’s performance in any year fails to meet the benchmark, a penalty is calculated according to the program penalty calculation procedures originally established in the Merger Stipulation.
8. The performance benchmark at issue in this proceeding, SQI-11, was proposed by the parties of PSE’s 2001 general rate case in a multi-party settlement stipulation following a series of SQI collaborative meetings. The Commission approved the addition of SQI-11 in its Twelfth Supplemental Order in that general rate case.<sup>2</sup> SQI-11 measures PSE’s electric safety response time, with a performance benchmark of 55 average minutes from a customer call to the arrival of an electric first responder.<sup>3</sup> Annual performance is calculated as the sum of all response times divided by the annual number of electric safety incidents.
9. Not all incidents are included in the performance measurement. The performance measurement excludes 1) “Major Event Days,” when five percent or more of electric customers experience an electric outage and subsequent days when the service to those customers is being restored; and 2) “Localized Emergency Event Day,” which require the dispatch and utilization of all available electric first responders to an affected Local Area to

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<sup>2</sup> See *Wash. Utilis. & Transp. Comm’n. v. Puget Sound Energy, Inc.*, Dockets UE-011570 and UG-011571 (consolidated), Twelfth Supplemental Order at ¶ 63 (June 20, 2002).

<sup>3</sup> See Murphy, Exh. PRM-4 at 4.

respond to service outages.<sup>4</sup> Major Events and Localized Emergency Events are referred to herein as “Significant Outage Events.” PSE is required to separately account for and report the number of events and customers affected by Significant Outage Events.

10. PSE relies exclusively on its Electric First Response workforce to meet the SQI-11 performance benchmark.<sup>5</sup> This workforce is a team of trained and qualified high voltage electric line workers located in each local area of PSE’s service territory. They are responsible for the safe and reliable operation of PSE’s electrical infrastructure. In addition to providing first response support around the clock for all electric safety incidents involving PSE’s electrical infrastructure, the Electric First Responder team provides essential support for planned customer work that requires a qualified electrical line worker.<sup>6</sup> The latter duties are not part of the SQI-11 performance measurement because they are not part of outage safety response, but they do increase fatigue because they add to the total work volume handled by an Electric First Responder and, therefore, impact SQI-11 response times.<sup>7</sup>

11. As stated above, if PSE fails to meet the average 55-minute electric safety response time, there is a penalty. The formula for calculating the penalty was established as part of the 2001 settlement stipulation. The penalty is equal to  $((\text{average response time} - \text{benchmark}) / \text{benchmark}) \times 10 \times \text{penalty per point}$ .<sup>8</sup>

12. In 2021, PSE failed to meet the SQI-11 benchmark for the first time ever.<sup>9</sup> PSE’s average annual response time for SQI-11 outage events in 2021 was 65 minutes, which exceeded the benchmark for SQI-11 by 10 minutes. The penalty per point value is \$337,500.<sup>10</sup> Thus, based on the penalty formula set out above, PSE incurred a \$613,636 penalty given its average first responder response time of 65 minutes in 2021.

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<sup>4</sup> Local Areas are defined as one of five electric first-responder operating bases throughout the PSE service territory.

<sup>5</sup> See Murphy, Exh. PRM-1T at 7:6-8:5.

<sup>6</sup> See Murphy, Exh. PRM-1T at 7:9-13.

<sup>7</sup> See Murphy, Exh. PRM-1T at 12:10-16.

<sup>8</sup> See Murphy, Exh. PRM-1T at 6:7-14.

<sup>9</sup> See Murphy, Exh. PRM-1T at 26:7-9.

<sup>10</sup> Roberts, Exh. AR-1T at 4:16-5:2.

**B. Parties Agree That the Merger Stipulation Sets Forth the Relevant Standard for Mitigation.**

13. Parties agree that the standard for granting PSE’s Petition is set forth in the Merger Stipulation,<sup>11</sup> which provides:

The standard to be applied for such a petition is that the penalty is due to unusual or exceptional circumstances for which PSE’s level of preparedness and response was reasonable. PSE will not file a mitigation petition unless it believes, in good faith, that it meets this mitigation standard. The parties contemplate that, following a procedure to be established by the Commission, a Commission order will be issued assessing any penalties and resolving any mitigation petition.<sup>12</sup>

**1. PSE Need Only Show That its Level of Preparedness and Response was Reasonable.**

14. Nonetheless, Staff and Public Counsel misinterpret this standard to impose an unreasonably high mitigation standard on PSE that is unsupported by the explicit language in the Merger Stipulation and by prior Commission orders granting similar petitions. Staff witness Andrew Roberts claims that PSE’s preparedness and response were not adequate.<sup>13</sup> But adequate is not synonymous with reasonable. Meanwhile, Public Counsel witness Corey Dahl testifies that PSE’s market compensation analysis and efforts to recruit emergency first responders in 2021 were “reasonable given the conditions the Company faced” but nonetheless maintains that penalties are warranted because PSE’s actions “were not enough to reduce the average response time.”<sup>14</sup> This is just another way of saying that the actions were not “adequate” or fully ameliorative — which is simply not the standard.

15. There are times when a reasonable response to an electric safety incident, based on sound judgment and available resources, will not provide for immediate or adequate relief.

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<sup>11</sup> See Dahl, Exh. CJD-1T at 8:15-18; Roberts, Exh. AR-1T at 5:6-8.

<sup>12</sup> *In the Matter of the Proposal of Puget Sound Power & Light Co. to Transfer Revenues from PRAM rates to General Rates*, Dockets UE-951270 and UG-960195, Fourteenth Supplemental Order Accepting Stipulation; Approving Merger (February 5, 1997) (Stipulation at 13:10-15); see also *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy, Inc.*, Dockets UE-011570 and UG-011571 (consolidated), in compliance with *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy, Inc.*, Dockets UE-072300 and UG-072301 (consolidated), Order 25 (Dec. 30, 2014).

<sup>13</sup> Roberts, Exh. AR-1T at 8:10-11.

<sup>14</sup> Dahl, Exh. CJD-1T at 25:10-11.



And yet, in those circumstances, waiver of penalties has been granted.<sup>15</sup> Indeed, rather than temporarily suspend SQIs if PSE anticipates potential adverse impact, the Commission has previously directed PSE to file mitigation petitions for failure to meet performance benchmarks after the fact, as long as the Company can show that its level of preparedness and responses were reasonable.<sup>16</sup> In other words, the Commission recognizes that there are times when reasonable actions will nevertheless result in missed benchmarks, and the Commission anticipates mitigating those associated penalties.

16. Staff and Public Counsel also underestimate the cumulative impacts of all the unusual and exceptional circumstances that occurred during 2021 that directly led to PSE failing to meet the SQI-11 performance benchmark. The Merger Stipulation refers to multiple “unusual or exceptional circumstances” (plural) which could together lead to PSE’s failure to meet a benchmark despite a reasonable level of preparedness and response. And the Commission has previously acknowledged that the cumulative impact of unusual and exception events, including avalanches, snow, mud slides, flooding, and lengthy road closures, warranted a penalty reduction when these circumstances resulted in PSE failing to meet its benchmark for restoring connections following an outage (SQI No. 3, System Average Interruption Duration Index).<sup>17</sup> Indeed, the COVID-19 pandemic — which was ongoing in 2021 — is another example of how multiple unpredictable, unusual, and exceptional stressors can impact emergency response times.

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<sup>15</sup> See, e.g., *In the Matter of the Petition of Puget Sound Energy, Inc. for Mitigation of Penalties Incurred for Failing to Achieve Benchmark for its Service Quality Index*, Docket UE-011603, Order Granting in Part and Denying in Part the Petition for Mitigation at ¶ 8 (Jan. 10, 2002).

<sup>16</sup> See, *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy, Inc.*, Dockets UE-072300 and UG-072301, Order 24 at ¶ 2 (April 29, 2014).

<sup>17</sup> See, *In the Matter of the Petition of Puget Sound Energy for Mitigation of Penalty for Period Ending Dec. 31, 2009 for Failing to Achieve Benchmark for its Service Quality Index*, Docket UE-100338, Order 01 at ¶ 6 (Aug. 12, 2010).

**2. This Proceeding is a Petition Pursuant to a Stipulation; it is Not an Enforcement Action.**

17. Although all parties agree that the mitigation standard is set forth in the Merger Stipulation, Public Counsel takes more than a dozen pages of testimony to analyze PSE's actions pursuant to eleven enforcement factors established in Docket A-120061, the Enforcement Policy of the Washington Utilities and Transportation Commission.<sup>18</sup> But these factors are wholly inapplicable to PSE's Petition, and they have not been considered by the Commission in previous SQI benchmark proceedings.<sup>19</sup> The Commission's enforcement factors apply when the Commission finds that a "company has violated an applicable statute, rule, order, or tariff[.]"<sup>20</sup> In such cases, the Commission "will consider whether an enforcement action, beyond technical assistance, is appropriate and, if so, which action to take."<sup>21</sup> Although Staff does not attempt to analyze PSE's actions under the enforcement policy factors like Public Counsel, it also improperly refers to the Commission's enforcement policy in its testimony.<sup>22</sup> Reference to, or application of, the Commission's enforcement policy in this proceeding is an inappropriate attempt to raise the standard for mitigation and increase PSE's burden above that which these parties agreed decades ago.

18. This proceeding is not an enforcement action, and there is no investigation or alleged violation of any statute, rule, or tariff. Instead, PSE failed to meet an annual performance benchmark that it voluntarily agreed to. While disappointing, it is by no means a violation of Commission rule, statute, order, or tariff. Public Counsel has provided no authority to justify applying the Commission's enforcement policy factors to this SQI-11 Petition. Neither has

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<sup>18</sup> See Dahl, Exh. CJD-1T at 28:3-41:3.

<sup>19</sup> See, e.g., *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy, Inc.*, Dockets UE-072300 and UG-072301 (consolidated), Order 21 (April 8, 2013) (reciting the Merger Stipulation standard for mitigation petitions for relief with no reference to the 11 factors); *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy, Inc.*, Dockets UE-072300 and UG-072301 (consolidated), Order 24 (April 29, 2014) (same); *In the Matter of the Petition of Puget Sound Energy, Inc. for Mitigation of Penalties Incurred for Failing to Achieve Benchmark for its Service Quality Index*, Docket UE-011603, Order Granting in Part and Denying in Part the Petition for Mitigation (Jan. 10, 2022) (same).

<sup>20</sup> *In re Enf't Pol'y of the Wash. Utils. & Transp. Comm'n*, Docket A-120061, Enforcement Policy of the Wash. Utils. & Transp. Comm'n. at ¶ 15 (Jan. 7, 2013).

<sup>21</sup> *Id.*

<sup>22</sup> See Roberts, Exh. AR-1T at note 28.

Public Counsel cited any prior SQI proceeding where the Commission has applied or even inquired into any enforcement policy factors. The Merger Stipulation explicitly provides the exclusive standard for mitigation, and it does not include consideration of the Commission's enforcement policy factors. Thus, the eleven factors are not only inapplicable here, but it is unacceptable to raise them in an attempt to add criteria for mitigation beyond that which the parties agreed to in the Merger Stipulation. The Commission should reject any such attempt and disregard any testimony applying the Commission's enforcement policy factors to this proceeding.

19. It is undisputed that the standard for mitigating a penalty for failing to meet an SQI benchmark is whether the penalty "is due to unusual or exceptional circumstances for which PSE's level of preparedness and response was reasonable."<sup>23</sup> As described below, PSE experienced multiple unusual or exceptional circumstances during the 2021 reporting year, and PSE has demonstrated with substantial evidence that its level of preparedness and response was reasonable.

**III. THE COMMISSION SHOULD WAIVE THE SQI-11 PENALTY BECAUSE PSE MISSED ITS BENCHMARK DUE TO UNUSUAL OR EXCEPTIONAL CIRCUMSTANCES FOR WHICH PSE'S LEVEL OF PREPAREDNESS AND RESPONSE WAS REASONABLE.**

20. The Commission should fully mitigate the SQI-11 penalty because PSE has identified multiple unusual circumstances, with substantial supporting data, that together impeded Electric First Responders' ability to meet the SQI-11 benchmark in 2021. In particular, unusual and exceptional weather, record levels of both electric outage response and planned workload, continued challenges from COVID-19, and unexpected, unusually high levels of workforce attrition increased response times, resulting in PSE's failure to meet the 55-minute benchmark.<sup>24</sup> All of these conditions were not only unusual but were also beyond PSE's

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<sup>23</sup> Murphy, Exh. PRM-14T at 2:4-9, *quoting Wash. Utils. & Transp. Comm'n v. Puget Sound Energy, Inc.*, Dockets UE-011570 and UG-011571, Settlement Agreement, Exh. J, Appx. 2, Service Quality Program Mechanics, page 3 (June 6, 2002).) (Emphasis added).

<sup>24</sup> See Murphy, Exh. PRM-14T at 3:3-10.

control. And PSE's response — proactively attempting to increase Electric First Responder personnel to meet demand and respond quicker — was entirely reasonable.

**A. Serial Extreme Weather Events Depleted PSE's Resources and Exhausted Electric First Responders.**

21. Five extreme and unusual weather events in 2021 resulted in many Significant Outage Events that had considerable impacts on PSE resources and its ability to meet the 55-minute benchmark. These include significant wind and rainstorms in January; heavy snow in February; record-breaking heat in June; the wettest fall on record; and atmospheric rivers in November and December.<sup>25</sup>
22. The magnitude of these five weather events was extraordinary. After days of rains at the beginning of January 2021, strong winds with gusts from around 50 mph in the lowlands and around 80 mph in the mountains visited the state.<sup>26</sup> These winds toppled trees and resulted in almost 50 percent of PSE customers without electric service.<sup>27</sup> On February 13, 2021, 8.9 inches of snow was recorded at Seattle–Tacoma International Airport, which marked the snowiest single day recorded in any February at the airport.<sup>28</sup> The heat wave during the period of June 24th through June 28th set many records for the Seattle area, including three straight days at 100 degrees or hotter and the all-time hottest temperature on record of 108 degrees on June 28th.<sup>29</sup>
23. In the fall, a series of wet storms brought heavy rain and strong winds to the region and Washington Governor Jay Inslee declared a severe weather emergency because of landslides and severe flooding.<sup>30</sup> The National Weather Service said that the 19.04 inches of rain that fell in Seattle between September 1st and November 30th set a new precipitation

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<sup>25</sup> See Murphy, Exh. PRM-1T at 10:11-16.

<sup>26</sup> See Murphy, Exh. PRM-1T at 10:19-21.

<sup>27</sup> See Murphy, Exh. PRM-1T at 10:21-22.

<sup>28</sup> See Murphy, Exh. PRM-1T at 11:1-3.

<sup>29</sup> See Murphy, Exh. PRM-1T at 11:4-7.

<sup>30</sup> See Murphy, Exh. PRM-1T at 11:8-10.

record.<sup>31</sup> The year ended with a cold snap. On December 26th, the 20-degree low temperature at Seattle-Tacoma International Airport reset the lowest temperature record of 22 degrees for that date in 1948.<sup>32</sup> December 27th became a second day of record-breaking lows for the date.<sup>33</sup> This three-day period in late December was the longest stretch of subfreezing weather since 1998.<sup>34</sup>

24. Even though Significant Outage Events were excluded in SQI-11 performance calculation, the extraordinary magnitude of these Significant Outage Events strained resilience and exacerbated fatigue of PSE’s Electric First Response team, especially when combined with the increased workloads and impacts of the COVID-19 pandemic discussed below. Of the total 19,400 outages that occurred in 2021, 5,735 outages were excluded from this SQI-11 performance calculation or 55 suspension days out of 365 days in 2021.<sup>35</sup> Put another way, PSE’s service territory experienced 16 more days with severe weather outage events than the annual average of 39 days for 2016 through 2020 — this is a 41 percent increase in severe weather over the preceding five-year average.

25. The high level of Significant Outage Event exclusions is indicative of the extremely busy year due to inclement weather in 2021. And the data confirms that as total outage events mounted through the year, SQI-11 response times also increased — from 52 minutes in January to 98 minutes in December — resulting in PSE’s failure to meet the 55-minute benchmark.

26. Staff and Public Counsel argue that Significant Outage Events cannot be considered “unusual or exceptional circumstances” for purposes of granting penalty mitigation because these events were excluded from PSE’s SQI-11 performance measurement.<sup>36</sup> Public Counsel

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<sup>31</sup> See Murphy, Exh. PRM-1T at 11:10-12.

<sup>32</sup> See Murphy, Exh. PRM-1T at 11:18-20.

<sup>33</sup> See Murphy, Exh. PRM-1T at 11:20-21.

<sup>34</sup> See Murphy, Exh. PRM-1T at 11:21-12:2.

<sup>35</sup> See Murphy, Exh. PRM-1T at Table 3. The 55 suspension days included 18 days of Major-Event Days and 37 Localized Emergency Event Days in 2021.

<sup>36</sup> See Dahl, Exh. CJD-1T at 11:5-11; Roberts, Exh. AR-1T at 6:15-20.

further argues that workforce fatigue caused from extreme weather events is not a direct impact of Significant Outage Events and is not truly outside the company's control.<sup>37</sup> In fact, Public Counsel refers to the significant extreme weather events as a "staff management issue."<sup>38</sup>

27. Both arguments ignore the day-to-day reality of having to maintain safe and consistent utility services under increasingly frequent unusual and exceptional circumstances. While these 55 days were excluded, PSE's Electric First Response workforce was nevertheless fully deployed during this time, responding to the Significant Outage Events. Meanwhile, this same workforce was also responding to a marked increase in unplanned outages, customer calls, and scheduled work in 2021,<sup>39</sup> but it had 16 fewer days on which to meet this increased demand.<sup>40</sup> Public Counsel's argument also misreads the SQI penalty mitigation standard, which appropriately allows for penalty mitigation when failure to meet a benchmark is "due to" unusual or exception circumstances.<sup>41</sup> Mitigation is not limited to circumstances when an event "directly" causes PSE to miss a benchmark—such a standard would be too limiting. It is not necessary for one exceptional event to be the direct cause of PSE's failure to meet a benchmark because the SQIs are a performance measure that depend on myriad smaller actions and decisions.<sup>42</sup>

28. From PSE's data and testimony, full deployment of Electric First Responders on 41 percent more days in 2021 for Significant Outage Events was an "exceptional circumstance" outside of PSE's control that resulted in additive strain and fatigue on PSE's resources, which

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<sup>37</sup> Dahl, Exh. CJD-1T at 11:15-17.

<sup>38</sup> Dahl, Exh. CJD-1T at 12:3.

<sup>39</sup> See Murphy, Exh. PRM-1T at 17:19-21 and Figure 1.

<sup>40</sup> See Murphy, Exh. PRM-1T at 12:19-13:2.

<sup>41</sup> Dahl, Exh. CJD-1T at 11:9-10 (emphasis in original).

<sup>42</sup> See, e.g., *In the Matter of the Petition of Puget Sound Energy, Inc. for Mitigation of Penalties Incurred for Failing to Achieve Benchmark for its Service Quality Index*, Docket UE-011603, Order Granting in Part and Denying in Part the Petition for Mitigation (Jan. 10, 2022). The Final Order approved waiver of penalties, with the Commission finding that PSE's failure to meet SQI 6 was due at least in significant part by the wholesale energy crisis, not just the Company's introduction of Time of Day rates.

correlated with a higher SQI-11 response time and contributed to PSE's failure to meet the benchmark.

**B. Workload Strains Added to Electric First Responder Fatigue.**

29. In addition to the overwhelming workload resulting from the 55 days of Significant Outage Events throughout the year, PSE experienced a record number of customer-requested jobs, unplanned outages, and planned work projects in 2021, which cumulatively added to fatigue and higher SQI-11 response times.<sup>43</sup> Together, these put significant strain on PSE's Electric First Response workforce, who had fewer days to respond to record-setting levels of planned and unplanned workload due to having been fully deployed on 55 days to respond to the Significant Outage Events.<sup>44</sup>

30. Total electric outages, including Significant Outage Events, was about 19,400, which is a 19 percent increase over 2020.<sup>45</sup> Electric First Responders needed to respond to the unplanned outages at all hours of the day and night, and this dramatic increase in outage workload significantly impacted the fatigue of Electric First Responders in a year with already high workloads. As noted, 5,735 outages resulting from Significant Outage Events were excluded from SQI-11 performance calculation, but nevertheless contributed to this overall workload. Notably, 15 high-volume activity days missed the exclusion criteria by only a small margin, but still required significant deployment of significant resources.<sup>46</sup>

31. Planned work also reached a historic high in 2021. In 2021, the total number of planned customer-facing scheduled work projects that PSE's Electric First Responders increased by seven percent from 2020 to 2021, and 23 percent from 2018 (pre-pandemic) to 2021.<sup>47</sup> This large increase was impacted by a growing number of customer home renovation investments. This work category requires PSE's Electric First Responders to disconnect and

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<sup>43</sup> See Murphy, Exh. PRM-1T at 17:4-20:8 and Figure 1.

<sup>44</sup> Murphy, Exh. PRM-14T at 4:6-16.

<sup>45</sup> See Murphy, Exh. PRM-1T at 19:2-8.

<sup>46</sup> See Murphy, Exh. PRM-1T at 19:3-4.

<sup>47</sup> See Murphy, Exh. PRM-1T at 17:7-18:11.

subsequently reconnect electric service at the customer's request so that the customer(s) can work on their side of the meter.<sup>48</sup> Also included are more complex electrical switching activities required to support various reliability investments or complicated repairs, municipality-driven projects and public improvement projects.<sup>49</sup> These planned system projects are not part of the SQI-11 performance measurement, which is limited to electric safety response time; however, the complex switching activities are part of an Electric First Responder's regular responsibilities and contribute to overall workload and fatigue. As an additional challenge and impact to the burden of this work, this planned customer-requested workload does not spread evenly through the day, but rather centers around the first few hours, and last few hours of a typical 7AM-5PM workday.<sup>50</sup>

32. The mounting strain on PSE's Electric First Responders and the corresponding waning ability to meet electric safety outage response times is both intuitive and supported by the data. Although industry benchmarks do not exist to quantify workforce fatigue with an objective and specific metric, PSE has articulated and illustrated how these factors had a compounding effect on fatigue. The accumulation of Electric First Response workload and the corresponding SQI-11 performance degradation associated with fatigue are shown in Figures 2, 3, and 4, beginning on page 19 of Exh. PRM-1T. In particular, Figure 4, duplicated below, shows that as total outages in PSE's service territory cumulated throughout the year, SQI-11 response times deteriorated over the second half of 2021. And the impacts were cumulative — even when the number of outages dipped temporarily in July and August 2021, the response times increased. Staff claims that PSE does not show a direct link between PSE's SQI-11 performance and the Electric First Responders' fatigue,<sup>51</sup> but common sense supports this link and Figure 4 clearly demonstrates it.

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<sup>48</sup> See Murphy, Exh. PRM-1T at 17:9-12.

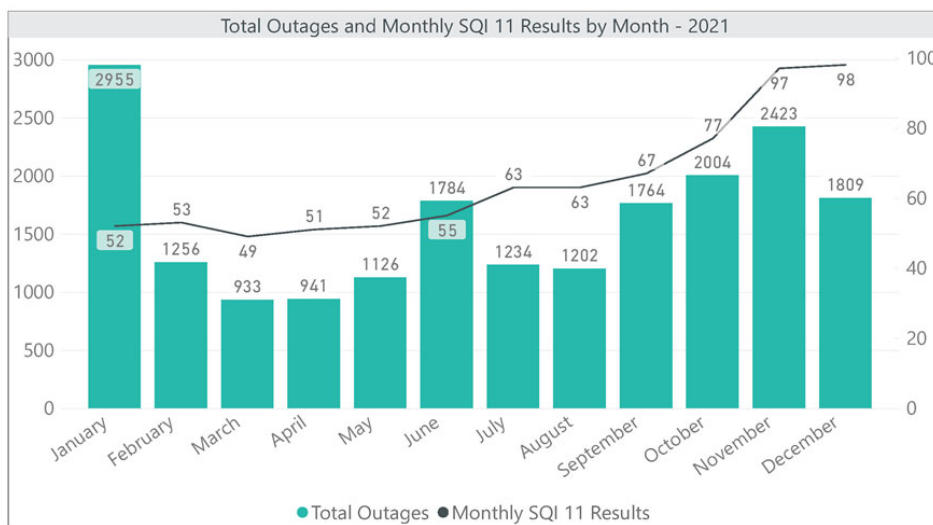
<sup>49</sup> See Murphy, Exh. PRM-1T at 17:12-15.

<sup>50</sup> See Murphy, Exh. PRM-1T at 18:6-10.

<sup>51</sup> See Andrews, Exh. AR-1T at 10:21-11:2.



**Figure 4: Outage Response Over Time<sup>52</sup>**



33. Indeed, as the year progressed, the compounding fatigue resulted in a longer dispatch time.<sup>53</sup> Had PSE’s dispatch time been in line with average, PSE’s SQI-11 would have been five minutes lower.

34. Increased travel time is yet another unavoidable obstacle that justifies mitigation of the penalty. In 2021, it took at average of 46 minutes for an Electric First Responder to travel to the jobsite, which is a 15 percent increase over the seven-year averages going back to 2014.<sup>54</sup> As another metric, PSE’s Electric First Responders experienced 257 extreme travel time events (incidents requiring more than two hours of travel) in 2021, compared to an average of 150 events from 2015-2020. This is an extraordinary 71 percent increase over prior years, and more than a third of these extreme travel time events occurred between September and December 2021.

<sup>52</sup> Murphy, Exh. PRM-1T at 22.

<sup>53</sup> See Murphy, Exh. PRM-1T at 27:2-11 and Figure 5.

<sup>54</sup> See Murphy, Exh. PRM-1T at 28:2-8.

35. It was not realistic to foresee this increase in travel time going into 2021, given lower levels of traffic during the pandemic. Data from the Washington Department of Transportation suggest that increases in serious accidents on the road in 2021 could have been the cause.<sup>55</sup> Of course, none of this could have been predicted nor is within PSE's control and, yet, it significantly impacted PSE's ability to meet the SQI-11 benchmark. Indeed, had these extreme travel events not occurred, PSE's 2021 SQI-11 performance would have been six minutes lower.
36. It bears noting that by just accounting for increased dispatch time due to workload constraints and extreme travel events, PSE's SQI-11 performance would have met the benchmark in 2021. But those were not the only two unusual events happening in 2021.

**C. Continuing Challenges Related to COVID-19 Also Impacted Electric First Responder Availability and Response Times.**

37. PSE also encountered evolving challenges related to the ongoing COVID-19 pandemic that affected PSE's employees and PSE's ability to respond to customer calls. For example, PSE's workforce spent an increased amount of time away from work due to illness, COVID-19 exposures, the implementation of new COVID-19 prevention policies, and new field safety procedures and protocols. Indeed, PSE's Electric First Responders recorded 796 hours in 2021 to the COVID-19 work order, which indicates the number of hours where an Electric First Responder missed regular work due to COVID-19-related impacts.<sup>56</sup>
38. Staff suggests this is not unusual or exceptional because, spread across 79.5 Electric First Responders, this is not a significant amount of time off per individual.<sup>57</sup> But Staff's dismissive claim that COVID-19's impacts were not unusual or exceptional mistakenly portrays the effects COVID-19 had on PSE in general, and these first responders, in particular.

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<sup>55</sup> See Murphy, Exh. PRM-1T at 28:9-17.

<sup>56</sup> See Murphy, Exh. PRM-8.

<sup>57</sup> See Roberts, Exh. AR-1T at 8:20-9:9. PSE notes that Staff incorrectly states that PSE billed 1,655.5 hours to the COVID-19 work order in 2021 (see Roberts, Exh. AR-1T at 8:16-17). The 1,655.5 number is 2020 and 2021, combined (see Murphy, Exh. PRM-8).

The hours missed because of COVID-19 were in addition to sick days and other missed shifts that were not tracked under the COVID-19 work order. Staff is right when it acknowledges that these impacts were beyond PSE’s control, but Staff is wrong to minimize the impacts of COVID-19 as just a few sick days. Any amount of time lost is impactful when resources and time are already constrained. Further, the COVID-19 work order only shows hours lost from regular scheduled shifts — not all shifts — and is just one quantification of resource depletion from COVID-19. It is important to note that this data does not account for the many missed opportunities for an employee to respond to an unplanned emergency call, during core and non-core hours, when that employee was unavailable because of COVID-19. As another example, the pandemic also had a unique and significant impact on the high level of Electric First Responder attrition in 2021, which was characterized by early retirements and out-of-state relocations, and a high rate of turnover.<sup>58</sup>

39. Public Counsel argues that the impacts of COVID-19 were worse in 2020 than in 2021; therefore, because PSE met the SQI-11 benchmark in 2020, it should have easily met the benchmark in 2021.<sup>59</sup> But the objective, third-party data contradicts Public Counsel’s testimony — COVID-19 outbreaks in Washington State and impacts on PSE were worse in 2021 than 2020.<sup>60</sup> Evolving government policies, the surge of the Omicron variant, federal and state mandates, and changing vaccine requirements added more layers of uncertainty and emotional and mental strain onto an already beleaguered Electric First Response workforce, which was customer-facing on a day-to-day basis all through the COVID-19 pandemic.

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<sup>58</sup> See Murphy, Exh. PRM-14T at 10:7-11:8; Exh. PRM-16.

<sup>59</sup> See Dahl, Exh. CJD-1T at 13:8-14:14:2. See also, Dahl, Exh. CJD-1T at 13:10-13 (“Despite the necessity for immediate change, very high levels of uncertainty, and a relatively small set of tools to fight COVID, PSE met the SQI-11 benchmark in 2020 with four minutes to spare.”).

<sup>60</sup> See Murphy, Exh. PRM-14T at 7:14-8:2 and Figure 2.

**D. Hiring and Retention Challenges Frustrated PSE’s Efforts to Alleviate Fatigue Through Adding Personnel.**

40. As stated above, the COVID-19 pandemic had a unique and significant impact on the high level of Electric First Responder attrition in 2021. Early retirements and out-of-state relocations were as high as they had ever been;<sup>61</sup> at the same time Electric First Responder workload was at its highest.<sup>62</sup> Inflation in 2021 also affected PSE’s ability to hire and retain the number of Electric First Responders needed to meet the SQI-11 benchmark because pressure from population and consumer price index growth led to a rapidly increasing higher cost of living, especially in King County.<sup>63</sup> This impacted PSE’s ability to recruit and retain Electric First Responders, who are required to be local in order to respond to outage incidents quickly. This growing challenge to attract and retain Electric First Responders into King County is further exacerbated by the demanding workload. Indeed, as position vacancies open in counties outside of King County, it is common for existing Electric First Responders in King County to relocate to outside of King County.<sup>64</sup> PSE’s King County region saw an average ongoing vacancy rate of five Electric First Responders throughout 2021,<sup>65</sup> and the electric safety response times in King County was 13 minutes higher than the average for other counties.<sup>66</sup>

41. Public Counsel appears to agree with PSE on this point when Public Counsel witness Corey Dahl declares, “The primary driver for hiring and retention challenges are higher cost of living and demanding workload.”<sup>67</sup> These are exactly the drivers PSE experienced and described in testimony and through multiple exhibits. But then Mr. Dahl brushes these issues aside, claiming that they are both in PSE’s control and PSE should have just paid its

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<sup>61</sup> See Murphy, Exh. PRM-14T at Table 1.

<sup>61</sup> Murphy, Exh. PRM-1T at Figure 3.

<sup>63</sup> See Murphy, Exh. PRM-1T at 15:7-16.

<sup>64</sup> See Murphy, Exh. PRM-1T at 16:1-9.

<sup>65</sup> See Murphy, Exh. PRM-1T at 23:11-12.

<sup>66</sup> See Murphy, Exh. PRM-11.

<sup>67</sup> Dahl, Exh. CJD-1T at 16:10-11.

employees more.<sup>68</sup> As explained below, Mr. Dahl's oversimplification is unrealistic, but also inaccurate.

**E. PSE'S Level of Preparedness and Responses Were Reasonable.**

42. As stated above, PSE experienced multiple unusual or exceptional circumstances that caused PSE to miss its SQI-11 benchmark in 2021. Any one of these events is appropriate for mitigation and is similar to circumstances for which Commission has granted full mitigation in the past.<sup>69</sup> PSE has provided substantial evidence documenting each unusual or exceptional circumstance from reliable and objective sources. Accordingly, PSE needs only now to show that its level of preparedness and response to these unusual or exceptional circumstances was reasonable — not adequate, sufficient, or successful — but reasonable.
43. Considering the unavoidable extreme weather events, workload constraints, continuing challenges relating to COVID-19, and hiring and retention challenges, PSE's 2021 level of preparedness and response was reasonable. PSE provides explanatory testimony and multiple exhibits that document in detail PSE's hiring and retention efforts, as well as efforts to reduce Electric First Responders' workload. But in particular, PSE took two significant actions in 2021 in response to these exceptional circumstances: (1) conducting market compensation analysis to attract and retain Electric First Responders and (2) increasing the number of Electric First Responder positions from 77 to 89.<sup>70</sup>
44. Public Counsel Witness Dahl acknowledges: "While these actions are reasonable given the conditions the Company faced, these actions were not enough to reduce average

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<sup>67</sup> See Dahl, Exh. CJD-1T at 16:11-14.

<sup>69</sup> See, e.g., *In the Matter of the Petition of Puget Sound Energy, Inc. for Mitigation of Penalties Incurred for Failing to Achieve Benchmark for its Service Quality Index*, Docket UE-011603, Order Granting in Part and Denying in Part the Petition for Mitigation (Jan. 10, 2022). (Granting full mitigation for various circumstances such as drought that led to an emergency proclamation related to Western energy prices.). See also, *In the Matter of the Petition of Puget Sound Energy for Mitigation of Penalty for Period Ending December 31, 2009 for Failing to Achieve Benchmark for its Service Quality Index*, Docket UE-100338, Order 01 (Aug. 12, 2010). (Granting mitigation, upon Staff's recommendation, for penalties resulting from unusual and exceptional weather).

<sup>70</sup> See Murphy, Exh. PRM-1T at 23:13-18.

response time...”<sup>71</sup> This is exactly the point — PSE’s actions were reasonable but despite the staffing increases and ongoing hiring efforts, the Company was not able to fill all 89 positions in 2021 in part because some of the circumstances that were impacting the Company’s ability to meet the SQI-11 benchmark were the same circumstances making it difficult to recruit. Mr. Dahl implies, incorrectly and without support, that PSE knew or should have known of the attrition earlier than it did.<sup>72</sup> But neither Public Counsel nor Staff provide any evidence supporting how PSE could have or should have known of the staffing issues before it did. PSE’s testimony and PSE’s Response to Public Counsel Data Request No. 4, which Mr. Dahl cites, states, “Heading into 2021, PSE’s electrical first responder workforce had an organization count of 77 full-time employee positions, which is a number consistent with prior years.”<sup>73</sup> Additionally, PSE’s 2020 SQI-11 performance was the best it had been since 2012 and it had never missed the benchmark before, so there was no reason to suggest going into 2021 that PSE would not meet its benchmark in 2021. Then, early in 2021, PSE became aware of the potential risk for high attrition and began taking proactive steps to mitigate this risk, including starting recurring meetings with PSE’s labor management committee and performing a detailed market analysis with peer Northwest utilities for the Electric First Responder job classification.<sup>74</sup> PSE also reorganized shifts to better respond to the increasing work. The attrition did not occur until the third and fourth quarter of 2021, but PSE had been preparing for it for months.

45. PSE’s efforts were effective. PSE did hire and on-board 11 new Electric First Response employees in 2021, along with two more Electric First Response employees who officially on-boarded in early January 2022.<sup>75</sup> And PSE’s Electric First Response workforce

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<sup>71</sup> Dahl, Exh. CJD-1T at 26:10-11.

<sup>72</sup> Dahl, Exh. CJD-1T at 17:3-5, *citing* Dahl, Exh. CJD-3 (PSE’s Response to Public Counsel Data Request No. 4).

<sup>73</sup> Murphy, Exh. PRM-1T at 23:6-8.

<sup>74</sup> *See* Dahl, Exh. CJD-3.

<sup>75</sup> *See* Murphy, Exh. PRM-1T at 23:19-21.

that were retained performed extraordinarily by safely working an average of 1,100 hours of overtime, per employee, to meet all planned and unplanned work in 2021.<sup>76</sup> Despite losing seven Electric First Responders to attrition in 2021, PSE ended the year with more Electric First Responders than it had when 2021 began.<sup>77</sup> PSE even continued to take additional actions throughout the year to not only improve performance for the 2021 reporting year, but to ensure compliance in 2022.<sup>78</sup> Yet, Staff and Public Counsel claim that PSE should have known and acted earlier, relying on testimony like, “It is PSE’s responsibility to meet the benchmark, to ensure that customers do not experience a deterioration in quality of service.”<sup>79</sup> PSE does not disagree, but that is not the standard for mitigation and that is not the issue here. It is whether PSE’s level of preparedness and response was reasonable.

46. The measures and actions PSE took, both proactively and responsively, were reasonable. Waiving the penalty here would not only be an appropriate application of the mitigation standard, but it would be consistent with the Commission’s prior orders. In a prior mitigation petition involving SQI-6 (Telephone Center Transactions Customer Satisfaction) and SQI-8 (Field Service Operations Transaction Customer Satisfaction), which require PSE to conduct monthly customer surveys, the Commission waived the penalty after PSE failed to meet benchmarks because the entity named as the exclusive survey company discontinued its business.<sup>80</sup> Just as “cessation of [the contractor’s] business operations is a matter beyond PSE’s ability to control,” so is the loss of First Emergency Responders despite PSE’s best efforts to recruit and retain this workforce. The Commission specifically reasoned: “If delay in finding a replacement for [the survey provider] is justified under all the facts and circumstances, PSE can seek mitigation and the Commission can relieve PSE of all or some of

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<sup>76</sup> See Murphy, Exh. PRM-1T at 24:7-10.

<sup>77</sup> See Murphy, Exh. PRM-16 at 4-5.

<sup>78</sup> See Murphy, Exh. PRM-17.

<sup>79</sup> Roberts, Exh. AR-1T at 12:12-14.

<sup>80</sup> *Wash. Utilis. & Transp. Comm’n. v. Puget Sound Energy, Inc.*, Dockets UE-072300 and UG-072301 (consolidated), Order 21 at ¶ 12 (April 8, 2013).

any penalty that is otherwise due under SQI Nos. 6 and 8.”<sup>81</sup> Here, delay in finding replacements and recruiting new First Emergency Responders is justified under all of the unique facts and circumstances described above.

47. In another case, the Commission declined to follow Staff’s and Public Counsel’s recommendation against waiver when it found that full mitigation of an SQI penalty was warranted because PSE acted reasonably in rolling out its time-of-use rates for residential customers as a measure to reduce demand for electricity during and after the energy industry experienced drastic wholesale price increases.<sup>82</sup> In yet another case, the Commission granted full mitigation when it determined that PSE acted reasonably considering challenges faced during implementation of a new customer information system.<sup>83</sup> PSE has a history of taking its SQI benchmarks seriously. It takes appropriate and reasonable steps to prepare and respond to unusual and exceptional circumstances. While the multiple, compounding circumstances in 2021 were especially daunting for the Company and its Electric First Responders, PSE’s efforts that year were consistent with those in the above-referenced cases.

#### **IV. PSE MET ITS SQI-11 BENCHMARK FOR 2022 AND CONTINUES TAKING STEPS TO IMPROVE PERFORMANCE**

48. PSE has explained in good faith why it was not able to meet the SQI-11 benchmark due to multiple unusual and exceptional circumstances, which were outside PSE’s control and cumulatively impacted PSE’s Electric First Responder operations. And PSE’s level of preparedness and response was reasonable, especially in light of these circumstances. As further evidence that PSE’s preparedness and response was reasonable, PSE met its SQI-11 benchmark for 2022, and there is no record evidence to suggest that PSE will miss the

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<sup>81</sup> *Id.* at ¶ 10.

<sup>82</sup> *See, In the Matter of The Petition of Puget Sound Energy, Inc. For Mitigation of Penalties Incurred for Failing to Achieve Benchmark for Its Service Quality Index*, Docket UE-011603, Order Granting in Part and Denying in Part the Petition for Mitigation at ¶ 8 (Jan. 10, 2002).

<sup>83</sup> *See, Wash. Utilis. & Transp. Comm’n. v. Puget Sound Energy*, Dockets UE-072300 and UG-072301 (consolidated), Order 24 at ¶ 9 (April 29, 2014).



benchmark in 2023. Even though PSE met its benchmark in 2022, however, PSE has continued to strive to improve its SQI-11 performance. In addition to the wage increases and actions described above, the Prefiled Rebuttal Testimony of Ryan R. Murphy, Exh. PRM-14T, and Exhibit PRM-17 lists many additional steps PSE has taken (and plans to take) to improve its SQI-11 performance. These include:

- Investing in a comprehensive work management software platform, known as Integrated Work Management, an enterprise-wide approach to managing and executing field work, including construction, operation, and maintenance.
- Investing in operational efficiency technology that will automate callouts for all unplanned, emergency incidents across PSE's service territory.
- Evaluating and performing process workshops with the goal of identifying opportunities to reduce Electric First Responders' workload.
- Evaluating the feasibility of adding a represented line worker union job classification that would focus solely on planned customer-requested projects.

49. As demonstrated here, and as stated in PSE's testimony, "PSE takes its first missed benchmark in 2021 very seriously."<sup>84</sup> PSE took reasonable steps to prepare for and respond to the unusual and exceptional circumstances in 2021, and these steps were largely successful, if not sufficient to meet the SQI-11 benchmark that year. However, PSE met the benchmark for 2022 and continues to take actions to improve its SQI-11 performance.

## V. CONCLUSION


50. For the reasons set forth above, PSE requests that the Commission issue an order granting a waiver of the \$613,636 penalty associated with PSE's failure to meet the benchmark for SQI-11 in 2021.

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<sup>84</sup> Murphy, Exh. PRM-14T at 13:15-16.

DATED this 24th day of May, 2023.

**PERKINS COIE LLP**

By   
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