Service Date: March 26, 2026

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PUGET SOUND ENERGY, Respondent.	DOCKETS UE-260005 and UG-260006 (*Consolidated*) ORDER 02 **CORRECTED ORDER** PROTECTIVE ORDER WITH PROVISIONS GOVERNING HIGHLY CONFIDENTIAL INFORMATION

BACKGROUND

1 The Washington Utilities and Transportation Commission (Commission) finds that the parties reasonably anticipate that discovery or evidentiary filings will require information designated as confidential pursuant to WAC 480-07-160 to be disclosed to parties that, in the absence of a protective order, would not be authorized to access that information. The Commission further finds that a protective order governing disclosure of information designated as confidential is necessary to protect the provider of that information while promoting the free exchange of information and development of the evidentiary record. The Commission also finds that it is necessary to create a separate designation and a higher degree of protection for certain information that one or more parties assert is highly confidential.

2 Accordingly, the Commission enters this protective order (Order) pursuant to RCW 34.05.446 and WAC 480-07-420, to govern the discovery and use of information designated as confidential or highly confidential in this proceeding.

ORDER

A. General Provisions

3 **Confidential Information**. All access, review, use, and disclosure of any material designated by a party to this proceeding as confidential pursuant to WAC 480-07-160 (referred to in this Order as "Confidential Information") is governed by this Order and by

WAC 480-07-160. Only information that meets the definition of "confidential information" in WAC 480-07-160(2)(b) may be designated as Confidential Information.

4 **Highly Confidential Information**. All access, review, use, and disclosure of any material designated by a party to this proceeding as highly confidential pursuant to WAC 480-07-160 (referred to in this Order as "Highly Confidential Information") is governed by this Order and by WAC 480-07-160. Highly Confidential Information is Confidential Information, the disclosure of which poses a highly significant risk of heightened competitive harm to the disclosing party or third parties. Only information that meets this standard and the definition of "highly confidential information" in WAC 480-07-160(2)(d) may be designated as Highly Confidential Information.

5 **Designating Confidential Information and Highly Confidential Information**. Parties must designate Confidential Information and Highly Confidential Information as required in WAC 480-07-160. The Commission may reject any filing that fails to properly designate or mark Confidential Information or Highly Confidential Information, or that designates clearly public information as confidential or highly confidential.

6 **Limitation on Use**. A party or a party's counsel or expert may review, use, or disclose information designated as Confidential Information or Highly Confidential Information by another party only for purposes of this proceeding.

B. Disclosure of Confidential Information

7 **Persons Permitted Access to Confidential Information**. No person bound by this Order may disclose information designated as Confidential Information by another party to anyone other than the Commissioners, Commission Staff, the presiding officer(s), and, subject to the requirements in paragraph 8 below, counsel for each of the parties to this proceeding, each such counsel's administrative staff, and persons designated by the parties as their experts in this proceeding. No expert who requests access to Confidential Information other than members of Commission Staff or Public Counsel may be an officer, director, direct employee, major shareholder, or principal of any party or any competitor of any party unless the provider of the Confidential Information waives this restriction. Any dispute concerning persons entitled to access Confidential Information must be brought before the presiding officer for resolution.

8 **Confidential Non-disclosure Agreement**. Before being allowed access to any Confidential Information disclosed in this docket, each counsel or expert must agree to comply with and be bound by this Order by executing, filing, and serving Exhibit A (counsel) or Exhibit B (expert) attached to this Order (collectively, Confidential Non-disclosure Agreement). A counsel's administrative staff need not execute a Confidential Non-disclosure Agreement if counsel agrees to be responsible for any violation of this Order that results from his or her staff's conduct. If the provider of the Confidential

Information objects to allowing any expert to have access to such information, that party must complete the applicable portion of the Confidential Non-disclosure Agreement for that expert, timely file it with the Commission, and serve all parties. A party waives objection to allowing access to Confidential Information to an expert who has executed a Confidential Non-disclosure Agreement if the party fails to comply with this requirement.

9 **Access to Confidential Information**. Parties must comply with the requirements in WAC 480-07-160 and WAC 480-07-420 when providing documents containing Confidential Information to the Commission or persons who have executed a Confidential Non-disclosure Agreement. Persons who have executed a Confidential Non-disclosure Agreement agree that they will exercise all reasonable diligence to protect Confidential Information from disclosure to unauthorized persons.

C. Disclosure of Highly Confidential Information

10 **Persons Permitted Access to Highly Confidential Information**. No person bound by this Order may disclose information designated as Highly Confidential Information by another party to anyone other than the Commissioners, Commission Staff, the presiding officer(s), and, subject to the requirements in paragraph 11 below, counsel for each of the parties to this proceeding, each such counsel's administrative staff, and persons designated by the parties as their experts in this proceeding.

11 **Highly Confidential Non-disclosure Agreement**. Before being allowed access to any Highly Confidential Information disclosed in this docket, each counsel or expert must agree to comply with and be bound by this Order by executing, filing, and serving Exhibit C attached to this Order (Highly Confidential Information Agreement). A counsel's administrative staff need not execute a Highly Confidential Non-disclosure Agreement if counsel agrees to be responsible for any violation of this Order that results from his or her staff's conduct. If the provider of the Highly Confidential Information objects to allowing any expert to have access to such information, that party must complete the applicable portion of the Highly Confidential Non-disclosure Agreement for that expert, timely file it with the Commission, and serve all parties. A party waives objection to allowing access to Highly Confidential Information to an expert who has executed a Highly Confidential Non-disclosure Agreement if the party fails to comply with this requirement.

12 **Access to Highly Confidential Information**. Parties must comply with the requirements in WAC 480-07-160 and WAC 480-07-420 when providing documents containing Highly Confidential Information to the Commission or persons who have executed a Highly Confidential Non-disclosure Agreement. Persons who have executed a Highly Confidential Non-disclosure Agreement agree that they will exercise all reasonable diligence to protect Highly Confidential Information from disclosure to unauthorized persons.

D. Use of Confidential Information and Highly Confidential Information

13 **Reference to Confidential Information or Highly Confidential Information**. Any public reference to Confidential Information or Highly Confidential Information during any part of this proceeding including, but not limited to, in motions, briefs, arguments, direct testimony, cross-examination, rebuttal, and proposed offers of proof, must not disclose the content or substance of that information, directly or indirectly. To the extent not addressed in this Order or WAC 480-07-160, the parties must negotiate how best to prevent unauthorized disclosure of Confidential Information and Highly Confidential Information with the goal of protecting each party's rights with respect to that information while allowing all parties the latitude to present the evidence necessary to support their respective cases and to maximize the information available to the public. If the parties cannot reach agreement about how to use or refer to Confidential Information or Highly Confidential Information without disclosing it in violation of this Order, they must notify the presiding officer, who will determine the arrangements to protect the Confidential Information or Highly Confidential Information to ensure that all parties are afforded their full due process rights, including the right to cross-examine witnesses.

14 Counsel or other representative of any party that intends to disclose Confidential Information or Highly Confidential Information during oral testimony, cross-examination, or argument must give such prior notice as is feasible to the provider of that information and the presiding officer. That notice, at a minimum, must permit the presiding officer an opportunity to clear the hearing room of persons not bound by the applicable Non-disclosure Agreement or to take other action as is appropriate in the circumstances.

15 **Right to Challenge Admissibility**. Nothing in this Order may be construed to restrict any party's right to challenge the admissibility or use of any Confidential Information or Highly Confidential Information on any ground other than confidentiality, including but not limited to competence, relevance, or privilege.

16 **Right to Challenge Confidential Designation**. Any party by motion or the Commission on its own initiative may challenge a party's designation of information as confidential or highly confidential under WAC 480-07-160 and this Order. The presiding officer will conduct an *in camera* hearing to determine the propriety of the designation. The burden of proof to show that such information is properly designated as confidential or highly confidential is on the party that made that designation. Pending a Commission determination, the challenged Confidential Information or Highly Confidential Information shall be treated in all respects as protected under the terms of this Order. The presiding officer will make his or her determination orally on the record or in a written order.

17 If a presiding officer other than the Commissioners determines that challenged information designated as highly confidential is entitled only to protection as Confidential Information, the information will continue to be protected as Highly Confidential Information under this Order for ten days from the date of the presiding officer's determination. If a party seeks administrative review of that determination within that time, the Commission will stay the determination pending an order from the Commission. If the Commission upholds the determination on review, in whole or in part, or if the Commissioners are the presiding officers, the Commission will require the challenged information to be refiled as Confidential Information.

18 If the presiding officer determines the challenged information is not entitled to any protection under this Order and WAC 480-07-160, the information will continue to be protected under this Order for ten days from the date of the presiding officer's determination. If a party seeks administrative review of a determination by a presiding officer other than the Commissioners within that time, the Commission will stay the determination pending an order from the Commission. If the Commission upholds the determination on review, in whole or in part, the information will continue to be protected under this Order for ten days from the date of the Commission order. If no party seeks administrative or judicial review of the presiding officer's determination within 10 days, or if no reviewing court enters an order protecting the challenged information from disclosure within ten days of a final Commission determination, the Commission will require the challenged information to be refiled without the confidential or highly confidential designation or otherwise treated as public information.

19 **Admission of Confidential Information or Highly Confidential Information Under Seal**. The portions of the record of this proceeding containing Confidential Information or Highly Confidential Information will be sealed for all purposes, including administrative and judicial review, unless such Confidential Information or Highly Confidential Information is released from the restrictions of this Order, either through the agreement of the parties or pursuant to a lawful order of the Commission or of a court having jurisdiction to do so.

20 **Return of Confidential Information and Highly Confidential Information**. Within thirty days following the conclusion of this proceeding, including any administrative or judicial review, every person who has executed a Confidential or Highly Confidential Non-disclosure Agreement and possesses or controls any Confidential Information or Highly Confidential Information disclosed by another party (including personal notes that make substantive reference to that Confidential Information or Highly Confidential Information), either must return all such Confidential Information or Highly Confidential Information to the party that provided it or must certify in writing that all copies and substantive references to that information in notes have been destroyed; PROVIDED, that counsel may retain exhibits that contain Confidential Information or Highly Confidential Information as counsel records subject to the terms and conditions of this Order.

21 **Freedom of Information Laws**. Until the Commission or any court having jurisdiction finds that any particular Confidential Information or Highly Confidential Information is not properly designated as confidential pursuant to WAC 480-07-160, the Commission expects any federal agency that has access to or receives copies of the Confidential Information or Highly Confidential Information to treat that information as within the exemption from disclosure provided in the Freedom of Information Act at 5 U.S.C. § 552 (b)(4); the Commission also expects any Washington state agency that has access to or receives copies of the Confidential Information or Highly Confidential Information to treat that information as being within the exemption from disclosure provided in RCW 42.56.210.

22 **Notice of Compelled Production in Other Jurisdictions**. If a person who has executed a Confidential or Highly Confidential Non-disclosure Agreement is compelled to produce documents containing Confidential Information or Highly Confidential Information in any regulatory or judicial proceeding by the body conducting the proceeding, the person must provide notice to the party that provided the Confidential Information or Highly Confidential Information. Such information must not be produced for at least five business days following such notice to permit the party that provided the information an opportunity to defend the protected status of the material before the regulatory or judicial body that would otherwise compel production. Disclosure after that date, in compliance with an order compelling production, is not a violation of this Order.

23 **Modification**. The Commission may modify this Order on motion of a party or on its own motion upon reasonable prior notice to the parties and an opportunity for hearing.

24 **Violation of this Order**. Violation of this Order by any party to this proceeding or by any other person bound by this Order by unauthorized use or unauthorized disclosure of Confidential Information or Highly Confidential Information may subject such party or person to liability for damages and shall subject such party to penalties as generally provided by law.

DATED at Lacey, Washington March 26, 2026.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ *Harry Fukano*
HARRY FUKANO
Administrative Law Judge

/s/ *Bijan Hughes*
BIJAN HUGHES
Administrative Law Judge

EXHIBIT A (ATTORNEY AGREEMENT)

AGREEMENT CONCERNING CONFIDENTIAL INFORMATION
IN DOCKETS UE-260005 and UG-260006
BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

I, _____, as attorney in this proceeding for _____ (party to this proceeding) agree to comply with and be bound by the Protective Order entered by the Washington Utilities and Transportation Commission in Dockets UE-260005 and UG-260006, and acknowledge that I have reviewed the Protective Order and fully understand its terms and conditions. I further agree to be responsible for any violations of the Protective Order that result from the conduct of administrative staff I allow to have access to Confidential Information.

_____ _____
Signature Date

_____
Address

EXHIBIT B (EXPERT AGREEMENT)

AGREEMENT CONCERNING CONFIDENTIAL INFORMATION
IN DOCKETS UE-260005 and UG-260006
BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

I, _____, as expert witness in this proceeding for _____ (a party to this proceeding) hereby agree to comply with and be bound by the Protective Order entered by the Washington Utilities and Transportation Commission in Dockets UE-260005 and UG-260006 and acknowledge that I have reviewed the Protective Order and fully understand its terms and conditions.

_____ _____
Signature Date

_____
Employer

_____ _____
Address Position and Responsibilities

* * *

The following portion is to be completed by the responding party and filed with the Commission within 10 days of receipt; failure to do so will constitute a waiver and the above-named person will be deemed an expert having access to Confidential Information under the terms and conditions of the protective order.

_____ No objection.

_____ Objection. The responding party objects to the above-named expert having access to Confidential Information. The objecting party shall file a motion setting forth the basis for objection and asking exclusion of the expert from access to Confidential Information.

_____ _____
Signature Date

EXHIBIT C (HIGHLY CONFIDENTIAL INFORMATION AGREEMENT)

AGREEMENT CONCERNING HIGHLY CONFIDENTIAL INFORMATION
IN DOCKETS UE-260005 and UG-260006
BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

I, _____, as

__ In-house counsel

__ In-house expert

__ Outside counsel

__ Outside expert

in this proceeding for _____ (a party to this proceeding) hereby declare under penalty of perjury under the laws of the State of Washington that the following are true and correct:

a. I have read and understand, and agree to be bound by, the terms of the Protective Order in this proceeding, including this Exhibit C of the Protective Order; and

b. If I am in-house or outside counsel, I further agree to be responsible for any violations of the Protective Order that result from the conduct of administrative staff I allow to have access to Highly Confidential Information.

_____ _____

Signature Date

_____

City/State where this Agreement was signed

_____

Employer

_____ _____

Position and Responsibilities Permanent Address

* * *

The following portion is to be completed by the responding party and filed with the Commission within 10 days of receipt. Failure to do so will constitute a waiver and the above-named person will be deemed a person having access to Highly Confidential Information under the terms and conditions of the protective order.

_____ No objection.

_____ Objection. The responding party objects to the above-named person having access to Highly Confidential Information. The objecting party shall file a motion with the Commission, supported by affidavit, setting forth the basis for objection and asking exclusion of the person from access to Highly Confidential Information.

_____ _____

Signature Date