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***Filed Via Web Portal***

Kathy Hunter, Acting Executive Director and Secretary  
Washington Utilities and Transportation Commission  
621 Woodland Square Loop SE  
Lacey, Washington 98503

**Re: Puget Sound Energy Response to Declaration of Robert L. Earle on behalf of Public Counsel in Docket UE-230313**

Dear Executive Director Hunter:

On April 29, 2023 Puget Sound Energy (“PSE”) filed its annual Power Cost Adjustment report for calendar year 2022 in Docket UE-230313 seeking, among other things, a Commission determination that PSE’s acquisition of two power purchase agreements, the Powerex Winter Peak PPAs, was prudent and allowing PSE recovery of the associated costs within the 2022 PCA deferral balance.

On November 14, 2023 Public Counsel filed the Declaration of Robert L. Earle stating that “*PSE acted imprudently with respect to the Powerex Winter Contract[s]*”<sup>1</sup> and recommending that a portion of the costs of those contracts be disallowed for recovery. Mr. Earle argues that PSE’s decision to enter the Powerex Winter Peak PPAs was imprudent because PSE did not establish a need for the resources and because PSE did not evaluate alternatives.

**PSE needs the capacity provided by the Powerex Winter Peak PPAs**

PSE did not obtain the capacity associated with the Powerex Winter Peak PPAs *for WRAP*. PSE obtained this capacity to cover a portion of its projected winter peak capacity deficit and ensure reliable power supply is available to meet winter demand. PSE’s need for capacity is independent of the WRAP or PSE’s participation in it. The WRAP does not create a capacity need – it simply provides increased visibility and a consistent framework for evaluating the capacity needs that exist with or without the WRAP.

Said differently, PSE would choose the same level of capacity product regardless of its participation in the WRAP. The WRAP does not create a special type of capacity need. If it did, it would create the counter-intuitive outcome that joining the WRAP would result in creating a need utilities would not have without joining the WRAP.

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<sup>1</sup> Declaration of Robert L. Earle paragraph 5

As explained in the testimony of Philip A. Haines,<sup>2</sup> the Powerex Winter Peak PPAs address a near-term capacity deficit, helping to ensure PSE can provide reliable electric service during the 2022/2023 and 2023/2024 winter months. At the time PSE made the decision to enter these agreements, its capacity need was estimated to be at the level documented in Exh. PAH-5C<sup>3</sup> and further supported in PSE's response to Public Counsel Informal Data Request No. 007.<sup>4</sup>

Arguments presented in the Declaration of Robert L. Earle do not dispute PSE's need for capacity or PSE's estimate of that need. Instead, Mr. Earle argues that PSE did not have a need for "capacity" as it is defined in the Powerex Winter Peak PPAs.

Capacity provided by these PPAs is capacity that conforms to standards developed for the Western Resource Adequacy Program ("WRAP"). PSE's identified capacity need was also determined according to standards functionally identical to those of the WRAP. This is not a coincidence. PSE has been an active participant in development of the WRAP planning standards. These standards reflect a pragmatic response to a tightening regional capacity position and broad consensus regarding the kind of resources that can be relied upon to meet an electric utility's capacity requirements. Key to the WRAP standards and PSE's own capacity planning objectives is a recognition that utilities cannot simply rely upon unidentified resources from the wholesale market to provide capacity. To ensure actual physical delivery of power during periods of peak demand, capacity must be obtained from specific identified resources. PSE explained this in its responses to Public Counsel Informal Data Request No. 014<sup>5</sup> and WUTC Staff Informal Data Request No. 034 which is included as Confidential Attachment A to this Response. Nonetheless, Mr. Earle contends that "*Because PSE has not determined whether it will join WRAP or not, it has not established that there is a need to obtain qualifying capacity for WRAP*"<sup>6</sup> showing that Mr. Earle misunderstands the capacity need for which the Powerex Winter Peak PPAs were procured.

PSE requests confidential treatment for Attachment A to this filing under RCW 80.04.095 and in accordance with WAC 480-07-160. The information labeled as confidential includes commercially sensitive data such as counter-party and confidential information which could expose PSE and its counterparties to competitive injury if disclosure is unrestricted. Therefore, PSE requests confidential treatment and has labeled such information as "Shaded Information is Designated as Confidential per WAC 480-07-160" as provided in RCW 80.04.095 and in accordance with WAC 480-07-160(2)(c).

### **PSE evaluated alternatives to the Powerex Winter Peak PPAs**

As explained in the testimony of Philip A. Haines,<sup>7</sup> PSE compared the Powerex Winter Peak PPAs to a combination of alternative resources and attributes that collectively could have provided benefits equivalent to those provided by the PPAs. This approach to the evaluation was necessary because the PPAs offer a unique package of attributes for which no single market price reference or directly comparable resource was available. The individual attributes of the PPAs

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<sup>2</sup> Exh. PAH-1CT Page 9, lines 10-15

<sup>3</sup> See the Background section on page 1 of the Exhibit.

<sup>4</sup> Response to part g.2. This response was included as Appendix C to Mr. Earle's Declaration.

<sup>5</sup> This response was included as Appendix D to Mr. Earle's Declaration.

<sup>6</sup> Declaration of Robert L. Earle paragraph 12

<sup>7</sup> Exh. PAH-1CT Page 10 line 7 through page 11 line 20

Kathy Hunter, Acting Executive Director and Secretary

November 20, 2023

Page 3 of 3

that PSE evaluated and the alternatives PSE considered for each attribute are further detailed in Exh. PAH-5C.

PSE's approach to evaluating alternatives and determining the value of the Powerex Winter Peak PPAs is not new. PSE relied on a similar methodology in its evaluation of alternatives for several other resource acquisition decisions including three new PPAs presented and approved in PSE's 2022 general rate case<sup>8</sup>. It is noteworthy that Public Counsel raised similar issues in the general rate case and ultimately elected not to pursue them in its litigation of the settlement.

### **Conclusion**

Based on the above, the Commission should not accept Mr. Earle's arguments and should reject their proposed disallowance in its entirety.

If you have any questions, please contact me at (425) 462-3471.

Sincerely,

*/s/ Philip Haines*

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cc: Donna Barnett, Perkins Coie  
Service List

Attachments:

Attachment A (Confidential)

Attachment A (Redacted)

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<sup>8</sup> Docket UE-220066. The Chelan Slice PPA and Wells Colville Slice PPA were discussed in the testimony of Zac C. Yanez, Exh. ZCY-1CT. The Powerex Summer Peak PPA was discussed in the testimony of Paul K. Wetherbee, Exh. PKW-1CT.