

HONORABLE SANDRA WIDLAN

**SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN THE COUNTY OF KING**

PUGET SOUND ENERGY, INC., Plaintiff,

NO. 21-2-14511-2 - SEA

vs.

DECLARATION OF RICHARD
LAUCKHART IN OPPOSITION TO
PSE MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION

CITY OF NEWCASTLE

and

RICHARD LAUCKHART,

Defendants.

Richard Lauckhart, under the laws of the State of Washington, declares as follows:

1. I am over 18 years of age and competent to testify as a witness in this matter.
2. I worked for over twenty years at Puget Sound Power & Light (PSP&L), the predecessor company to Puget Sound Energy (PSE). For five years I was the Vice President of Power Planning for PSP&L. Since then I have acted as consultant and expert witness on several major cases.
3. I am serving as an expert witness for attorney Larry Johnson in the current land use hearing on PSE's permit application for Energize Eastside. I previously testified in the 2019 Bellevue hearing on the CUP application for Energize Eastside on behalf of CSEE, a citizens group that subsequently merged with CENSE.

DECLARATION OF RICHARD LAUCKHART - 1

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- 1 4. My public records request which is the subject of this lawsuit was made by me on
2 September 23, 2021, in order that I can evaluate key evidence to prove or disprove project
3 need.¹ In no way would I use, or have reason to use, PSE CEII information to delve into
4 individual customers' energy usage as intimated by PSE in its Motion for Temporary
5 Restraining Order and Preliminary Injunction, p. 4, ll. 15-21.
- 6 5. PSE has taken extraordinary steps to try to prevent me from obtaining the CEII information
7 PSE provided to Newcastle's MaxETA/Synapse consultants in their performing what are
8 known as load flow studies for PSE's Energize Eastside project.
- 9 6. Such studies are computer simulations typically used to forecast potential electrical
10 reliability problems for up to ten years into the future. These predictions come from
11 computer models that require both known system data and assumed (predicted) inputs that
12 are educated guesses about the future.
- 13 **7. As more fully explained below, I already possess in fact the PSE CEII data that PSE in
14 its motion seeks to prevent me from obtaining. I have received PSE CEII data 33
15 times per FERC-approved nondisclosure agreements (NDA). PSE's motion is moot, a
16 wasted effort.**
- 17 8. What I do want to know and am entitled to find out after signing the FERC-approved
18 nondisclosure agreement (NDA) is *how* Newcastle's MaxETA/Synapse consultants applied
19 PSE CEII data in their load flow model(s). Certain results seem questionable to me and are
20 likely errors based on my extensive experience with load flow studies. I want to check their
21 homework.

21 ¹ My public records request, referenced by the City of Newcastle as "PRR 21-116 (Lauckhart)," is as
22 follows: "Documents requested — The City of Newcastle has developed a Staff Report on the PSE permit
23 request for the Energize Eastside transmission line. The Staff Report refers to and relies on certain Load
24 Flow studies performed by MaxETA and Synapse. For each such Load Flow study that the Staff Report
25 relies on please provide the following files: All files associated with each load flow run requested above.
26 These files would include at a minimum files having the following file names: 1. areatie.lst 2. buslist.lst 3.
flows.lst 4. owner.lst 5. summary.lst 6. .raw file If I need to sign an NDA to get this information, please
provide me a copy of the needed NDA ASAP. If you have any questions about this request, please contact
me at 916-769-6704."

1 9. In fact, in 2016, I did my own load flow studies for Energize Eastside with a colleague,
2 Roger Schiffman, using more current 2015 WECC CEII information than the outdated
3 2013 WECC-based load flow studies PSE gave to the Newcastle’s MaxETA/Synapse
4 consultants. The Lauckhart-Schiffman load flow studies prove that the Energize Eastside
5 project is not needed.²

6 10. PSE has refused my request for their load flow studies for Energize Eastside since 2014.
7 When I told PSE I had Federal Energy Regulatory Commission (FERC) CEII clearance and
8 would gladly sign an NDA, PSE still refused. They invoked an invented prerogative to
9 make their own independent CEII refusal, stating that I did not have enough security, that I
10 would need “armed guards at my house” in order to assure a terrorist could not break into
11 my house and get the CEII material they sent to me. I understand PSE gave similar absurd
12 refusals to Don Marsh, president of CENSE, even though he, too, had received CEII
13 clearance from FERC.

14 11. PSE’s persistent stonewalling since 2014 seemed very suspicious to me, especially when
15 the results of their 2013 load flow studies, and those done on PSE’s behalf by its consultant
16 Quanta, looked so obviously contrived and skewed. Only the underlying fundamental data
17 can reveal whether these studies were legitimate or flawed. “Garbage in = garbage out”. So
18 checking PSE’s homework on how it also used the CEII data — not the CEII data per se —
19 is another reason for my records request.

20 **How I obtained PSE CEII repeatedly and on different occasions**

21 12. On May 5, 2015 I made an FOIA request³ to FERC to get the 2014 Series of Base Cases
22 that WECC sent to FERC under FERC Form 715. Attachment A. These WECC Base

23 ² Even though it is my understanding that the Washington Public Records Act requires no reason need be given by
24 the requester for any record requested.

25 ³ PSE in its motion erroneously states that "FERC implemented regulations to protect CEII from
26 mandatory public disclosure, including exempting CEII from disclosure under the Freedom of
Information Act. See Treatment of Previously Pub. Docs., 97 FERC ¶ 61030, 61086 (Oct. 11, 2001)."

1 Cases contain a massive amount of detailed information on all generation facilities and all
2 transmission facilities in the Western Interconnect, which includes all of PSE's equipment.
3 PSE is embedded in and a part of the Western Interconnect. As such, whenever someone
4 gets a WECC Base Case the information on all PSE generation facilities and transmission
5 facilities are included in the Base Case. FERC considers these Base Cases to be CEII
6 material, so they follow the rules they developed under FERC Order 630 when asked for
Base Cases.

7 13. On June 5, 2015 FERC sent an email to utilities in the WECC (including George Marshall
8 of PSE) advising them of my request and telling them they have 5 days to provide
9 comment on my request and/or object to my receiving these WECC Base Cases which
10 FERC has designated as CEII material. Attachment B.

11 14. On June 30, 2015 FERC sent me a letter saying that only Pacific Gas & Electric objected to
12 my request. Attachment C. PSE did not object to my request for this CEII material. I was
13 advised that I would soon be receiving the requested WECC Base Cases which are CEII
material.

14 15. This FERC decision was based on the long-standing policy FERC developed in its Order
15 630 that energy consultants like myself need to have access to CEII material — as long as
16 we sign an NDA. Attachment D (first page of Order 630).

17 16. PSE knows of this Order 630 policy as a FERC-regulated utility. Indeed, PSE followed it
18 by providing Newcastle's MaxETA/Synapse consultants with PSE/Quanta's load flow
19

20
21 Pp. 3-4 of PSE's Motion for Temporary Restraining Order and Preliminary Injunction. FERC
22 subsequently issued its Order 630 to make it subject to FOIA requests again. FERC Order 630 came after
23 Oct 11, 2001. The New York terror attack came in Sept of 2001. At first, FERC immediately stopped
24 CEII disclosure on their FOIA obligation until they could have a rule making proceeding to develop a
25 more rational policy. That policy then came out in FERC Order 630 which clearly better defines what
26 CEII is, who determines it, who can get it, etc. PSE is quoting FERC language that FERC has since
changed. The immediate crisis of 911 called for drastic measures until a more reasoned approach could
be developed. If I had made my FOIA request in December of 2001, it would have been rejected. But my
first FOIA request for CEII material was in 2015 — which made it subject to the more reasoned Order
630 which now trumps the 2001 FERC Order.

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1 studies done in 2013 after those consultants had signed the FERC-approved NDA.⁴ Yet
2 nowhere does PSE explain in its Motion for Temporary Restraining Order and Preliminary
3 Injunction why I should be treated differently from MaxETA/Synapse. I stated in my
4 public records request of September 23, 2021, that I would of course sign the appropriate
5 NDA before receiving records I knew would contain CEII information.

6 17. On July 9, 2015, FERC sent me a DVD that included the 6 key input and output files for 13
7 different Base Cases that WECC developed in the year 2014. Those cases included
8 “solved” load flow Base cases for forecast years 2014 - 2024. These 6 input and output
9 files are of the very same type routinely associated with various load flow modeling
10 software applications which are specified and included in my public records request,
11 namely: 1. areatie.lst; 2. buslist.lst; 3. flows.lst; 4. owner.lst; 5. summary.lst, and 6. .raw.

12 18. Shortly after July 9, 2015, I requested that FERC send me the 2015 Series of Base cases
13 that WECC sent to FERC Under FERC Form 715. Attachment E. FERC relied on their
14 recent communications to utilities in WECC and provided me a DVD that included the 6
15 key input and output files for 8 different Base Cases developed in the year 2015. Those
16 cases included “solved” load Base cases for forecast years 2015-2020.

17 19. By the year 2018, WECC was providing their new Base Cases directly to me without my
18 having to make FOIA requests to FERC. I wanted more updated Base Cases, so I went
19 directly to WECC to request their new, more recent and more updated Base Cases. WECC
20 is well aware I am a power planning consultant and not a terrorist. WECC required me to
21 sign an NDA to get their 2018 Series of Base Cases. WECC allowed me to obtain the 6
22 key input and output files for 12 different Base Cases developed in the year 2018. On
23 February 16, 2021 WECC sent me a link where I could download the CEII material.

24 ⁴ "Certain individuals employed by MaxETA and Synapse completed the required protocols and executed
25 the required NDA to gain access to PSE's CEII. Subject to the NDA and the Consultants' continued
26 compliance with PSE's protocols, PSE furnished the Data Flow files to the Consultants for their use in
conducting an independent analysis of the project need." Pages 5-6, Puget Sound Energy's Motion for
Temporary Restraining Order and Preliminary Injunction.

1 Attachment F. Those cases included “solved” load Base cases for forecast years 2018-
2 2028.

3 20. Between the two sets CEII Base Case files that I received from FERC in 2014 and 2015
4 and the CEII Base Case files I received from WECC in 2019, I now have a total of 33 CEII
5 Base Cases, which as noted, all contain all of PSE’s CEII. Whatever Newcastle’s
6 MaxETA/Synapse consultants did with that CEII data neither added to nor subtracted from
7 PSE’s CEII data given to those consultants.

8 21. In a series of emails in the year 2018 and 2019, Jorge Camacho (working under the
9 MaxETA umbrella) advised PSE that he needed the input and output files for the load flow
10 studies that PSE/Quanta used to determine there was a need for EE. Attachment G. Rather
11 than getting more recent data by getting more recent WECC Base Cases, Jorge Camacho
12 decided to start with the 2013 PSE/Quanta load flow input and output files and then update
13 certain of the input data to provide his view of the current need for Energize Eastside. Id.

14 22. In Feb of 2019, PSE advised Jorge Camacho that he was requesting CEII data, therefore he
15 needed to sign an NDA to get the input and output files that PSE/Quanta used in their load
16 flow studies in the year 2013. Id. Just like I did to get the WECC Bases Case CEII
17 material, Jorge signed an NDA to get the PSE CEII data. Id.

18 23. When I made my public records request to Newcastle for the input and output files of load
19 flow studies that influenced the Newcastle’s staff report for use in the current land use
20 hearing on PSE’s permit application for Energize Eastside, I had assumed that
21 MaxETA/Synapse would have started with updated WECC Base Cases from WECC to do
22 their work, just as Schiffman and I did. I have subsequently learned that MaxETA/Synapse
23 did not get recent Base Cases from WECC. Instead, they got the input and output files
24 from the load flow studies that PSE/Quanta ran in 2013. Id.

25 24. Knowing that some of the input data used in 2013 was very much out of date,
26 MaxETA/Synapse made a number of changes to the input files and developed several
different load flow studies. I have a need to understand what changes they made to the
input files PSE/Quanta used in their 2013 load flow studies and how the resulting input and

1 output files from their several load flow runs differ from the PSE/Quanta 2013 model runs,
2 and also how they differ from recent WECC Base Case model runs.

3 25. I detect that major flaws exist in the PSE/Quanta 2013 input data. I also need to be able to
4 perform a similar “data autopsy” to confirm (or refute) my suspicions that major flaws also
5 exist in the MaxETA/Synapse’s load flow studies. Some conclusions that
6 MaxETA/Synapse come to regarding a supposed vulnerability in the Bulk Electric System
7 during a summer scenario simply do not comport with reality.

8 26. Educated “what if” scenarios modeled from CEII data in Base Case load flow studies do
9 not per se constitute new CEII material. But even if they arguably do create separate CEII
10 material, my signing the FERC-approved NDA will cover all CEII as defined by FERC.

11 DATED this 14th day of November, 2021.

12 

13

14 Richard Lauckhart