

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

PUGET SOUND ENERGY

For Interpretive and Policy Statement

DOCKET U-250322

ORDER 01

ORDER DENYING PETITION FOR
INTERPRETIVE AND POLICY
STATEMENT

BACKGROUND

- 1 On May 10, 2024, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) to engage in Commission rulemaking to implement ESHB 1589 (Chapter 351, Laws of 2024) (Decarbonization Act) codified as chapter 80.86 RCW. The Commission filed the CR-101 in Docket U-240281.
- 2 Following the filing of the CR-101, the Commission has issued several Notices of Opportunity to File Comments on discussion draft rules and held three separate technical conferences related to the rulemaking.
- 3 On February 27, 2025, the Commission issued a Notice of Amended CR-101, indicating that additional portions of the Washington Administrative Code (WAC) may also be revised to provide clarity as to which plans are consolidated into an integrated system plan, and therefore do not need to be filed separately, and to maintain flexibility in the rulemaking. Since filing the Notice of Amended CR-101, the Commission has issued two additional Notices of Opportunity to Comment related to draft rules for discussion.
- 4 On May 5, 2025, Puget Sound Energy (PSE or Company) filed a Petition for Interpretive and Policy Statement (Petition) with the Commission in Docket U-250322. In its Petition, PSE states that during the rulemaking in Docket U-240281, it learned that other participants had different interpretations of the Decarbonization Act.¹ PSE argues that the Decarbonization Act is a planning statute that does not establish or implement emissions reduction targets or authorize the Commission to require utilities to establish or

¹ PSE Petition at 2 ¶ 3.

implement emissions reduction targets.² PSE further asserts that the Decarbonization Act does not grant the Commission the authority to enforce compliance with emissions reductions targets, and that “the Commission lacks authority to create its own enforcement authority by rule.”³ PSE maintains that the Commission’s questions and draft rules issued for comment in Docket U-240281 demonstrate a substantial uncertainty regarding the interpretation of “emissions reduction target” as defined by RCW 80.86.020(14) that warrants clarification through an interpretive and policy statement before final rules are adopted.⁴

- 5 On May 27, 2025, Commission Staff (Staff) filed a Response to PSE’s Petition. Staff argues that PSE’s attempt to accelerate the Commission’s consideration of the statutory interpretation question raised by PSE in Docket U-240281 is inappropriate, because the Commission can resolve this question in the context of the ongoing rulemaking.⁵ Staff further contends that resolving the statutory interpretation question in the rulemaking is preferable to resolution through an interpretive and policy statement because such a statement is advisory only, is not binding on the agency, and has no legal or regulatory effect.⁶ Staff asserts that allowing the Petition to proceed would be contrary to judicial economy because the issue would be presented in two separate dockets simultaneously and improperly shorten the Commission’s deliberative process contrary to the public interest.⁷ Staff recommends that the Commission deny PSE’s Petition.
- 6 Alternatively, Staff suggests that the Commission could consolidate PSE’s Petition with Docket U-240281, convert the Petition into a rulemaking, and rule on the Petition as part of the order adopting rules.⁸ This alternative would effectively deny PSE’s request that the Commission resolve the question of statutory interpretation prior to adopting rules.⁹ Staff further states that the Commission could issue a policy and interpretive statement

² PSE Petition at 4 ¶ 6.

³ PSE Petition at 5-6 ¶¶ 9-10.

⁴ PSE Petition 7 ¶ 11.

⁵ Staff Response to Petition for Interpretive and Policy Statement (Staff Response) at 2-3 ¶¶ 6-7.

⁶ Staff Response at 3 ¶ 7.

⁷ Staff Response at 4 ¶¶ 9-10.

⁸ Staff Response at 2 ¶ 5.

⁹ Staff Response at 2 ¶ 5.

after the rulemaking has concluded if the Commission requires additional time to resolve the issue, but notes that the statement would still lack binding legal effect.¹⁰

- 7 Also on May 27, 2025, Public Counsel filed a Response to PSE’s Petition. Public Counsel argues that PSE’s disagreement with other interested parties’ interpretations of the Decarbonization Act is an insufficient basis to request an interpretive and policy statement without sufficient notice to the interested parties in the related rulemaking docket.¹¹ Public Counsel asserts that PSE’s Petition is effectively a petition for a declaratory order pursuant to WAC 480-07-930, and that PSE has failed to demonstrate an actual case or controversy as opposed to an apparent one.¹² Public Counsel further contends that the existing rulemaking in Docket U-240281 is an adequate forum to resolve any issues of statutory interpretation regarding the Decarbonization Act, and that PSE should not be allowed to circumvent that process through a petition for an interpretive and policy statement.¹³ Public Counsel recommends that the Commission either deny PSE’s Petition, or consolidate the Petition with Docket U-240281.¹⁴ Finally, Public Counsel argues that PSE’s interpretation of the Decarbonization Act reflected in its Petition is incorrect.¹⁵

DISCUSSION

- 8 WAC 480-07-920(1) provides:

Upon the petition of any person, or upon its own initiative, the commission may make and issue interpretive and policy statements to advise the public of the commission's current opinions, approaches, and likely courses of action. Interpretive and policy statements are advisory only and are not binding on the commission or any person.

- 9 The Commission declines to grant PSE’s Petition. As an initial matter, the Commission notes that interpretive and policy statements are advisory only and not binding on the Commission or any person. To the extent that PSE seeks certainty regarding an issue of statutory interpretation, an interpretive and policy statement is a poor mechanism to

¹⁰ Staff Response at 2 ¶ 5.

¹¹ Public Counsel Response to PSE’s Petition (Public Counsel Response) at 2 ¶ 5.

¹² Public Counsel Response at 2-3 ¶ 6.

¹³ Public Counsel Response at 3 ¶ 7.

¹⁴ Public Counsel Response at 3 ¶ 7.

¹⁵ Public Counsel Response at 3-5 ¶¶ 8-11.

achieve that certainty because such a statement is, by law, nonbinding. Furthermore, PSE does not claim that it is unable to make any of the arguments advanced in its Petition in the context of the rulemaking in Docket U-240281. Rather, PSE states that “[i]n comments filed in Docket U-240281, PSE addressed this issue multiple times and proposed amendments to the draft rules,” suggesting that the rulemaking provides a reasonable forum to resolve the statutory interpretation issue.¹⁶ Furthermore, unlike an interpretive and policy statement, the rulemaking will result in a binding interpretation of the Decarbonization Act that will provide the certainty PSE seeks through its Petition.

10 Additionally, considerations of administrative efficiency and timing support denying PSE’s Petition. As noted above, the rulemaking in Docket U-240281 has been ongoing for more than a year, with multiple rounds of comments and technical conferences including robust participation from many interested parties. PSE has not identified any compelling reasons to duplicate that process and expend additional time and administrative resources to resolve a question that will be resolved in due course as part of the rulemaking. Moreover, even if the Commission was inclined to initiate a proceeding to develop an interpretive and policy statement regarding the question of statutory interpretation posed by PSE, there is no guarantee that the process would be concluded prior to the statutory deadline to publicly clarify rules regarding the Decarbonization Act.¹⁷ Consequently, given the considerations regarding certainty, timing, and efficient use of administrative resources, the Commission denies PSE’s Petition.

¹⁶ PSE Petition at 8-9 ¶ 14.

¹⁷ RCW 80.86.020(2)(a).

ORDER

- 11 The Commission denies Puget Sound Energy's Petition for an Interpretive and Policy Statement regarding statutory interpretation of the Decarbonization Act.

DATED at Lacey, Washington June 12, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



BRIAN J. RYBARIK, Commission Chair



ANNE RENDAHL, Commissioner



MILT DOUMIT, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.