

**MUTUAL PROTECTIVE/NON-DISCLOSURE AGREEMENT**

This Mutual Protective/Non-Disclosure Agreement (“Agreement”) is entered into between \_\_\_\_\_, a Washington corporation (“\_\_\_\_\_”) and \_\_\_\_\_, (“\_\_\_\_\_”), individually a “Party” and collectively, the “Parties.”

**Background and Purpose:** \_\_\_\_\_ and the Company mutually desire to discuss and investigate \_\_\_\_\_ Docket UE-\_\_\_\_\_. During the course of related discussions and investigations, each Party will disclose certain proprietary information, the confidentiality of which is critical to each Party’s business. The Parties are entering into this Agreement to ensure that disclosure of such information will not cause a breach in confidentiality.

**Therefore, the Parties agree as follows:**

**1. Confidential Information.**

1.1. The term “Confidential Information” may mean information of a business or technical nature, including customer lists and information on current and past pricing or purchasing practices with respect to energy purchases relating to either party and information concerning energy supply contracts, information on the energy requirements and operations of \_\_\_\_\_’s facilities, and other information, data, formulas, processes, proposals, and plans that may be related to a review of \_\_\_\_\_’s current or proposed energy management practices. The term Confidential Information may include any information that is or could be considered confidential under the statutes, regulations, and practices of the Washington Utilities and Transportation Commission. All Confidential Information will be marked by \_\_\_\_\_ as follows: "Confidential Per WAC 480-07-160".

1.2. Confidential Information does not include any information that: (i) is or subsequently becomes publicly available without the receiving Party’s breach of any obligation owed to the disclosing Party; (ii) became known to the receiving Party prior to the disclosing Party’s disclosure of such information to the receiving Party; (iii) became known to the receiving Party from a source other than the disclosing Party and other than by the known breach of an obligation of confidentiality owed to the disclosing Party; or (iv) is independently developed by the receiving Party without use of the disclosing Party’s information.

**2. Restrictions.**

2.1. Neither Party shall disclose any of the other Party’s Confidential Information to third parties. The term “third parties” does not include parties to Docket UX-\_\_\_\_\_ who are bound by a similar Confidentiality Agreement or protective order issued by the Washington Utilities and Transportation Commission in this docket. Neither Party may use the Confidential Information except for the purpose of \_\_\_\_\_ in Docket UX-\_\_\_\_\_. Confidential Information may be disclosed as required by judicial or other governmental agency order, provided the receiving Party gives the disclosing Party reasonable notice prior to such disclosure, and provides reasonable assistance to the disclosing party in protecting the confidentiality of the information required to be disclosed and complies with any applicable protective order or equivalent.

2.2. The receiving Party shall take reasonable security precautions (at least as great as the precautions it takes to protect its own confidential information) to keep the Confidential Information secure. The receiving Party may disclose Confidential Information to its employees, agents or consultants only on a need-to-know basis, provided the receiving Party has executed appropriate written agreements with its employees, agents and consultants sufficient to enable the receiving Party to comply with all of the provisions of this Agreement.

2.3. The term of this Agreement will be two years from the date of execution, unless terminated earlier by either Party with 30 days’ prior written notice. All obligations and remedies with respect to Confidential Information shared under this Agreement will survive the termination of this Agreement and continue until the Confidential Information until it is no longer considered confidential by the disclosing Party.

**3. Rights and Remedies.**

3.1. All Confidential Information provided by the disclosing Party to the other Party is and will remain the property of the disclosing Party. Neither Party grants any express or implied right to any of its patent, copyright, trademark, or trade secret information to the other Party.

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3.2. The receiving Party shall notify the disclosing Party immediately upon discovery of any unauthorized use or disclosure of Confidential Information, or any other breach of this Agreement by the receiving Party, and will cooperate with the disclosing Party in every reasonable way to help the disclosing Party regain possession of the Confidential Information and prevent such Information's further unauthorized use.

3.3. The receiving Party shall return all originals, copies, reproductions and summaries of Confidential Information provided in tangible media at the disclosing Party's request and, to the extent practicable, delete any Confidential Information residing on the receiving Party's electronic storage media. The receiving Party may, in lieu of returning all originals, copies, reproductions and summaries of Confidential Information, provide written verification that the Confidential Information has been destroyed. To the extent that any such electronically stored Confidential Information cannot be purged by the receiving Party, such material will be subject to the non-disclosure obligations set forth in this Agreement.

3.4. The Parties acknowledge that monetary damages may not be a sufficient remedy for unauthorized disclosure of Confidential Information or Confidential Material by a receiving Party and that the non-breaching Party shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction.

#### 4. Other Provisions

4.1. This Agreement will inure to the benefit of and be binding upon the Parties, their successors and assigns.

4.2. If either Party employs attorneys to enforce any rights arising out of or relating to this Agreement, each party will bear its own reasonable attorneys' fees. This Agreement will be construed and controlled by the laws of the State of Washington, and both Parties consent to the jurisdiction of the state and federal courts sitting in the State of Washington.

4.3. This Agreement constitutes the entire agreement between the Parties with respect to its subject matter. This Agreement may be amended or modified only by written agreement between the Parties. No waiver of any breach or default under this Agreement will be considered valid unless such waiver is in writing and signed by the Party consenting to such waiver; provided, however, that no waiver will be deemed a waiver of any subsequent breach or default of the same or similar nature. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect.

**This Agreement has been signed by each Party's authorized representative and is effective as of the last date of signature below.**

Utility

Company #1

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)