

**EXH. DRK-28
DOCKETS UE-220066/UG-220067 et al.
2022 PSE GENERAL RATE CASE
WITNESS: DAN'L R. KOCH**

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

**Docket UE-220066
Docket UG-220067**

In the Matter of the Petition of

PUGET SOUND ENERGY

**For an Order Authorizing Deferred
Accounting Treatment for Puget Sound
Energy's Share of Costs Associated
with the Tacoma LNG Facility**

Docket UG-210918

**SECOND EXHIBIT (NONCONFIDENTIAL) TO THE PREFILED
TESTIMONY OF**

DAN'L R. KOCH

**ON BEHALF OF PUGET SOUND ENERGY IN SUPPORT OF THE
MULTIPARTY SETTLEMENT STIPULATION AND AGREEMENT ON
REVENUE REQUIREMENT AND ALL OTHER ISSUES EXCEPT
TACOMA LNG AND PSE'S GREEN DIRECT PROGRAM**

AUGUST 26, 2022

THE CITY OF NEWCASTLE HEARINGS EXAMINER

IN THE MATTER OF)
)
Energize Eastside Transmission Line Project)
APPLICANT: Puget Sound Energy) FINDINGS OF FACT, CONCLUSIONS OF
) LAW, DECISION AND CONDITIONS OF
Type III Conditional Use Permit – (CUP 17-) APPROVAL
002),)
Type II Site Plan (SITE 18-001))
)
_____)

THIS MATTER, having come on before the City of Newcastle Hearing Examiner on January 11, 14, 28, 31, and February 1, 2022. The Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. This Decision is based upon an application submitted by Puget Sound Energy for a conditional use permit and approval of a Site Plan.
2. The Applicant is Puget Sound Energy, P.O. Box 98034, EST-03W, Bellevue, WA 98009-9734.
3. The Applicant’s contact is Bradley Strauch, Puget Sound Energy.
4. The Applicant requests approval of conditional use permit to replace existing 115kV transmission lines with 230 kV transmission lines and approval of the related site plan.
5. The site location is the 1.5-mile stretch of PSE’s easement between Newcastle Way and SE 95th Way (shared with Olympic Pipeline easements in Newcastle, WA).
6. The Hearing Examiner has no authority to set policy or make long-term planning decisions for the City or for a utility. The Hearing Examiner’s role is limited by Newcastle’s code, which requires him to make Findings of Fact and to apply them to the adopted laws, rules, and regulations applicable to the specific permits being sought. The Hearing Examiner has no authority to ignore those laws or to make new laws.
7. Under NMC 18.44.050, the Hearing Examiner shall grant a conditional use permit if the applicant has proven that the proposal complies with the applicable decision criteria.
8. The application dates are as follows:
 - 8.1 November 9, 2017: Application submitted
 - 8.2 January 19, 2018: Date complete application filed.
 - 8.3 February 2, 2018: Application deemed complete

- 8.4 February 16, 2018: Notice of Application Posted.
- 8.5 March 19, 2018: Comment period deadline (5:00 p.m.)
9. The Comprehensive Plan varies along the corridor– DT (Downtown Transition); R-06 & R-04 (Residential); LOS (Limited Open Space).
10. The zoning designation throughout the site varies along the corridor: DT Downtown Transition; R-6 – Residential; R-4 – Residential; LOS – Limited Open Space.
11. The applicable review provisions are Chapter 17.15 – General Principles of Acceptability, Section 18.06.079 Building Height, Section 18.12.130 – Setbacks from Regional Utility Corridors, Chapter 18.24 – Critical Areas, Section 18.44.050 – Conditional Use Permits, Section 18.44.052 – Regional Utility Facilities, Section 18.44.040 – Residential Zones – Densities and Dimensions. (Maximum height), Section 18.12.040 – Commercial and Mixed Use Zones – Densities and Dimensions. (Maximum Height), Section 18.12.130 – Setbacks from Regional Utility Corridors, Title 19 – Administrative Procedures.
12. Environmental Determination: A Final EIS was issued in March of 2018. This FEIS was appealed. As a result of the appeal, the FEIS was affirmed and that decision was not appealed.
13. PSE has existing 115kV transmission lines within a 100-foot wide utility easement owned by PSE. Within the PSE easement is a collection of sub-easements Olympic Pipeline Company (“Olympic” or “OPL”) acquired in the 1960’s, wherein Olympic has placed 16 and 20-inch underground petroleum pipelines. The OPL sub-easements vary in width throughout the corridor but are generally about 50-feet in width. The PSE and OPL easements are collectively defined as a utility corridor per NMC 18.06.687.
14. The transmission line corridor predates the incorporation of Newcastle in 1994 and has been in operation since the late 1920s and 1930s. The existing PSE transmission lines were placed in the transmission line corridor in the 1960s and have not been upgraded since then. The development of the current adjacent uses to the corridor occurred over time, as areas were annexed into the city. The utility corridor is an underlying and recorded property interest which defined, and was integral to, the character of properties and development proximate to the subject property, which have accommodated high voltage transmission lines since original construction on said adjacent properties. Therefore, the visual appearance of the transmission lines and poles is not unusual for this area. In fact, the existence of transmission poles and lines are common, not only in Newcastle, but throughout the entire Energize Eastside service area.
15. As part of its system planning process underlying this project proposal, PSE concluded that the existing transmission system could place Eastside customers and/or the regional power grid at risk of power outages or system damage during peak power events that typically occur in cold or hot weather as early as the summer of 2019. In its application materials, PSE submitted needs assessments that corroborated that PSE is facing a transmission capacity deficiency in the area due to undersized facilities. Accordingly, PSE developed objectives for upgrading its current system to meet projected demand, and through a scoping process, helped to define alternatives for a project that would attain or approximate PSE’s upgrade objectives, as required by the State Environmental Policy Act (SEPA).
16. SEPA was addressed under an Environmental Impact Statement (EIS), which was developed under the direction of the City of Bellevue, assisted by consulting firms referred to as the EIS Consultant Team. Bellevue worked with partner cities of Kirkland, Newcastle, Redmond, and Renton, with Bellevue acting as Lead Agency under SEPA. Kirkland, Newcastle, Redmond, and Renton acted as Co-Lead Agencies.

- 72.10.5.6 Based upon its analysis, Synapse concluded that an operational need exists that requires the location or expansion at the proposed site.
- 72.10.5.7 The Hearing Examiner finds that Synapse performed a complete analysis and made solid findings to support its conclusion as to the operational need for the Project.
- 72.10.5.8 Project need has been assessed through PSE's NERC-mandated and audited annual transmission system reliability assessments. PSE presented witnesses who have the professional training, education, and contemporary experience to conduct complex planning assessments using immense amounts of data necessary to model and analyze all components of PSE's unique bulk electric system. As Mr. Nedrud and Ms. Koch explained, PSE has a five-person Transmission Planning Group that performs a transmission system reliability assessment, known as a TPL, every year. It takes Mr. Nedrud's group approximately four months to complete PSE's annual TPL assessments. WECC audits PSE's TPLs regularly, and PSE has passed every audit. PSE's history of successful audits is substantial evidence that PSE's TPLs are fully compliant with NERC standards and that PSE is correct in its need assessment. Additionally, significant bulk electric system issues that affect adjacent transmission providers such as Seattle City Light and Bonneville Power Administration are shared and discussed with those utilities, and PSE shares its annual TPLs with neighboring utilities. Nedrud, Jan. 11, 2022 Tr. Vol. A; Nedrud, Jan. 31, 2022 Tr. Vol. A; Testimony of Cathy Koch ("C. Koch"), Jan. 11, 2022 Tr. Vol. A. Substantial evidence supports the accuracy and completeness of PSE's TPLs, and the project opponents did not present credible or substantial evidence challenging the TPLs.
- 72.10.5.9 At hearing, Mr. Nedrud testified that PSE's most recent TPL, completed on December 31, 2022, less than two weeks before the start of the hearing, confirmed that PSE still has a transmission deficiency on the Eastside that will be solved by the Project. Nedrud, Jan. 11, 2022 Tr. Vol. A.
- 72.10.5.10 The need for this Project has also been the subject of extensive study, as documented and supported by the following consultant studies: Exponent (City of Bellevue consultant), Electric Reliability Study (2012); Quanta, Eastside Needs Assessment Report (2013); Quanta, Supplemental Eastside Needs Assessment Report (2015); Utility System Efficiencies, Inc. (Bellevue consultant), Independent Technical Analysis (2015); Stantec Consulting (Partner Cities' EIS consultant), Review Memo of Project Need (2015); and MaxETA/Synapse, Assessment of Proposed Energize Eastside Project (2020). Exs. N-1-1A, Appendix A, Attachment D and Appendix C (CUP Application and supporting documents); N-1-9; N-3; N-4; N-5 (MaxETA/Synapse Report and supporting declarations); A-31 (Nedrud Letter re: Reliability, Sep. 22, 2020).
- 72.10.5.11 The Quanta reports projected that PSE's transmission system would exceed reliability thresholds and fail to satisfy federal reliability standards on winter peak demand days in the winter of 2017-2018 and on summer peak demand days in the summer of 2018. Actual system performance bore out Quanta's predictions a year earlier than expected. Mr. Nedrud and Mr. Koch both

testified that the system exceeded the summer peak reliability thresholds in 2017, and those thresholds have been exceeded three more times since 2017. PSE's transmission system has exceeded the ability to perform in accordance with federal NERC reliability standards four of the last five summers. Nedrud, Jan. 11, 2022 Tr. Vol. A; Testimony of Dan Koch ("D. Koch"), Jan. 11, 2022. Tr. Vol. A.

- 72.10.5.12 Most recently, the City's independent consultants, MaxETA and Synapse, concluded the current summer electric peak demand in King County has already triggered an operational need for the proposed transmission expansion. This study confirms the need for the Project based on recent data obtained from PSE. The consultants concluded, "PSE has adequately conducted transmission planning that seeks to prevent a facilities outage from becoming a customer interruption"; "PSE has demonstrated that the proposed transmission upgrades are needed to safeguard the operational reliability of the electric system as a whole"; and "Our review of historical summer peak loads and the capacity thresholds in King County provided by PSE shows that there is a summer transmission capacity deficiency in King County under N-1-1 contingencies even at today's peak load level." Ex. N-1-9 at 3-4.
- 72.10.5.13 The Staff Report also found that this criterion has been met, finding that "under several contingencies certain facilities of the bulk electric system serving Newcastle will overload. . . . Newcastle will experience electric supply reliability issues if the bulk electric system is not secured." Staff Report at 70, 77.
- 72.10.5.14 No credible evidence was presented refuting the operational need for the Project. Project opponents did not produce a transmission planning engineer with the education, training, contemporary knowledge about or experience in preparing NERC-compliant and -mandated TPLs necessary to competently testify as an expert regarding the determination of a transmission deficiency on the Eastside, including Newcastle, that forms the basis of need for this Project.
- 72.10.5.15 The evidence presented by the Project opponents' expert witnesses was flawed, inaccurate, and not credible. By way of illustration but not limitation, Mr. Lauckhart acknowledged that the most recent analysis he did of PSE's work was in 2016 based on 2013 data, and Mr. Nedrud credibly testified that Mr. Lauckhart's analysis violates NERC requirements. Lauckhart, Jan. 14, 2022 Tr. Nedrud, Jan. 11, 2022 Tr. Vol. A. Mr. McCullough did not prepare his own transmission planning assessment, and his criticisms of PSE's forecasting did not refute that PSE's system has exceeded its summer peak capacity a year earlier than forecasted and has exceeded that level in four of the past five summers since 2017. McCullough, Jan. 28, 2022 Tr. Similarly, Mr. Johnson testified that he did not prepare his own transmission planning assessment to independently verify need for the Project and his testimony regarding non-transmission alternatives to address the need has no application to the code criterion that requires demonstration of need in the first instance. Johnson, Jan. 14, 2022 Tr.

- 72.10.5.16 Project opponents have suggested that because MaxETA/Synapse made revisions between the draft and final versions of their report, the report is unreliable and reflects undue influence by PSE. These claims are unsupported and are refuted by substantial evidence. The report's primary authors testified that the final report reflected their independent analysis and conclusions. Exs. N-3, N-4, N-5. Mr. Osguthorpe and Mr. Nedrud credibly testified regarding the purely technical and appropriate nature of PSE's interactions with the City's consultants. Osguthorpe, Nedrud, Jan. 11 2022 Tr. Vol. A. The mere fact that the project applicant discussed and provided input to the City's consultants, or that the consultants revised their draft report, is not evidence of impropriety. The development review process routinely includes such iterative exchanges between City staff and project applicants. The MaxETA/Synapse report is credible and reliable evidence of operational need.
- 72.10.5.17 Contentions that the NMC code should be applied with a singular focus on Newcastle disregards facts demonstrating the regionally interconnected nature of PSE's transmission facility in Newcastle and the law insofar as NMC 18.44.052 recognizes that it applies to regional facilities. The code's plain language calls for an analysis that is not limited to the City's borders, which is appropriate when considering a regional utility facility. Implicit in NMC 18.44.052 (Utility Facilities – Regional) is the recognition that the Project serve customers beyond Newcastle alone. See, e.g., NMC 18.44.052.A.3 (assessment of needs “from customers located within the city or service area), -C.6 (demonstration of “reliability of the system as a whole”) (emphases added).
- 72.10.5.18 Within the context of the existing transmission facility's regional nature, the City conducted an analysis of need for a transmission upgrade appropriately tailored to Newcastle. The City found that PSE appropriately considered the proposed site as well as alternative sites and technologies in the ASA and the FEIS, and the City found an operational need in Newcastle based on the likelihood of Newcastle experiencing electric supply reliability issues. Staff Report at 68-72. MaxETA/Synapse report supports the City's finding, concluding,
- 72.10.5.19 Not securing the bulk electric system to operate reliably over a broad spectrum of system conditions and following a wide range of probable contingencies could affect the electric supply reliability in Newcastle. This peer review verified that under specific contingencies (N-1-1 and N-2) the as-is bulk electric system serving Newcastle is already susceptible and operationally reliant in the implementation of Corrective Action Plans (CAPs). This means that PSE's application has met the threshold for approval described in Newcastle City Code C-5 under NMC 18.44.052 Utility facilities – Regional[.]
- 72.10.5.20 The Hearing Examiner finds that NMC 18.49.052(C)(5) applies to the need for the regional utility throughout the region served by the regional utility.
- 72.10.5.21 The Hearing Examiner finds that substantial evidence in the record, including the application materials, the exhibits entered into the record and the

91. The Hearing Examiner was particularly impressed with the rebuttal testimony of Wolfgang Fieltsch, both on direct and on cross-examination. Mr. Fieltsch's opinions, based upon his education, training and experience, were thoughtful, compelling, and supported by facts submitted throughout the hearing.
92. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction to consider and decide all issues presented by the applications.
2. The Hearing Examiner's Findings of Fact are based upon the Hearing Examiner's review of the entire record.
3. All Findings of Fact are based upon substantial evidence admitted into the record at the open record public hearing.
4. Land used decisions may not be based solely upon community displeasure and community displeasure cannot be the basis of a permit denial.
5. Land use decisions must take into account potential mitigation measures and project changes an applicant offers to address concerns raised.
6. The Hearing Examiner followed the Newcastle Rules of Procedure in the conduct of the open record public hearing and admission of evidence.
7. The record includes credible, substantial, and un rebutted evidence that the Applicant's applications fulfill the application submittal requirements set forth in NMC 18.44.052(A) and (B).
8. As set forth above, the record includes credible, un rebutted and substantial proof that, as conditioned, the conditional use permit application satisfies all applicable decision criteria specified within NMC 18.44.050.
9. As set forth above, the record includes credible, un rebutted and substantial proof that, as conditioned, the conditional use permit application satisfies all applicable decision criteria specified within NMC 18.44.052.
10. NMC 18.44.052 relates to regional utility facilities, and all the criteria set forth in 18.44.052 are properly analyzed in light of the needs of the entire region served by the regional utility facility.
11. As conditioned, the Applicant's project is consistent with the Newcastle Comprehensive Plan.
12. As conditioned, the application is consistent with the requirements for Critical Area review and Site Plan review. Those applications are to be approved.
13. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated as such by this reference.

III. DECISION

Based upon the above Findings of Facts and Conclusions of Law, Conditional Use Permit No. 17.002, Critical Areas Review No. 17.013 and Site Plan Review No. 18-001 is **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All conditions imposed by this decision shall be binding on the applicant, which includes the owner or owners of the properties, heirs, assigns, and successors.

1. Notification to Olympic Pipeline Company: Prior to commencement of clearing, grading or construction, PSE shall notify Olympic Pipeline Company (OPL or Olympic) of the permit approval, and provide a copy of said notice to Newcastle. (Per RCW 19.22.033(4)).
2. Coordinate Construction Activities with Olympic Pipeline Company (OPL or Olympic), and Third-Party Reviewer:
 - 2.1 PSE shall optimize conductor geometry to the extent feasible and consistent with engineer recommendations, where the Olympic pipelines are collocated with the upgraded transmission line.
 - 2.2 PSE shall perform an AC interference Study incorporating the final transmission route, configuration, and operating parameters to confirm that current densities will remain within acceptable levels. PSE shall provide Olympic with the Study and provide the City of Newcastle with documentation establishing that the Study was performed and submitted to Olympic.
 - 2.3 PSE shall fully assess the safety and coating stress risks for phase-to-ground faults at transmission line poles along the entire area of co-location, including both inductive and resistive coupling.
 - 2.4 PSE shall assess the safety and AC corrosion risks under steady-state operating conditions on the powerline.
 - 2.5 PSE shall reassess the safe separation distance between the transmission line and Olympic's pipeline at each pole location to minimize arcing risk based on NACE SP0177- 2014 and considering the findings in CEA 239T817.
 - 2.6 PSE shall specify appropriate distances for pole grounds from the pipeline to reduce, to the maximum extent feasible, electrical arcing as recommended by the engineer. PSE shall field verify the distance between the pipelines and transmission line pole grounds.
 - 2.7 PSE will coordinate with a third-party engineer, hired by the City, to receive appropriate credentials to review the information where legally permitted. The third-party engineer will review all documentation to evidence the above, and certify to the City whether compliance with these conditions have been met. PSE shall be responsible for all costs relating to the third-party engineer's review required under these conditions of approval.
3. OPL Confirmation of Final System Design: Prior to Engineering Review Permit issuance, the final system design shall be submitted to and reviewed by OPL. PSE shall certify to the City that OPL has received the final system design.
4. Mitigation Installed prior to System Being Energized. All mitigation proposed and approved for the transmission line project that pertains to pipeline and/or human safety shall be installed before the transmission lines are energized.
5. Site Plan Review Compliance: System design mitigation undertaken by PSE that entails installation or relocation of features meeting the definition of "development" in NMC 17.10.165, or meeting the definition of "structure" in NMC 18.06.640, and which have not been specifically identified and located on the site plan submitted with this application, shall be subject to the Site Plan Review provisions of Chapter 17.35 NMC. Where PSE has proposed such a "development" or "structure", this will entail submittal of a new Site Plan application to which the mitigation features pertain.
6. Engineering Review Permit (ERP): Prior to commencement of clearing, grading and construction activities, the applicant shall submit a complete application for ERP, which shall include the following details:

- 6.1 An updated Technical Information Report showing compliant storm drainage design and analysis per the requirements of a targeted drainage review as specified in the 2016 King County Surface Water Design Manual, NMC 13.10, PWS Section 5 & PWS details SW-1 through SW-21 (as applicable).
 - 6.2 A final system design for stormwater management, including details for any necessary vaults, drainage lines, catch basins, dispersion trenches and associated maintenance easements, and final grading, consistent with the approved site plan as Determined by the Community Development Director.
 - 6.3 A temporary erosion and sedimentation control plan (TESC) and a wet weather construction plan.
 - 6.4 Citations of applicable section of the 2016 King County Surface Water Design Manual for all drainage and erosion protection elements of the submittal (TESC, CSSWPP, BMPs).
 - 6.5 Identification of all work locations near erosion hazard areas, steep slopes and critical areas impacted by construction. Provide general summary of mitigation for hydrologic impacts and sediment transfer.
 - 6.6 A construction route and traffic channelization plan, including associated signage.
 - 6.7 A landscaping plan and maintenance agreement for all landscaping within the City right-of-way that fronts the developments site.
7. ERP Approval Requirements: The ERP decision shall require conformance with all standard engineering requirements and shall also include the following specific requirements:
- 7.1 All import fill material shall be clean and free of environmental hazards and contaminants. Proof of clean import soils should be required through a clean soil Questionnaire and Certification form.
 - 7.2 The Applicant shall observe the hours of operation per applicable City ordinances during the construction of the development. No construction may commence until the applicant has received a Notice to Proceed by the City. This notice will be predicated upon a successful TESC inspection.
 - 7.3 The applicant shall adhere to design requirements and Best Management Practices identified in the KCSWDM to mitigate for any erosion and sedimentation during construction.
 - 7.4 After construction is complete, the applicant should clean pipes, inlets, and outlet areas as directed by the City, for those areas affected by the project. The City and applicant shall inspect the system prior to start of construction to verify the existing condition of the system.
 - 7.5 Prior to issuance of a Notice to Proceed, the applicant shall post a notice on site indicating the hours of operation for construction. The size, location, and content of the sign shall be consistent with the notice required for the Notice of Application. The notice shall remain in place until the applicant has received written notice authorizing the sign's removal. Signs shall then be removed at the applicant's expense.
 - 7.6 The Applicant shall be responsible for a full grind and overlay or reconstruct the entire street width where damage to existing streets, installation of utilities, and /or improvements to existing streets occurs due to this project. Pavement restoration limits shall be determined during the construction phase of this project.
 - 7.7 The applicant shall inspect and clean as necessary all trucks and construction equipment before leaving the site in order to ensure that dirt, mud and other materials are not deposited on public streets. The applicant shall provide for prompt sweeping or cleanup of any dirt, mud or other materials deposited by the project's trucks on public streets.

- 7.8 Temporary traffic control shall be provided as necessary for all construction activities related to the site (including safe sweeping and cleanup operations) that impact city right of way.
8. Final Landscape Plan: Prior to permit issuance, a final landscape plan shall be submitted to the Community Development Director for review and approval. The final plan shall reflect the landscape concepts submitted with this application and as further specified under Condition 9 below. The landscaping shall reflect the landscaping concepts selected by abutting property owners, or if not selected by abutting property owners, then as selected and/or approved by the Community Development Director. The landscape plan shall also include the following details and amenities:
- 8.1 Trail soft surface and edging details.
- 8.2 To the extent authorized by the underlying property owner, pedestrian seating areas (benches and/or tables) at strategic locations as approved by the Community Development Department, including areas within 100 feet of rights-of-way where the corridor crosses street rights-of-way or as otherwise approved by the Director of Community Development.
- 8.3 Significant trees removed and identified locations of replacement trees. Significant trees that are removed to facilitate the project, or that sustain damage during the course of project construction, shall be replaced pursuant to NMC 18.16.170 and consistent with PSE's June 25, 2020 vegetation management plan.
9. The landscape plan shall include plant species, quantity, spacing and cost estimate for plant material and installation. To ensure plant establishment, the applicant shall provide a landscape assurance device that shall cover 20% of the fair market value of labor and materials for the initial landscape installation of all areas of landscaping. This assurance device will cover the landscape maintenance of the project for a period of one year from the date of final inspection.
10. PSE shall engage in good faith efforts with the Olympus Homeowners Association, and with the owners of any other residential properties extending into PSE's corridor, to review the three landscaping plan options as provided in PSE's proposed site plan to address both tree replacement and potential compatibility impacts, and to enhance user experience of the co-located hiking trails. PSE will make reasonable modifications to these landscaping plans at the property owner's request provided any modifications to the Olympus Homeowner Association or effected homeowner's landscape plan does not exceed the cost of Option 1 of PSE's proposed site plan. Where agreed to by the underlying property owner, PSE will pay to implement all landscaping plans. In the event that a property owner or the Olympus Homeowners Association declines to meet with PSE to discuss these vegetation management options, as demonstrated in writing by PSE, such refusal to meet will not form the basis for a determination that PSE has failed to comply with this condition.
11. Completion or bonding of Landscape Improvements: All landscaping shall be completed and accepted by the City within one year of permit issuance unless otherwise secured through a financial guarantee acceptable to the City.
12. Tree Protection Plan: Prior to Engineering Review Permit (ERP) issuance, a tree protection plan shall be submitted to the Community Development Director for review and approval. The tree protection plan shall comply with the provisions of NMC 18.16.160. At a minimum, all significant trees identified to be retained shall be fenced two feet outward from the identified drip line with temporary construction fencing. A representative of the City of Newcastle shall verify protective fencing placement per this condition prior to issuance of a notice to proceed for grading and clearing. The City shall inspect for compliance with the approved retention plan prior to a final inspection. The inspection shall also evaluate the condition of retained trees and any and all corrections shall be completed prior to a final inspection and sign-off.

13. Installation of Fences and Protective Barricades: Prior to commencement of clearing and grading, the applicant shall install a temporary construction fence in the location of all wetland buffers within 300 feet of any construction or staging area, or within 30 feet of any route of access, and shall install all protective fences around all trees identified for retention that are within 30 feet of any areas of proposed disturbance. The temporary construction fence and tree protection fences shall be inspected by City prior to commencement of clearing/grading and construction activities.
14. Conformance with Approved Plan: In conformance with NMC 17.30.049, the resulting site development and improvements from the approval of this site plan shall be in conformance with the approved site plan, and with any applicable codes and ordinances of the State of Washington and the City of Newcastle.
15. Critical Area Fencing and Signage: Critical area fencing and signage shall be installed per NMC 18.24.160.
16. Conformance with Critical Area Report: In conformance with NMC 18.24 the proposed project shall comply with the approved Critical Areas report and mitigation plan.
17. Compliance with All Regulatory Agencies: The applicant, PSE, shall be responsible for consulting with all other state, federal, local, or regional agencies, and/or tribal entities with jurisdiction (if any) for applicable permit or other regulatory requirements that pertain to any aspect of the project addressed in this permit. Any conditions of other regulatory agency permits/licenses/approvals issued for any aspect of the project shall be considered conditions of approval for this Project.
18. Compliance with All Applicable Codes: PSE shall comply with all applicable Newcastle City Codes, Standards, and Ordinances in effect at the time of filing a complete application for any permit or approval required by the City, including without limitation the following development regulations:
 - Clearing & Grading Code – NMC 14.15
 - Fire Code – NMC 15.20
 - Land Use Code – NMC Title 17
 - Zoning Code – NMC Title 18
 - Noise Control Code – NMC 9.05.510
 - Vehicles and Traffic – NMC Title 10
19. Plans Reflecting Conditions of Approval: Compliance with these Conditions of Approval shall be reflected on all plans and supporting documentation submitted for construction permits and design review approvals required by the City in connection with this project.
20. ERP Permit Required: An application for an ERP must be submitted and approved before grading, site work or construction can begin. Plans submitted as part of any permit application shall be consistent with the activity permitted under this approval.
21. Civil Engineering Plans: Where required, civil engineering plans produced by a qualified licensed engineer must be approved by a third-party engineer or City Engineer, as the City determines, prior to issuance of the ERP permit.
22. Right-of-way Use Permit: Prior to issuance of any construction or clearing and grading permit, the applicant shall apply for required right-of-way use permits from the City's Public Works Department, which may include:
 - 22.1 Designated truck hauling routes.
 - 22.2 Truck loading/unloading activities.
 - 22.3 Location of construction fences.
 - 22.4 Hours of construction and hauling.

- 22.5 Requirements for leasing of right of way or pedestrian easements.
 - 22.6 Provisions for street sweeping, excavation and construction.
 - 22.7 Provisions ensuring that access to surrounding properties is maintained at all times, except when restricted access is required for safety while work is occurring.
 - 22.8 Location of construction signing and pedestrian detour routes.
 - 22.9 All other construction activities as they affect the public street system.
- 23. In addition, the applicant shall submit for review and approval a plan for providing pedestrian access during construction of this project. Access shall be provided at all times during the construction process, except where PSE has determined a public safety hazard exist or when specific construction activities such as, but not limited to, shoring, foundation work, and construction of frontage improvements prevent access or otherwise give rise to a concern. General materials storage and contractor convenience are not reasons for preventing access.
 - 24. To the extent practicable, the applicant shall secure sufficient off-street parking for construction workers before the issuance of the ERP permit, and before any construction may commence.
 - 25. Critical Area Mitigation Plan: To the extent that there are amendments or modifications to PSE's June 21, 2021 Revised Critical Area Report, such revisions must be submitted for review and approval by the City of Newcastle prior to issuance of the ERP permit. The plan shall comply with all applicable standards pertaining to critical areas and significant tree retention requirements.
 - 26. Final Restoration Plan: Prior to ERP permit issuance, PSE shall submit a final restoration plan showing temporary construction impacts. Within critical areas, restoration of impacts shall be with native plants where native plants are being removed, or as otherwise shown on an approve landscape plan. All other areas of temporary impact shall be re-vegetated per an approved landscape plan.
 - 27. Landscaping Maintenance and Monitoring: Landscape and mitigation plans shall include methods for vegetation maintenance and monitoring, applicable to all landscaping proposed and/or required for this project. Landscape and mitigation sites are required to be maintained and monitored for five years to ensure the plants successfully establish. Annual monitoring reports are required to be submitted to document the plants are meeting approved performance standards. Photos from selected photo points shall be included in the monitoring reports to document the planting. Land Use inspection is required by Land Use staff to end the plant monitoring period.
 - 28. Reporting shall be submitted no later than the end of each growing season or by December 31st, and shall include a site plan and photos from photo points established at the time of Land Use Inspection. Reports shall be submitted to the Newcastle Community Development Department.
 - 29. Financial Security Device for Critical Area Mitigation: Prior to issuance of the ERP Permit, PSE shall submit a cost estimate prepared by a qualified professional for proposed wetland and/or wetland buffer planting materials and installation costs. An installation security shall be provided to the City of Newcastle in the amount of 150% of the total cost. After the final landscape and mitigation plantings have been installed and inspected by the City, the installation assurance device will be released and the City shall request and retain a maintenance assurance device in the amount of 20% of the total cost estimate. The maintenance assurance device shall be kept by the City until the performance objectives have been met.
 - 30. Geotechnical Review: Prior to ERP permit issuance, a final geotechnical report prepared by a licensed geotechnical engineer, reflecting the final approved site plan, shall be submitted to the City that address all grading, excavation and/or construction proposed or occurring in designated critical areas, including all foundation, retaining wall, shoring, cut, and fill designs. The report shall describe the proposed work and make recommendations on how the work may commence in accordance with sound engineering practices, including recommendations for mitigation of identified or anticipated

- impacts. The report shall certify that PSE has conducted geotechnical hazard evaluations for all proposed elements of the transmission poles, and that all geotechnical recommendations have been incorporated into project design. The geotechnical report shall be reviewed by the City's geotechnical engineer for final approval, with the applicant paying the full cost of the City's engineering review.
31. Balanced Voltage Operation: PSE shall operate both transmission lines at equivalent voltage ratings.
 32. Construction Management and Access Plan: Prior to permit issuance, PSE shall develop Construction Management and Access Plan in coordination with Olympics' Damage Prevention Team that are mutually agreed upon by both parties. These plans shall outline the specific actions that PSE will take to protect the pipelines from vehicle and equipment surcharge loads, excavation, and other activities in consideration of Olympic's general construction and right-of-way requirements and in consultation with Olympic on the Energize Eastside project design specifically. The Construction Management and Access Plan shall include monitoring procedures to ensure that all mitigation measures related to construction activities are followed. The Construction Management and Access Plan shall be approved and signed by representatives from both Olympic and PSE, and then submitted to the City for its review and approval prior to permit issuance.
 33. The following general measures, at a minimum, shall be included in the Construction Management and Access Plan:
 - 33.1 Notify 'one-call' 811 utility locator service at least 48 hours prior to PSE or PSE-designated contractors conducting excavation work. (Olympic's line marking personnel will then mark the location of the pipelines near the construction areas.)
 - 33.2 Field verify the distance between the pipelines and transmission line pole grounds.
 - 33.3 Add the pipeline location and depth to project plans and drawings, and submit to Olympic for evaluation.
 - 33.4 Provide all necessary information for Olympic to perform pipe stress calculations for equipment crossings and surface loads (surcharge loads). Based on pipe stress calculations and in coordination with Olympic, provide additional cover that may include installing timber mats, steel plating, temporary air bridging, and/or avoidance of crossing in identified areas to avoid impacts on the Olympic pipelines. Ensure that mitigation to address potential surcharge load impacts is implemented in accordance with applicable requirements and recommended practices, including the following:
 - 33.4.1 49 CFR 195, Transportation of Hazardous Liquid by Pipeline.
 - 33.4.2 American Petroleum Institute Recommended Practice 1102, Steel Pipelines Crossing Railroads and Highways.
 - 33.4.3 American Lifelines Alliance, Guidelines for the Design of Buried Steel Pipe.
 - 33.5 The Construction Management and Access Plan will identify contractor responsibilities including appropriately sized construction zones to protect the general public, construction timing limits, and other mitigation measures that will limit the exposure of the general public to potential pipeline incidents.
 - 33.6 No excavation or construction activity will be permitted in the vicinity of a pipeline until appropriate communications have been made with Olympic's field operations and its Right-of-Way Department. A formal engineering assessment (conducted by Olympic) may be required.
 - 33.7 Arrange for and ensure that an Olympic representative is on-site to monitor construction activities near the pipeline at all times during excavation and other ground-disturbing activities that occur within 10 feet of the pipelines.

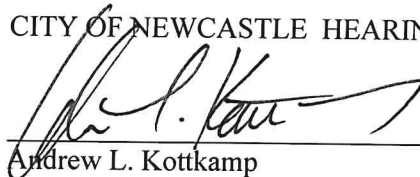
- 33.8 Ensure that the third-party engineer, hired by the City at the cost of PSE, is on-site at all times during excavation and other ground-disturbing activities that occur within 10 feet of the pipelines.
 - 33.9 Identify demarcation and protection measures as recommended and required by Olympic.
 - 33.10 Incorporate additional measures related to minimizing surcharge loads in Olympic's general construction and right-of-way requirements (see 2018 FEIS Appendix 1-2).
 - 33.11 No excavation or backfilling within the pipeline right-of-way will be permitted for any reason without a representative of Olympic on-site giving permission.
 - 33.12 The Construction Management and Access Plan shall include monitoring procedures to ensure that all mitigation measures related to construction
34. Pipeline Pressure Reductions: Coordinate with Olympic regarding excavation and other construction activities to ensure that pipeline operating pressures are reduced prior to construction activities as OPL deems necessary.
 35. Digging Methods Near Pipelines: As directed by Olympic, use soft dig methods (e.g., hand excavation, vacuum excavation, etc.) whenever the pipeline(s) are within 25 feet of any proposed excavation or ground disturbance below original grade.
 36. Sloughing Under Pipelines: Where excavations are within 20 feet of the Olympic Pipeline system, the project geotechnical engineer shall ensure that necessary measures are in place to avoid sloughing under the pipeline.
 37. As required by Olympic, steel plates or mats will be placed over the pipelines to distribute vehicle loads where construction equipment needs to cross over pipelines.
 38. Pipeline Settlement Monitoring: Pipeline settlement monitoring points will be established on the Olympic Pipeline corridor at the direction of Olympic where drilled shafts will be within 15 feet of a pipeline (or another distance as stipulated by Olympic) to monitor settlement during installation of the drilled shafts. Settlement monitoring points will be installed so that baseline readings of the settlement monitoring points may be completed prior to the commencement of any site work. Monitoring will continue during construction on a daily basis and twice a week in the 3 weeks following construction. The monitoring readings will be reviewed by the Engineer on a daily basis. If measured settlement exceeds 1 inch, or an amount specified by Olympic, the integrity of the utility will be tested and PSE will work with Olympic to repair any damage to the utilities as a result of construction.
 39. Public Outreach Plan: PSE shall submit to the City of Newcastle a public outreach plan that details how PSE will provide information to the public about the types and locations of expected construction impacts and mitigation measures. As part of the plan, a construction outreach team shall work with affected residents and business owners to minimize construction-related impacts throughout the duration of project construction, and also to coordinate installation of improvements that extend onto abutting residents' properties (e.g., landscaping). PSE will provide a contact with whom community members can address specific concerns both prior to and during project construction. Also as part of the plan, PSE shall submit to the City quarterly reports summarizing status of public outreach efforts including issues raised by the community and how PSE is addressing concerns. Reports shall be submitted to the Community Development Director (or designee) through project completion.
 40. Cultural Resource Protection: Prior to commencement of construction, PSE shall conduct archaeological resource surveys for the selected route that include subsurface testing.
 41. Prior to construction, PSE shall develop resource-specific mitigation measures during consultation with the Washington Department of Archaeology and Historic Preservation (DAHP),

affected Tribes, King County Historic Preservation Program (KCHPP), and other appropriate stakeholders if a protected archaeological resource is identified during the pre-construction archaeological survey or historic property inventory.

42. PSE shall prepare an Inadvertent Discovery Plan (IDP) for the project and discuss the IDP with contractor during pre-construction meeting(s). PSE shall apply for an archaeological excavation permit from DAHP (WAC 25-48-060) if impacts to a protected archaeological resource cannot be avoided.
43. If any resources are determined eligible for listing in the National Register of Historic Places (NHRP) by DAHP, mitigation measures specific to those resources shall be developed during consultation with DAHP, affected Tribes, and any other appropriate stakeholders. Any final determination and mitigation measures developed based on this determination shall be reported to the City of Newcastle to the extent allowed by law.
44. During construction, PSE shall follow outlined procedures in the IDP in the event that archaeological resources are identified during construction activities
45. During construction, PSE shall follow the procedures identified for any historic resources through consultation with DAHP.
46. Geotechnical Inspection: The project geotechnical engineer must provide geotechnical inspection during project construction and be present on site during all excavation and boring activities. The geotechnical engineer also must observe, monitor, and test any unusual seepage, slope, or subgrade conditions.
47. Wet Season Restrictions: Clearing and grading activity may be initiated during, or continue into the wet season, which is defined as October 1 through April 30, only with written authorization of the Community Development Department. Should approval be granted for work during the wet season, increased erosion, and sedimentation measures, as appropriate for the anticipated rainy season conditions, must be implemented prior to beginning or resuming site work.
48. Helicopter or Large Crane Use: PSE shall notify the City of Newcastle where this type of construction is necessary.
49. Pavement Degradation: As part of the right-of-way permit inspection process, pavement degradation identified by the City that results from increased Project-related construction truck traffic or excavation shall be fully restored upon completion of construction activities. This includes restoration of streets, curbs, gutters, sidewalks, parking lots, driveways, and traffic signal induction loops where appropriate.
50. Pole Finish and Color: All transmission line poles shall be powder coat finished with Lancaster Green (#9341) from Carboline's 8812 Color Logic color palette.

Dated this 28th day of April, 2022.

CITY OF NEWCASTLE HEARING EXAMINER



Andrew L. Kottkamp

This decision is subject to appeal pursuant to NMC 19.15.030. This includes the appeal of the site plan review authorized by NMC 17.05.110.