

**BEFORE THE WASHINGTON
UTILITIES & TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Complainant,

v.

PUGET SOUND ENERGY

Respondent.

DOCKETS UE-220066, UG-220067, and UG-210918 (*Consolidated*)

**RESPONSE TESTIMONY OF ROBERT L. EARLE
ADDRESSING THE SETTLEMENT STIPULATIONS
ON BEHALF OF THE
WASHINGTON STATE OFFICE OF ATTORNEY GENERAL
PUBLIC COUNSEL UNIT**

Exhibit RLE-14CT

September 9, 2022

**Shaded Information is Designated Confidential Per Protective Order in
Dockets UE-220066, UG-220067, and UG-210918 (*Consolidated*)**

REDACTED VERSION

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EXHIBITS LIST

Exhibit RLE-15	PSE Response to Public Counsel Data Request No. 391
Exhibit RLE-16	PSE Response to Public Counsel Data Request No. 393
Exhibit RLE-17	PSE Response to Public Counsel Data Request No. 394
Exhibit RLE-18	PSE Response to Public Counsel Data Request No. 396
Exhibit RLE-19	PSE Response to Public Counsel Data Request No. 398
Exhibit RLE-20	PSE Response to Public Counsel Data Request No. 354
Exhibit RLE-21C	PSE Response to Public Counsel Data Request No. 196 with Confidential Attachment A
Exhibit RLE-22	PSE Response to Public Counsel Data Request No. 387
Exhibit RLE-23	PSE Response to Public Counsel Data Request No. 388
Exhibit RLE-24	PSE Response to Public Counsel Data Request No. 389
Exhibit RLE-25	PSE Response to Public Counsel Data Request No. 395

I. INTRODUCTION / SUMMARY

1 **Q. Please state your name and business address.**

2 A. My name is Robert Earle. My business address is 1388 Haight St. #49, San Francisco,
3 California 94117.

4 **Q. Are you the same Robert L. Earle who previously filed testimony in this**
5 **proceeding?**

6 A. Yes. On July 28, 2022, I filed Response Testimony on behalf of the Public Counsel
7 Unit of the Washington Attorney General's Office (Public Counsel) which was
8 designated as Exhibit RLE-1CT. I also filed joint testimony with other settling parties
9 on behalf of Public Counsel addressing the Green Direct Settlement on August 5, 2022.

10 **Q. What is the purpose of your testimony?**

11 A. In this testimony, I provide an opposing response to two settlement agreements: the
12 Settlement Stipulation and Agreement on Tacoma LNG (LNG Settlement) and the
13 Settlement Stipulation and Agreement on Revenue Requirement and All Other Issues
14 Except Tacoma LNG and Puget Sound Energy's (PSE) Green Direct Program (Main
15 Settlement or Settlement).

16 **Q. What exhibits are you sponsoring as part of this opposing response testimony?**

17 A. I sponsor the following exhibits as part of this opposing response testimony:

Exhibit RLE-15 PSE Response to Public Counsel Data Request No. 391

Exhibit RLE-16 PSE Response to Public Counsel Data Request No. 393

Exhibit RLE-17 PSE Response to Public Counsel Data Request No. 394

Exhibit RLE-18 PSE Response to Public Counsel Data Request No. 396

Exhibit RLE-19 PSE Response to Public Counsel Data Request No. 398

Exhibit RLE-20 PSE Response to Public Counsel Data Request No. 354

Exhibit RLE-21C PSE Response to Public Counsel Data Request No. 196 with
Confidential Attachment A

Exhibit RLE-22 PSE Response to Public Counsel Data Request No. 387

Exhibit RLE-23 PSE Response to Public Counsel Data Request No. 388

Exhibit RLE-24 PSE Response to Public Counsel Data Request No. 389

Exhibit RLE-25 PSE Response to Public Counsel Data Request No. 395

II. TACOMA LIQUEFIED NATURAL GAS

A. Introduction

1 **Q. Please summarize your findings on the Tacoma Liquefied Natural Gas (LNG)**
2 **Project and the LNG Settlement.**

3 A. The LNG Settlement is not in the public interest because it “accept[s] a determination
4 that the decision to build the regulated portion of the Tacoma LNG Facility was
5 prudent.”¹ The record, however, does not support the prudence of the Tacoma LNG
6 Project for PSE ratepayers. Despite PSE’s critique of my response testimony, the facts I
7 established in my testimony of July 28, 2022, Exhibit RLE-1CT, still stand and should
8 be considered in opposition to the LNG Settlement. The Tacoma LNG Project fails the
9 four factors the Commission focuses on to evaluate prudence: Need, Evaluation of
10 Alternatives, Communication with and Involvement of the Board of Directors, and
11 Adequate Documentation. My discussion in this testimony takes each of these four
12 factors in turn and responds to PSE’s critique.

¹ Settlement Stipulation and Agreement on Tacoma LNG at 4 (filed Aug. 26, 2022) (hereinafter “Main Settlement”).

B. The Need for the Tacoma LNG Project was not Established

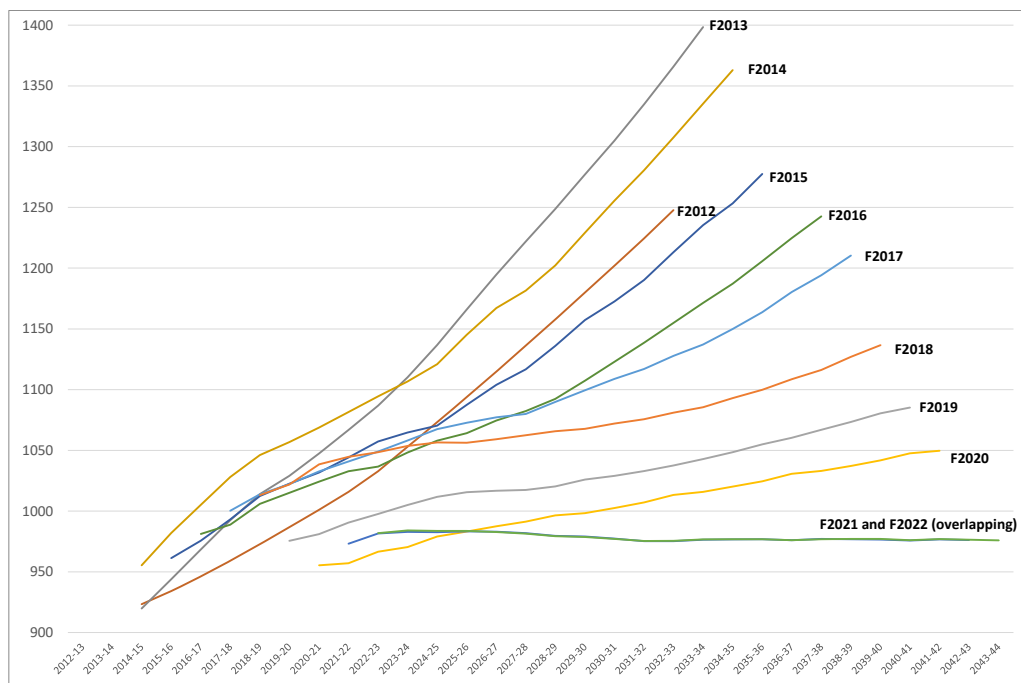
1 **Q. Please describe your findings on the need for the Tacoma LNG Project.**

2 A. The history of the Tacoma LNG Project is one of declining forecasts, needs forecasted
3 that did not materialize, and forecasts that consistently exceeded actual outcomes. PSE
4 did not take into account these factors nor did it consider viable alternatives in its
5 assessment of need.

6 **Q. Please describe your findings on the flaws in the forecasts of need.**

7 A. Figure 1 shows how the peak day forecast has declined from 2012 except for a jump in
8 2013. At the two major decision points in 2016 and 2018, it was clear that forecasts had
9 been declining year after year. This should have alerted PSE that the need for the
10 Tacoma LNG Project should be re-examined.

11 **Figure 1: A History of Declining Forecasts Should have Alerted PSE that the Need**
12 **for the Tacoma LNG Project Should be Re-examined²**



² Data from Puget Sound Energy Response to Public Counsel Data Request No. 106, Attachment A, which was provided as Exhibit RLE-7.

1 I made this point in my July 28, 2022, testimony.³ PSE witness Ronald J.

2 Roberts did not refute it.

3 In addition to declining forecasts, another factor that should have alerted PSE
4 management and the PSE Board of Directors, had they been informed, is that repeated
5 predictions of need leading up to the major decisions on the Tacoma LNG Project in
6 2016 and 2018 were incorrect. As I pointed out in my July 28, 2022, testimony, not
7 only did the *amounts* of the predicted need not show up, but *no* need showed up at all.
8 Reasonable management would have called into question the need for the Tacoma LNG
9 Project.⁴ PSE witness Roberts did not refute this problem.

10 Instead, in addition to the failed projections of need that I list in my July 28,
11 2022, testimony,⁵ Roberts provided PSE's own list of failed predictions in his
12 testimony in support of the LNG Settlement.⁶

- 13 • The potential need for an LNG storage facility to meet demand was first
14 identified in the 2009 Integrated Resource Plan (IRP), which stated that
15 PSE's gas sales portfolio had sufficient resources through the winter of
16 2014–2015 but that PSE would need additional gas supply resources
17 thereafter.
- 18 • The 2011 IRP determined that PSE's gas load and resources were in balance
19 until about 2017 and identified a lowest reasonable cost plan for meeting
20 natural gas demand in 2017 and beyond through combined use of

³ Response Testimony of Robert L. Earle, Exh. RLE-1CT at 18:1–18, 21:3–8.

⁴ Earle, Exh. RLE-1CT at 16:5-6.

⁵ *Id.* at 16-17, Table 2.

⁶ Testimony of Ronald J. Roberts in Support of Multiparty Settlement on Tacoma LNG, Exh. RJR-30T at 5:5–6:2.

1 (i) demand-side resources, (ii) increasing reliance on natural gas from
2 Northern British Columbia, and (iii) a regional LNG storage facility.

- 3 • The 2013 IRP demonstrated a need for peaking resources beginning in
4 2016–17 and projected PSE’s deficit to grow to approximately 117,800 Dth
5 per day by 2022–23 and 236,000 Dth per day by 2026–27.
- 6 • The 2015 IRP demonstrated a need for peaking resources beginning in
7 2016–17 and projected PSE’s deficit to grow to approximately 119,000 Dth
8 per day by 2021–22 and 214,000 Dth per day by 2026–27.
- 9 • In the 2017 IRP, PSE included 59.5 (growing to 69) MDth/day of Tacoma
10 LNG as an established resource because PSE expected the Tacoma LNG
11 Facility to be in service for the 2019/2020 heating season. Even with
12 Tacoma LNG included as a resource, the 2017 IRP showed a need for
13 additional resources in 2024–2025.

14 Curiously, Roberts views these failed predictions as evidence of a need.⁷

15 Though Roberts ignores the declining forecasts and failed predictions of need,
16 Roberts does critique the use of actual peak demand in my analysis of the need for
17 Tacoma LNG. Roberts’ critique mischaracterizes my testimony as comparing apples to
18 oranges. The point of juxtaposing actual peak demand to the forecast is to show why
19 forecasted need did not appear. While Roberts suggests this is not reasonable, it is
20 important to compare actual outcomes to model predictions. This comparison allows
21 one to evaluate how accurate the model predictions were and whether the forecast
22 needs should be believed. In this case, the model predictions were not occasionally

⁷ Roberts, Exh. RJR-30T at 5:3–4.

1 difference from actuals. Rather, by the time of the 2016 and 2018 decisions, there was a
2 consistent record of inaccuracy over many years.

3 Moreover, Roberts comparing weather-normalized actual maximum day sales to
4 forecast numbers is irrelevant. The Tacoma LNG Project will only be used and useful if
5 actual demand exceeds the resources existing before the Tacoma LNG Project came
6 online. For example, suppose based on the need forecast in the 2009 IRP, PSE had built
7 an LNG facility to meet demand starting in winter 2015–2016. At this point, the LNG
8 facility would have sat idle and would not have been used or useful for seven years
9 regardless of the projections.

10 In 2018, a well-informed and alert Board of Directors member, concerned about
11 the ratepayers’ interests, might have said something like:⁸

12 *The F2016 forecast said that there would be a shortage of 7.95 MDth/day*
13 *in the coming winter, but there was no shortage that winter. The F2017*
14 *forecast said there would be a shortage of 27.22 MDth/day in the coming*
15 *winter, but there was no shortage that winter. Now you tell me that the*
16 *F2018 forecast says there will be a shortage of 39.98 MDth/day this*
17 *winter. Given the failures to accurately predict shortages, why should I*
18 *believe the F2018 forecast and approve proceeding with the Tacoma LNG*
19 *Project? Shouldn’t we at least delay construction until we have a firmer*
20 *handle on whether there is really a need?*

21 **Q. Please explain your concerns with the size of the storage tank in the Tacoma LNG**
22 **Project design.**

23 A. Dr. Sahu expressed concern that PSE provided “no basis for six consecutive days of
24 vaporization that drive the tank size.”⁹ I share these concerns. When asked about why
25 the eight million gallon size was chosen, PSE stated:¹⁰ “Ultimately, 8 million gallons of

⁸ Numbers are from Puget Sound Energy Response to Public Counsel Data Request No. 106, Attachment A, which was provided as Exhibit RLE-7.

⁹ Response Testimony of Ranajit Sahu, Exh. RSX-1T at 10:16.

¹⁰ Earle, Exh. RLE-15 (PSE Response to Public Counsel Data Request No. 391, sub-part a).

1 storage was chosen because it would provide, after heel gas of 350,000 gallons, 6 days
2 of vaporization and diversion make-up volumes of 6,025,000 gallons for PSE and 7 ½
3 days equivalent liquefaction volume for the non-utility customers or 1,625,000
4 gallons.”

5 **Q. PSE rejected Dr. Sahu’s contention that the storage size is based on consecutive**
6 **days of vaporization. Do you agree?**

7 A. No. Dr. Sahu is correct that the sizing of the tank is based on consecutive days
8 of operation. Otherwise, the size of the tank is very likely too large. On days
9 between vaporization, PSE would have the opportunity to refill the tank.
10 Therefore, PSE could have built a smaller storage tank. For instance, suppose
11 on December 11 and December 12, 64 MDth and 21 MDth were vaporized. If
12 the next cold snap requiring vaporization occurred a week later on December
13 19, PSE could refill the regulated portion of the tank in the intervening days
14 when no vaporization was needed.

15 PSE’s claim is akin to someone who would argue that one cannot drive
16 an electric car across the country unless the battery capacity is 3,000 miles,
17 ignoring that there are charging stations to refill the battery. Accepting PSE’s
18 contention would mean that PSE must admit that the storage tank is too large
19 for the purposes of PSE’s ratepayers.

20 Given the refillable nature of storage and the need to properly size the
21 storage tank (79 percent of the cost assigned to ratepayers in the 2016
22 proceeding), it is surprising that PSE did not develop estimates for the number
23 of days for which there would be an unmet need. PSE also did not estimate the
24 amount (MDth) of need for each day with an unmet need. PSE did not even

1 develop projections of how much vaporization would be needed each year.¹¹

2 The Commission should consider this lack of need analysis and documentation,
3 and it should weigh this against finding that the facility was prudent.

4 **Q. PSE claims that the Tacoma LNG Project was not a “stop-gap” measure.¹²**

5 **Do you agree?**

6 A. PSE misconstrues and takes “stop gap” out of context. My testimony states that even
7 with the Tacoma LNG Project as a long-term resource, new resources would be needed
8 fairly soon, according to PSE’s projections.¹³ PSE dismisses the idea that other
9 measures could have been put into place until a better solution was found or there was
10 greater clarity as to the need for the Tacoma LNG Project.¹⁴ To back up its claim, PSE
11 merely repeats its claim that the Tacoma LNG Facility was the least-cost resource and
12 other utilities use LNG peaking resources. In doing so, PSE does not address a central
13 problem with their decisions to continue with the Tacoma LNG Project.

14 Years of inaccurate forecasts should have alerted PSE management and a well-
15 informed Board of Directors that the Tacoma LNG Project should be reconsidered.

16 Cancelling the Tacoma LNG Project would have been one option. Another option
17 would have been to postpone the project until it became clearer that the Tacoma LNG
18 Project would be needed. Postponing the project would have provided option value to

¹¹ Earle, Exh. RLE-16 (PSE Response to Public Counsel Data Request No. 393, sub-parts b. and c.); Earle, Exh. RLE-17 (PSE Response to Public Counsel Data Request No. 394, sub-parts b. and c.); Earle, Exh. RLE-18 (PSE Response to Public Counsel Data Request No. 396, sub-parts b. and c.); Earle, Exh. RLE-19 (PSE Response to Public Counsel Data Request No. 398, sub-parts b. and c.); Earle, Exh. RLE-20 (PSE Response to Public Counsel Data Request No. 354, sub-part c.). Earle, Exh. RLE-22 (PSE Response to Public Counsel Data Request No. 387, sub-parts b. and c.); Earle, Exh. RLE-23 (PSE Response to Public Counsel Data Request No. 388, sub-parts b. and c.).

¹² Roberts, Exh. RJR-30T at 12:13–16.

¹³ Earle, Exh. RLE-1CT at 12:14–15, 24:16–26:1.

¹⁴ Roberts, Exh. RJR-30T at 14:3–17.

1 ratepayers by not committing them to a facility that has ended up costing hundreds of
2 millions of dollars. Other measures to address near-term shortfalls were clearly
3 available, as I discuss below. Moreover, in each of the years that PSE forecast a
4 shortage in the coming winter with the Tacoma LNG Project still years from coming
5 online (2016, 2017, and 2018, for instance, as discussed above), PSE would have
6 presumably developed measures to address the shortage.

7 In other words, PSE could have acted prudently by implementing various other
8 measures to allow it more time to better assess the need for the Tacoma LNG project. It
9 did not do so.

C. There were Alternatives to the Tacoma LNG Project that PSE did not Consider

10 **Q. Please explain what alternatives to the Tacoma LNG Project PSE did not**
11 **consider.**

12 A. As explained in my Response Testimony, there were several alternatives to the Tacoma
13 LNG Project that PSE did not consider:¹⁵

14 During peak periods, demand for gas for generation could be curtailed. If
15 substitute power was needed, this could be purchased and imported.
16 Another alternative would be to use fuel oil to generate electricity from
17 dual-fuel combustion turbines, as PSE suggested would be possible to the
18 Puget Sound Clean Air Agency (PSCAA). Yet another alternative would
19 be to explore the installing compressed natural gas storage at generating
20 stations for use during peak periods.

21 **Q. How does Roberts respond to the alternatives you suggest?**

22 A. In the case of compressed natural gas, Roberts does not respond. Regarding replacing
23 natural gas used by its power plants with purchased power to make natural gas
24 available to its gas customers, Roberts makes two arguments. First, he argues that such

¹⁵ Earle, Exh. RLE-1CT at 27:1–7.

1 use would involve impermissible cross-subsidization. Second, he argues that there may
2 be times when both gas and electric demand are high, so substituting gas-fired
3 generation may be difficult. Concerning the use of fuel oil to replace the use of natural
4 gas in its dual-fuel power plants, Roberts uses the same two arguments: cross-
5 subsidization and gas and electric market coincident demand.¹⁶

6 **Q. How do you respond to PSE’s arguments about cross-subsidization?**

7 A. Roberts seems to think that any arrangements between the regulated natural gas side of
8 the business and the regulated electric side of the business would result in cross-
9 subsidization.¹⁷ However, PSE has active intracompany trading and has stated that
10 “intra-company traders transact with each other when it is mutually beneficial for both
11 the buyer and seller.”¹⁸ PSE explains that by “mutually beneficial,” it means “intra-
12 company transactions are not entered into for the benefit of the gas utility at the
13 expense of the electric utility, or vice versa.”¹⁹ In the three years, 2019 to 2021, the
14 electricity business unit and the gas business unit conducted over [REDACTED] in gas
15 trades with each other²⁰ compared with \$134 million in projected capital expenditures
16 allocated to PSE in 2016.²¹

17 In pricing sales of natural gas to the electric business unit, the gas business unit
18 could have considered whether it needed all of its available natural gas for electric

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¹⁶ Roberts, Exh. RJR-30T at 24:8–25:15.

¹⁷ Roberts, Exh. RJR-30T at 23:16–19.

¹⁸ Paul K. Wetherbee, Exh. PKW-3C at 17.

¹⁹ Earle, Exh. RLE-21C (PSE Response to Public Counsel Data Request No. 196, sub-part a.).

²⁰ Data from Exhibit RLE-21C (PSE Response to Public Counsel Data Request No. 196, Confidential Attachment A).

²¹ *In re: the Pet. of Puget Sound Energy for Approval of a Special Contract for Liquefied Nat. Gas Fuel Serv. with Totem Ocean Trailer Express and a Declaratory Ord. Approving the Methodology for Allocating Costs between Regulated and Non-regulated Liquefied Nat. Gas. Serv.*, Docket UG-151663, Order 10 at 27 (Oct. 31, 2016).

1 generation or not. If it did not, there would be no reason for a sale not to occur at a
2 mutually beneficial price.²² As I showed in my Response Testimony, this likely
3 comprises almost all of the cases when gas sales were high. On the other hand, if the
4 electric business unit had planned to burn all of its available gas for electric generation
5 at the time of peaking gas demand (a rare occurrence), the electric business unit could
6 have taken into account the possibility of purchasing replacement power for its own
7 generation in pricing its sales to the electric generation unit. Or, the electric generation
8 could have burned fuel oil in its dual-fuel generation plants instead of natural gas and
9 priced any costs of burning fuel oil rather than gas into its pricing for sales to the gas
10 business unit.²³

11 There is no reason for PSE not to have explored the possibility of the electric
12 business unit selling gas during peaking times to the gas business unit. PSE, however,
13 did not consider this alternative and so acted imprudently.

14 **Q. Are there particular issues with respect to PSE's argument concerning its dual-**
15 **fuel plants you wish to address?**

16 A. The problems with PSE's arguments concerning cross-subsidization apply equally to
17 dual-fuel plants. The arguments about coincident gas demand and gas demand for
18 generation apply even less so to dual-fuel plants, because in the case of both high gas
19 and electricity demand, rather than buying replacement power, the dual-fuel plants
20 could switch to fuel as PSE suggested in its letter to PSCAA.²⁴

²² At least, Roberts gives no valid reason.

²³ Roberts does not provide any evidence that the burning of fuel oil rather than natural gas was not a viable possibility.

²⁴ Earle, Exh. RLE-10 at 20–21 (PSE Response to Public Counsel Data Request No. 312 with Attachment A - PSE Response to SEIS Data and Information Request at 14–15, May 25, 2018).

1 Roberts appears to concede the point for dual-fuel plants by saying that the 54
2 MDth/day of firm pipeline capacity acquired for its dual-fuel plants was less than
3 projected needs of 85 MDth/day to be supplied by the Tacoma LNG Project. However,
4 Roberts says that “at full volume for the full day” the dual-fuel plants have gas
5 consumption totaling approximately 125 MDth/day. Other than cross-subsidization
6 arguments I address above, there is no clear reason why 85 MDth/day of the 125
7 MDth/day could not be diverted to supply gas customers thus obviating the need for the
8 Tacoma LNG Project.²⁵

9 Even if the 85 MDth/day were not available out of the 125 MDth/day, the 54
10 MDth/day of firm capacity was also not considered in its analysis of alternatives as it
11 should have. At the very least, in 2016 using PSE’s projections of projected need, use
12 of the 54 MDth/day of capacity would have delayed projected need until 2021–22. In
13 2018, it would have delayed any projected need until 2020–21. Exercising the option
14 value to delay the costly decision to proceed with the Tacoma LNG Project would have
15 provided great value.

16 **Q. Roberts claims PSE’s response to the PSCAA letter was taken out of context.²⁶ Do**
17 **you agree?**

18 A. Not at all. Roberts describes the scenario in PSCAA’s question as addressing a
19 “hypothetical scenario.”²⁷ PSCAA asked, “What would the alternate supply of NG
20 (natural gas) be in the absence of the LNG plant?” PSE’s response to PSCAA’s
21 question was not hypothetical at all. At that time, the Tacoma LNG Facility had not yet

²⁵ Other than to avoid cross-subsidization.

²⁶ Roberts, Exh. RJR-30T at 26:3–9.

²⁷ Roberts, Exh. RJR-30T at 26:9.

1 passed environmental review. Moreover, the F2018 forecast showed needs of 39.98
2 MDth/day for winter 2018–19, 48.75 MDth/day for winter 2019–20, 65.33 MDth/day
3 for winter 2020–21²⁸ while the Tacoma LNG Facility was not projected to come on-
4 line until January 2022.²⁹ Acting prudently, PSE would have had plans in place to meet
5 those forecast needs. The question of finding an alternate supply of gas in absence of
6 the LNG plant were not hypothetical at all, and the Commission should believe PSE’s
7 answer to PSCAA.

8 Further, even if PSE had dissimulated in its answer to PSCAA, it does not
9 change the fact that PSE left out important alternatives in its analysis of the Tacoma
10 transactions between PSE’s gas business unit and electric business unit for the gas
11 business unit to obtain gas from the electric business unit.

12 **Q. Do you agree with Roberts that coincident high demand for gas and gas for**
13 **generation would have prevented the gas business unit from purchasing gas from**
14 **the electric business unit to meet peak demand?**

15 A. Not at all, for many reasons. First, Roberts claims that Figure 9 in RLE-1CT shows
16 there are many days of high demand for both the gas system and gas-for-power
17 generation.³⁰ This is not accurate. When one examines the top 50 gas system demand
18 days, none of those are coincident with any of the top 50 gas-for-generation demand
19 days.

²⁸ Data from Puget Sound Energy Response to Public Counsel Data Request No. 106, Attachment A which was provided as Exhibit RLE-7.

²⁹ Roberts, Exh. RJR-3 at 72.

³⁰ Roberts, Exh. RJR-30T at 27:23–28:2.

1 Second, Roberts says, “PSE may have chosen to purchase power rather than run
2 its generation because it was more economical to purchase than to generate the
3 power.”³¹ But, in this case more gas would have been available from the electric
4 business unit. Roberts posits that if there was a weather-related event or incident such
5 as a transmission outage then “PSE would have had no choice other than to use gas
6 pipeline gas capacity” for its gas-fired generators to supply electricity. In that case,
7 however, electric prices would have been very high and it would not have been more
8 economical to purchase than generate power. Roberts’ argument contradicts itself.

9 Third, Roberts seems to suggest that empirical evidence is not appropriate to
10 use in evaluating planning.³² This is illogical because planning, including planning to
11 meet a design day standard, must be grounded in data. If it is not, it is reminiscent of
12 the joke about the theoretical economist who says about an empirical result, “Ah, it
13 may be true in practice, but is it true in theory?”

14 Moreover, Roberts speaks in absolutes about serving customers “in all
15 circumstances.” Both gas and electric standards take into account failures under certain
16 circumstances. The design-day criterion for gas is itself based on a trade-off between
17 reliability and cost.³³ No one is suggesting that reliability be sacrificed for either gas or
18 electric customers. However, it would have been prudent for PSE to analyze the
19 alternative of using sales between the gas business unit and electric business unit when
20 it was making the decisions to proceed with the Tacoma LNG Project. PSE imprudently
21 failed to do this.

³¹ Roberts, Exh. RJR-30T at 28:3–11.

³² Roberts, Exh. RJR-30T at 28:11–16.

³³ Puget Sound Energy 2005 Least Cost Plan, Appendix I, Gas Planning Standard, Docket UE-050664 (filed May 2, 2005).

1 Fourth, even if there were occasional coincident peaks in gas distribution
2 demand, gas-for-generation demand, and PSE electricity demand, this does not mean
3 that sales of gas from the electric business unit to the gas business unit could not
4 eliminate some of the need for the Tacoma LNG Project. Again, the nature of storage is
5 that between needs, one can refill it, downsizing the overall storage requirement. It
6 would have been prudent if PSE had analyzed how much these sales could provide a
7 peaking resource. PSE imprudently failed to do so.

8 Fifth, PSE clearly indicated in its letter to PSCAA that arrangements between
9 its gas business unit and electric business could fill in the gap in the absence of the
10 Tacoma LNG Project.³⁴ The Commission should reject Roberts' claims to the
11 otherwise. PSE cannot tell one agency one thing and another agency the opposite thing.

12 **Q. Do you agree that it was PSE's duty to analyze the alternatives you suggest and**
13 **document the analysis in their filing with the Commission?**

14 A. Yes. The burden of proof for prudence is on PSE, not other parties. The Commission
15 states, "the company must establish that it adequately studied the question of whether to
16 purchase these resources and made a reasonable decision."³⁵ If there were reasonable
17 alternatives, PSE should have evaluated them at the time of its decision-making and
18 documented that evaluation. As it stands now, PSE provides excuses with little
19 evidence as to why it did not analyze the alternatives it suggested in its letter to
20 PSCAA.

³⁴ Earle, Exh. RLE-10 (PSE Response to Public Counsel Data Request No. 312 with Attachment A - PSE Response to SEIS Data and Information Request at 14–15, May 25, 2018).

³⁵ *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Dockets UE-111048/UG-111049 (*consol.*), Order 08 ¶ 409 (May 7 2012).

D. PSE's Board of Directors was not Adequately Informed of the Problems with PSE's Needs Assessment and Reasonable Alternatives to the Tacoma LNG Project

1 **Q. Did PSE management adequately inform its Board of Directors of the problems**
2 **with PSE's needs assessment and reasonable alternatives to the Tacoma LNG**
3 **Project?**

4 A. No, it did not. As explained in my July 28, 2022 testimony, PSE failed to inform the
5 Board of Directors about the problems with its needs assessment and reasonable
6 alternatives to the Tacoma LNG Project.³⁶ PSE seems to put great weight on the
7 volume of materials provided to its Board of Directors.³⁷ However, in over 1800 pages
8 of materials, PSE did not discuss declining forecasts or disappearing projected needs.
9 Nor did PSE management present alternatives to the Tacoma LNG Project, such as
10 sales of gas to the gas business unit from the electric business unit or compressed
11 natural gas. PSE management also presented no discussions of having the gas side of
12 the business pay the electric side of the business for either pipeline capacity, purchases
13 of electric power to replace reduced production, or other arrangements that would
14 obviate the need for a peaking facility.

15 In addition, I indicated that there was a two-year period in which there were no
16 presentations to the Board on the Tacoma LNG Project. Roberts responds that there
17 were oral communications as well as letters to the Board from PSE's CEO during that
18 period. That may be true or not, however, PSE put the emphasis on Board presentations
19 as the reliable source and reflection of its communications with the Board. In particular,

³⁶ Earle, Exh. RLE-1CT at 20:4-7; 22:4-7.

³⁷ Roberts, Exh. RJR-30T at 32:3-5.

1 Roberts in his testimony cites Exhibit RJR-1CT, Table 6 as providing a “list of
2 decisions made by the PSE Board of Directors through the development and
3 construction phases of the Tacoma LNG Facility.”³⁸ Alongside each decision by the
4 Board listed in the table are an immediate forecasted need and forecasted need at year
5 20 implying that these needs forecasts formed part of the Board’s decision-making
6 process.³⁹ However, most of the numbers cited do not appear in the over 1800 pages of
7 Board presentations provided by PSE.⁴⁰ Either the Board was not adequately informed
8 or PSE’s documentation is incomplete. Both outcomes point to PSE’s imprudence.

E. PSE’s Documentation of its Decisions on the Tacoma LNG Project does not meet the Commission’s Standards

9 **Q. Please explain why PSE’s documentation of its decision on the Tacoma LNG**
10 **Project does not meet the Commission’s standards.**

11 A. In the preceding discussion, I set forth numerous problems with PSE’s documentation.
12 While Roberts emphasizes quantity (1800 pages), the documentation largely consists of
13 documentation of a process that missed the mark on consideration of need, alternatives,
14 and adequate information. As discussed above, PSE’s documentation of the process is
15 misleading as can be seen in its presentation in Table 6 in Exhibit RJR-1CT. The table
16 implies that the Board was informed at the time of its decision-making of these

³⁸ Roberts, Exh. RJR-30T at 31:15–17.

³⁹ Roberts, Exh. RJR-1CT at 58–60, Table 6.

⁴⁰ Earle, Exh. RLE-16 (PSE Response to Public Counsel Data Request No. 393, sub-part e.); Earle, Exh. RLE-17 (PSE Response to Public Counsel Data Request No. 394, sub-part e.); Earle, Exh. RLE-18 (PSE Response to Public Counsel Data Request No. 396, sub-part e.); Earle, Exh. RLE-19 (PSE Response to Public Counsel Data Request No. 398, sub-part e.); Earle, Exh. RLE-22 (PSE Response to Public Counsel Data Request No. 387, sub-part e.); Earle, Exh. RLE-23 (PSE Response to Public Counsel Data Request No. 388, sub-part e.); Earle, Exh. RLE-24 (PSE Response to Public Counsel Data Request No. 389, sub-part e.); Earle, Exh. RLE-25 (PSE Response to Public Counsel Data Request No. 395, sub-part e.).

1 forecasts of need. However, they were not. Moreover, as also discussed above, there is
2 a lack of documentation about the sizing decision for the Tacoma LNG Project.

3 PSE failed to adequately document its decision on the Tacoma LNG Project and
4 the Commission should find PSE's decision to build the Tacoma LNG Project
5 imprudent.

**F. The Tacoma LNG Project Is Imprudent and the Commission Should
Disallow All Associated Capital Costs**

6 **Q. Please summarize why the Tacoma LNG Project is imprudent.**

7 A. As I explain above, the Tacoma LNG Project fails in all four factors the Commission
8 focuses on to evaluate prudence: Need, Evaluation of Alternatives, Communication
9 with and Involvement of the Board of Directors, and Adequate Documentation.

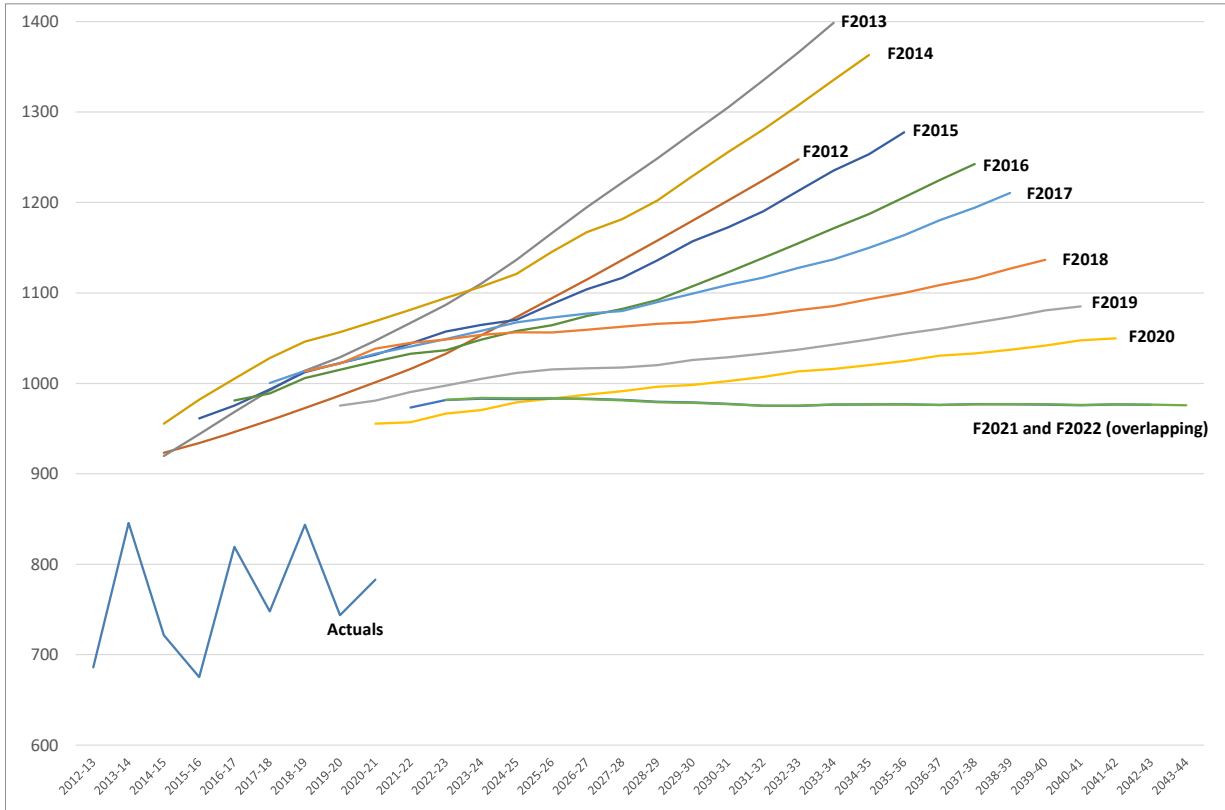
10 Because of these failures, the Commission should find the decision to proceed with the
11 Tacoma LNG Project imprudent and disallow all costs associated with it.

12 There were opportunities for a Board of Directors, if they had been well-
13 informed, to suggest pausing to re-evaluate the evidence concerning the need for and
14 alternatives to the Tacoma LNG Project. The Board, however, was not well-informed,
15 the need had not been established, and potential, viable alternatives were not analyzed.
16 Absent a finding of imprudence, ratepayers will be forced to waste hundreds of millions
17 of dollars on a project that will provide little or no value to them. This would be a
18 tragedy for PSE's ratepayers.

19 The declining forecasts and level of actual sales are illustrated in Figure 2,
20 below. Figure 3 shows the F2022 forecast and the level of resources without the
21 Tacoma LNG Project. There is clearly the possibility that the Tacoma LNG Project
22 may never become used and useful to ratepayers. Even if it does become used and

1 useful, it is grossly oversized with a currently projected need of less than 11 MDth/day
2 over the next few winters declining to 3 MDth/day in 20 years.⁴¹

3 **Figure 2: The Trend to Date Shows that the Tacoma LNG Project May Never be**
4 **Needed for Peak Shaving⁴²**

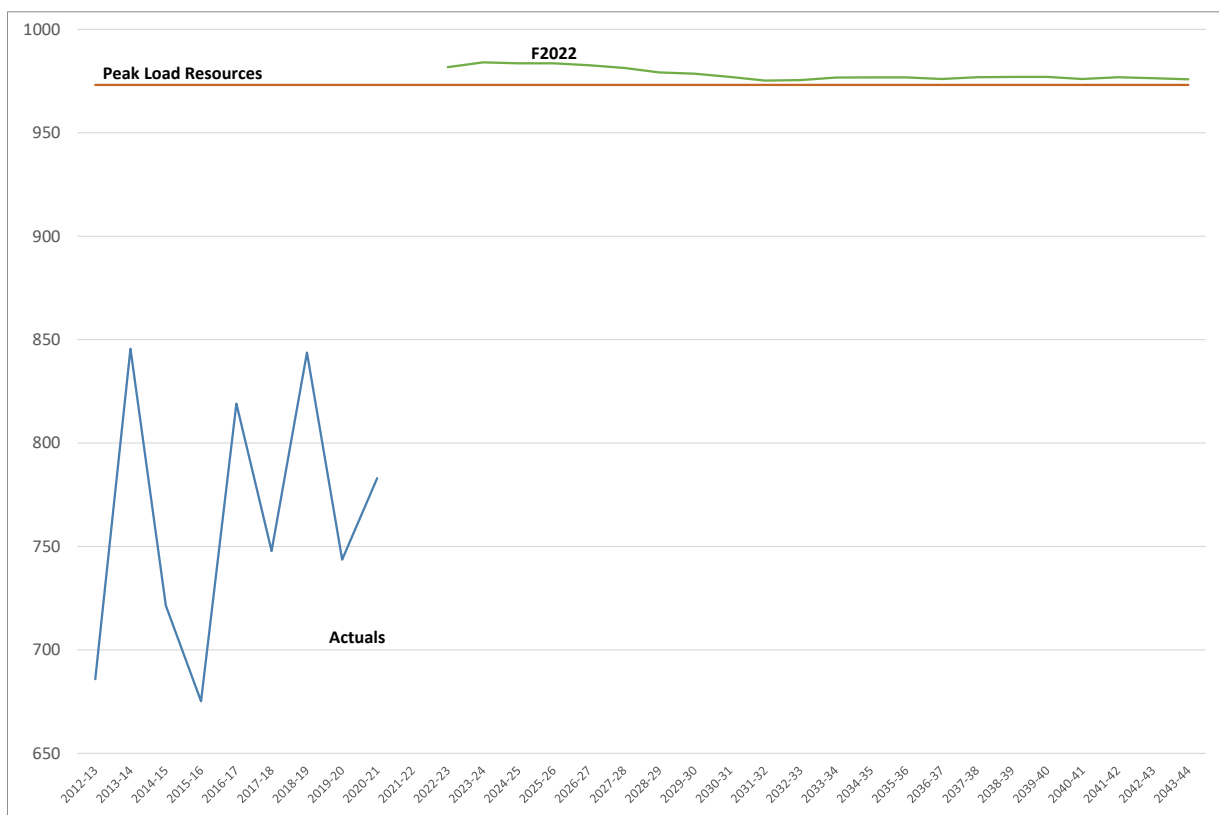


5

⁴¹ Data from Puget Sound Energy Response to Public Counsel Data Request No. 106, Attachment A which was provided as Exhibit RLE-7.

⁴² Data from Puget Sound Energy Response to Public Counsel Data Request No. 106, Attachment A which was provided as Exhibit RLE-7 and from Puget Sound Energy Response to Public Counsel Data Request No. 378, Attachment A which was provided as Exhibit RLE-8.

Figure 3: The Most Recent Forecast Lies Barely Above the Peak Load Resources (Excluding Tacoma LNG)⁴³



III. PROCESS FOR THE DETERMINATION OF PRUDENCE OF POWER COSTS IN THE MAIN SETTLEMENT

Q. Do you have concerns about the prudence provision concerning power costs in the Main Settlement?

A. Yes. The Main Settlement requires a 90-day compliance filing to change rates effective January 1, 2024, for costs to be recovered in 2024. PSE will update 11 categories in its update.⁴⁴

1. Costs associated with Mid-C hydro contracts;
2. Costs associated with upstream pipeline capacity;

⁴³ Data from Puget Sound Energy Response to Public Counsel Data Request No. 106, Attachment A which was provided as Exhibit RLE-7 and from Puget Sound Energy Response to Public Counsel Data Request No. 378, Attachment A which is provided as Exhibit RLE-8.

⁴⁴ LNG Settlement at 17.

3. Outage schedules;
4. BPA rates;
5. Load forecast (for the 2024 update);
6. Variable O&M costs;
7. Impacts to dispatch logic related to Climate Commitment Act (CCA) compliance;
8. Hedges and physical supply contracts;
9. Natural gas prices;
10. Changes to terms of current resources;
11. Any new and updated resources (including transmission contracts);

The Settlement goes on to say that, “[n]othing in this agreement limits the Settling Parties’ ability to review and contest prudence in future proceedings.”⁴⁵ There is no further description in the Settlement or in testimony supporting the Settlement as to which future proceedings would determine prudence. Public Counsel’s understanding is that the settling parties intend for prudence determinations to occur during these update filings, which could be decided in an open meeting or, less frequently, through adjudication.

With the long list of potential changes to power costs, Public Counsel believes that intervenors should have the opportunity to address prudence through a full adjudicative process including testimony, response testimony, rebuttal/cross-answering testimony, and hearings and briefs. Ideally, this review would occur in a general rate case.

For intervenors representing disadvantaged communities, an annual review process raises concerns about equity. If these intervenors lack the staff or budgets to follow Commission filings closely and engage in all relevant proceedings, they lose the ability to guard the rights of their represented disadvantaged communities. This is even more the case if the annual proceeding is not set up as an adjudicative process, but is

⁴⁵ Main Settlement at 17.

1 folded into the PCA annual review. It takes a quick reaction time and plentiful
2 resources to analyze and then file arguments for opening the process into full
3 adjudication.

4 Establishing the review of the prudence of power cost updates in the next GRC
5 would be consistent with the Commission's Used and Useful Policy Statement⁴⁶ and
6 alleviate concerns about equity and the opportunity for full review by intervenors.

7 There would be no conflict with the established PCA annual review process. If the
8 subsequent GRC found power costs imprudent that were included in an annual review
9 process and PCA true-up, adjustments could be easily made after the fact.

10 If the Commission approve this part of the Main Settlement, it should mandate
11 that the prudence of power costs be determined in the next GRC proceeding.

12 **Q. Does this conclude your testimony?**

13 **A. Yes.**

⁴⁶ *In re: the Comm'n Inquiry into the Valuation of Pub. Serv. Co. Prop. that Becomes Used and Useful after Rate Effective Date*, Docket U-190531, Policy Statement on Property that Becomes Used and Useful After Rate Effective Date ¶ 33 (Jan. 31, 2020).