

**EXH. AR-5
DOCKET U-210542
WITNESS: AARON RUBIN**

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**IN THE MATTER OF THE JOINT
APPLICATION OF PUGET SOUND
ENERGY, ONTARIO TEACHERS'
PENSION PLAN BOARD, AND
MACQUARIE WASHINGTON
CLEAN ENERGY INVESTMENT,
L.P., FOR AN ORDER
AUTHORIZING PROPOSED SALES
OF INDIRECT INTERESTS IN
PUGET SOUND ENERGY**

Docket U-210542

**FOURTH EXHIBIT (NONCONFIDENTIAL)
TO THE PREFILED DIRECT TESTIMONY (NONCONFIDENTIAL) OF**

AARON RUBIN

**ON BEHALF OF MACQUARIE WASHINGTON
CLEAN ENERGY INVESTMENT, L.P.**

AUGUST 13, 2021

STB Draft 6/9/2021

VOTING AGREEMENT

This Voting Agreement (this “Agreement”) is made this [●] day of [●], 2021 by and between [MIRACo], a [●] (“MIRA Investor”), and [Ontario Teachers’ Pension Plan Board investor], a [●] (“OTPP Investor”). The parties to this Agreement (including without limitation, the successors and assigns thereof in accordance with this Agreement) are individually referred to as a “Party” and are collectively referred to as the “Parties”.

RECITALS

Each of the Parties has entered into an agreement to separately acquire and hold [15.8]¹% of the outstanding Shares of Puget Holdings LLC, a Delaware limited liability company (“Puget Holdings”) from CPP Investment Board (USRE II) Inc. (the “Transaction”).

As a result of the consummation of the Transaction, each Party is acquiring the right to appoint one Manager to serve on the Board of Puget Holdings for each 10% of the Shares held, pursuant to the Second Amended and Restated Limited Liability Company Agreement of Puget Holdings, LLC dated May 28, 2009, and amended on October 30, 2017 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with its terms, the “Puget Holdings LLC Agreement”).

Among other things, on the terms and conditions set forth herein, the Parties desire to coordinate with respect to their respective Shares, including to (i) combine their Free Percentages to jointly designate a Manager, (ii) vote their Shares in Puget Holdings in the same manner in respect of all Member Supermajority Matters to be voted on by the Members of Puget Holdings and (iii) to cause the Managers of Puget Holdings appointed by them (including any Jointly Appointed Manager) to vote in the same manner on all Board Supermajority Matters to be voted on by the Managers of Puget Holdings or managers or directors of any of its Subsidiaries.

Now therefore, in consideration of the foregoing, the mutual promises herein contained and the benefits to be derived from this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. Definitions. All capitalized terms not specifically defined in this Agreement shall have the meanings set forth in the Puget Holdings LLC Agreement.

2. Jointly Appointed Manager.² The Parties shall take such reasonable actions as may be necessary to use their respective Free Percentages to jointly appoint one Jointly Appointed Manager, reasonably acceptable to each of the Parties, to the Board pursuant to the Puget Holdings LLC Agreement (the “Joint Party Manager”). Upon request of any Party reasonably objecting to any then currently serving Joint Party Manager, the Parties shall promptly take such reasonable actions as may be necessary to remove such Joint Party Manager and appoint a replacement Joint Party Manager pursuant to the Puget Holdings LLC Agreement.

¹ Note to Draft: To be updated to reflect ultimate Interest acquired by each Party.

² Note to Draft: Assumes the Transaction involves an acquisition of 30% or more of the outstanding Interests in Puget Holdings.

3. Voting on Reserved Matters.

(a) To the extent practicable, before the Parties vote on any Member Supermajority Matter, and before any Manager appointed by a Party or Joint Party Manager, as applicable, vote on any Board Supermajority Matter (the Member Supermajority Matters and the Board Supermajority Matters being collectively referred to as the “Reserved Matters”), the Parties shall reasonably consult with each other concerning such Reserved Matter and shall exchange their respective views as to whether to vote or direct their respective Managers to vote in favor of or against such Reserved Matter. Each Party shall use commercially reasonable efforts to make its Managers (and any Joint Party Manager, as applicable) or personnel managing the investment in Puget Holdings reasonably available, to (i) consult with the other Party’s Manager or personnel managing the investment in Puget Holdings regarding the performance of Puget Holdings generally and (ii) to the extent practicable, specifically discuss and confirm voting decisions related to the Reserved Matters reasonably in advance of when such decisions must be made.

(b) If both Parties are in agreement as to how to vote on such Reserved Matter, each Party shall vote, and use commercially reasonable efforts to cause any the Manager appointed by such Party and direct the Joint Party Manager (as applicable) to vote in accordance with the agreement of the Parties. If following such consultation, one Party desires to vote against a Reserved Matter and the other Party desires to vote in favor of such Reserved Matter, the Parties shall, at the request of the Party supporting the Reserved Matter, use commercially reasonable efforts to consult with the other Members of Puget Holdings and/or the Managers of Puget Holdings, other than the respective Managers appointed by the Parties and, for the avoidance of doubt, any Joint Party Manager, including consideration of any changes to the Reserved Matter that would cause the Party opposing the Reserved Matter to support the Reserved Matter.

(c) Subject to clause (d) immediately below, but otherwise notwithstanding anything to the contrary, whether following any such consultation above or otherwise, (i) each Party shall vote against any Reserved Matter unless both Parties vote in favor of such Reserved Matter and (ii) except to the extent required of managers of a limited liability company pursuant to the Delaware Limited Liability Company Act (as such requirements may be further modified by the Puget Holdings LLC Agreement), each Party shall use commercially reasonable efforts to cause any Manager appointed by such Party (and direct any Joint Party Manager, as applicable) to vote against any Reserved Matter unless both Parties have agreed that such Managers should vote in favor of such Reserved Matter (in which case each Parties shall use commercially reasonable efforts to cause any Manager appointed by such Party (and direct any Joint Party Manager, as applicable) to vote in favor of such Reserved Matter).

(d) Notwithstanding the foregoing provisions of this Section 3, if a Party or the Manager appointed by a Party is required to abstain from consideration of any Reserved Matter, the non-abstaining Party or the Manager appointed by the non-abstaining Party shall vote in the manner determined by the non-abstaining Party and, to the extent any Joint Party Manager has a right to vote in respect of such Reserved Matter under the Puget

Holdings LLC Agreement, the Parties shall direct the Joint Party Manager to vote in the manner determined by the non-abstaining Party.

4. Voting on Matters Other Than Reserved Matters.

(a) Each Party may, and may instruct or otherwise cause any Manager appointed by it to, vote on any matters to be voted on by the Members or Managers of Puget Holdings other than Reserved Matters without regard to the vote of the other Party; provided, that if any Joint Party Manager has a vote on such matter, the Parties shall either (i) if the Managers appointed by the Parties are each voting the same way, direct the Joint Party Manager to vote consistently with the Parties' Managers or (ii) if the Managers appointed by the Parties are not voting the same way, (x) direct the Joint Party Manager to, to the extent permitted under the Puget Holdings LLC Agreement, allocate its votes consistently with the respective Managers appointed by each of the Parties in proportion to the relative Free Percentages of such Parties (including by the Joint Party Manager abstaining from voting on such matter if doing so would have the foregoing effect) or (y) remove the Joint Party Manager prior to such vote such that any available Free Percentages of the Parties may be voted by the respective Managers appointed by each of the Parties.

(b) It is acknowledged and agreed that, for so long as any Party holds at least 10% of the outstanding Shares and has the right to individually appoint a Manager under the Puget Holdings LLC Agreement, any Free Percentage held by such Party may be voted only by such Manager, and, except as both consistent with the Puget Holdings LLC Agreement and such Party may otherwise expressly agree in writing, such Free Percentage shall not be voted by any Joint Party Manager.

5. Transfers of Shares. No Party shall Transfer any of its Shares except in compliance with following provisions (and subject to and in accordance with the Puget Holdings LLC Agreement):

(a) A Party may Transfer all or any part of its Shares to an Affiliate, provided that such Party and all of its Affiliates which hold Shares agree to be bound by this Agreement and agree to be treated as a single Party for all purposes of this Agreement.

(b) A Party may Transfer all or any part of its Shares, and in connection therewith assign any or all of its rights under this Agreement with respect to such Transferred Shares, to any Person who is not an Affiliate of such Party (together with its Affiliates acquiring any such Transferred Shares, a "Third Party Purchaser"), provided that either (i) such Party continues to own at least 10% of the then-outstanding Shares following such Transfer or (ii) both (x) the Shares being Transferred to such Third Party Purchaser constitute at least 10% of the then-outstanding Shares and (y) such Third Party Purchaser agrees to be bound by this Agreement with respect to all such Shares as a "Party" in the place of the Party Transferring such Shares to such Third Party Purchaser, and from and after such Third Party Purchaser becoming a Party to this Agreement, the Transferring Party will no longer be a Party or have any rights or liabilities hereunder, with such rights or liabilities being assumed by such Third Party Purchaser.

Notwithstanding anything in the foregoing to the contrary, it is expressly understood and agreed that this Agreement shall not restrict any Transfer of equity or other interests in any Party or Person directly or indirectly holding equity in a Party (as opposed to a Party Transferring Shares).

6. Other Rights as a Member. Except as specifically provided in this Agreement, this Agreement shall not modify, restrict or limit the rights and obligations accorded to either Party under the Puget Holdings LLC Agreement as a Member of Puget Holdings.

7. Termination. Notwithstanding anything to the contrary, this Agreement shall automatically terminate and be of no further force or effect upon the earliest of: (i) any Party ceasing to own at least 10% of the outstanding Shares (other than pursuant to a Transfer to a Third Party Purchaser who becomes a Party to this Agreement as contemplated by Section 5(b)); (ii) each Party (together with any of its Affiliates, if applicable) independently owning more than 20% of the outstanding Shares; (iii) a sale of 100% of the outstanding Shares or (iv) an Initial Public Offering; provided, that upon termination of this Agreement, Sections 8-13 shall survive.

8. Amendment. This Agreement may be amended only by the written agreement of each of the Parties.

9. Governing Law; Dispute Resolution.

(a) This Agreement, and all claims and causes of action (whether in contract, tort, at law in equity or otherwise) that may be based upon, arise out of, or relate to this Agreement, any of the transactions contemplated hereby or the negotiation, execution, performance or enforcement of this Agreement shall be governed by and construed in accordance with the law of the state of Delaware without giving effect to any choice or conflict of laws provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware. THE PARTIES HERETO WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING BROUGHT TO ENFORCE OR DEFEND ANY RIGHTS OR REMEDIES UNDER THIS AGREEMENT OR ANY DOCUMENTS ENTERED INTO IN CONNECTION WITH THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREIN.

(b) In the event that any dispute arises between the Parties in connection with this Agreement, then such dispute shall be resolved by arbitration under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said rules. Any such arbitration shall be conducted in New York, New York, and shall be conducted in English. Each Party in such dispute shall bear its own fees, costs and expenses. Notwithstanding any provision of this Agreement to the contrary, this Section 9(b) shall be construed to the maximum extent possible to comply with the laws of the State of Delaware, including the Uniform Arbitration Act (10 Del. C. § 5701 et seq.) (the "Delaware Arbitration Act"). If, nevertheless, it shall be determined by a court of competent jurisdiction that any provision or wording of this Section 9(b), including any Rules of Arbitration of the International Chamber of Commerce, shall be invalid or unenforceable under the Delaware Arbitration Act, or other applicable law, such invalidity shall not invalidate all of this Section 9(b). In that case, this Section 9(b) shall

be construed so as to limit any term or provision so as to make it valid or enforceable within the requirements of the Delaware Arbitration Act or other applicable law, and, in the event such term or provision cannot be so limited, this Section 9(b) shall be construed to omit such invalid or unenforceable provision.

(c) Notwithstanding anything in this Agreement to the contrary, (i) each Party recognizes and acknowledges that a breach by it of any covenants or agreements contained in this Agreement shall cause the other Parties to sustain irreparable harm for which it would not have an adequate remedy at law, and therefore in the event of any such breach the aggrieved Party shall, without the posting of bond or other security (any requirement for which the Parties hereby waive), be entitled to seek the remedy of specific performance of such covenants and agreements, including injunctive and other equitable relief, in addition to any other remedy to which it might be entitled, (ii) a Party shall be entitled to seek an injunction or injunctions to prevent breaches of this Agreement, and (iii) in the event that any action is brought in equity to enforce the provisions of this Agreement, no Party shall allege, and each Party hereby waives the defense or counterclaim, that there is an adequate remedy at law.

(d) The rights and obligations of the Parties under this Agreement shall be several, and not joint and several.

10. Counterparts. This Agreement may be executed in any number of counterparts (including by telecopy and electronic imaging scans), each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile or other electronic method of transmission shall be equally effective as delivery of an original executed counterpart.

11. Successors and Assigns. This Agreement shall be binding on, and solely for the benefit of the Parties and their respective successors and permitted assigns. Except as set forth herein, no Party may assign (by contract, stock sale, operation of law or otherwise) either this Agreement (in whole or in part) or any of its rights, interests, or obligations hereunder without the express prior written consent of the other Parties, and any attempted assignment, without such consent, shall be null and void.

12. Section Headings; Interpretation. The section headings contained in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement or affect in any way the meaning or interpretation of this Agreement. For all purposes hereof, The words “include,” “includes” or “including” mean “include, without limitation,” “includes, without limitation” or “including, without limitation,” as the case may be, and the language following “include,” “includes” or “including” will not be deemed to set forth an exhaustive list. The word “or” will not be limiting or exclusive. The words “hereof,” “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. No provision of this Agreement shall be interpreted or construed against any party solely because such party or its representative drafted such provision.

13. Expenses. Except as otherwise expressly provided herein or in any separate agreement of the Parties, the Parties will each pay all of their own fees, costs and expenses

(including fees, costs and expenses of legal counsel) incurred in connection with the preparation, negotiation, execution and delivery of this Agreement and the performance of their obligations hereunder.

[Signature pages follow.]

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement as the date first written above.

[MIRA INVESTOR]

By: _____

Name:

Title:

By: _____

Name:

Title:

[OTPP INVESTOR]

By: _____

Name:

Title: