

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	DOCKETS UE-220066,
TRANSPORTATION COMMISSION,)	UG-220067, and UG-210918
)	(consolidated)
Complainant,)	
)	OBJECTION OF
v.)	MICROSOFT CORPORATION TO
)	CROSS-EXAMINATION
PUGET SOUND ENERGY,)	
)	EXPEDITED CONSIDERATION
Respondent.)	REQUESTED
<hr/>		

I. INTRODUCTION

1 Pursuant to WAC 480-07-375(1)(d), Microsoft Corporation (“Microsoft”) hereby objects to the Coalition of Eastside Neighbors for Sensible Energy’s (“CENSE”) proposed cross-examination of Microsoft witness Irene Plenefisch and moves to prohibit this cross examination. The respective scopes of CENSE’s and Microsoft’s interventions and interests in these proceedings are wholly unrelated and, therefore, there is no topic within the scope of Ms. Plenefisch’s testimony in this proceeding on which CENSE could cross-examine her. Microsoft contacted a representative from CENSE to attempt to resolve this issue, but the parties could not reach agreement.

2 Given the timing of the hearing in these proceedings, Microsoft requests expedited consideration of this Motion. If this motion is granted, Microsoft further requests that Ms. Plenefisch be excused from attending the hearing, unless the Commissioners or Administrative Law Judge (“ALJ”) have questions for her.

II. ARGUMENT

3 On September 26, 2022, Puget Sound Energy filed a comprehensive table of cross-
examination estimates on behalf of all of the parties to these proceedings. This table includes 5
minutes of cross-examination of Ms. Plenefisch from CENSE. While Ms. Plenefisch is
identified as a panel witness for the Revenue Requirement and Policy Panel, CENSE’s cross-
examination estimates identified 5 minutes of cross specifically for Ms. Plenefisch.

4 WAC 480-07-470(9) specifies the general rule of cross-examination, which is that cross-
examination is only allowable “upon matters within the witness’s direct evidence.”¹ Ms.
Plenefisch’s direct testimony was limited in scope to the amount of Colstrip decommissioning
and remediation (“D&R”) costs assignable to Microsoft.² Additionally, while Microsoft is a
signatory to the Settlement Stipulation and Agreement on Revenue Requirement and All Other
Issues Except Tacoma LNG and PSE’s Green Direct Program (“RR Settlement”), Microsoft’s
letter in support of the RR Settlement makes clear that its support is specifically of resolution of
the amount of Colstrip D&R costs assigned to Microsoft, based on Ms. Plenefisch’s previously
filed Direct Testimony.³ While Microsoft generally supports the RR Settlement as a
consequence of resolution of this issue, it has taken no substantive position on any of the other
issues resolved by the RR Settlement.

5 Meanwhile, CENSE’s opposition to the RR Settlement is limited to its treatment of the
Energize Eastside project. This is appropriate because the Commission expressly limited
CENSE’s participation in this proceeding “to the prudence of PSE’s Energize Eastside project

¹ See also, Wash. R. Evid. 611(b).

² See generally, Exh. IP-1Tr.

³ Microsoft Settlement Letter (Aug. 26, 2022).

investments” and allowed CENSE to “participate in discovery and *cross-examination* only with respect to the Energize Eastside project.”⁴ This means that there is no cross-examination CENSE could conduct of Ms. Plenefisch that would be within the scope of Ms. Plenefisch’s testimony in these dockets. Accordingly, the Commission should not allow CENSE to conduct its proposed cross-examination of Ms. Plenefisch.

6 Microsoft is filing this motion prior to the hearing in this matter, rather than objecting to CENSE’s cross-examination at the hearing, because CENSE is the only party with proposed cross-examination for Ms. Plenefisch. If this motion is granted, then, Microsoft would also request that Ms. Plenefisch be excused from the hearing, unless the Commissioners or ALJ have questions for Ms. Plenefisch within the scope of her testimony. If there are no such questions, and the Commission is inclined to sustain Microsoft’s objection, then it is more administratively efficient to do so through a ruling on this motion than to require Ms. Plenefisch to attend the hearing. Of course, if there are questions from the bench, Ms. Plenefisch will be available to testify at the hearing, regardless of the Commission’s ruling on this motion. To be clear, though, Microsoft maintains its objection to CENSE’s proposed cross-examination of Ms. Plenefisch regardless of whether the bench wishes to question her or not.

III. CONCLUSION

7 For the foregoing reasons, Microsoft respectfully requests that the Commission prohibit CENSE from cross-examining Ms. Plenefisch at the upcoming hearing in these dockets and excuse her from the hearing if the Commissioners and ALJ do not themselves have questions for her.

⁴ Order 03 ¶ 18 (Mar. 3, 2022) (emphasis added).

Dated this 26th day of September, 2022.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Tyler C. Pepple

Tyler C. Pepple, WA State Bar No. 50475

1750 SW Harbor Way, Suite 450

Portland, Oregon 97201

Telephone: (503) 241-7242

tcp@dvclaw.com

Of Attorneys for Microsoft Corporation