



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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August 19, 2021

**NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS**  
**(By 5 p.m., Friday, September 10, 2021)**

and

**NOTICE OF WORKSHOP**  
**(Scheduled for September 28, 2021, at 9 a.m.)**

RE: Relating to the Commission's examination of intervenor funding provisions for regulatory proceedings, Docket U-210595

TO ALL INTERESTED PERSONS:

Engrossed Substitute Senate Bill 5295, Chapter 188, Laws of 2021, provides statutory authority for energy utilities to provide financial assistance to certain organizations participating in regulatory processes before the Washington Utilities and Transportation Commission (Commission). The Commission is directed to approve, approve with modifications, or reject proposed agreements and, before administering agreements, determine by rule or order amounts of funding that can be provided to organizations; the manner in which the financial assistance is distributed; the manner in which the financial assistance is recovered in the rates of the gas company or electrical company; and other matters necessary to administer the agreement.<sup>1</sup>

The statute further directs the Commission and utilities to prioritize organizations representing vulnerable populations or highly impacted communities for funding.<sup>2</sup>

The Commission is accepting public comments to inform a policy statement that will guide Commission orders administering funding agreements. Comments and discussion responding to the questions listed in more detail below must be received by **5 p.m. on Friday, September 10, 2021**, to be included for the Commission's consideration.

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<sup>1</sup> Engrossed Substitute Senate Bill 5295, Sec. 4(1) and (2).

<sup>2</sup> Engrossed Substitute Senate Bill 5295, Sec. 4(4).

The Commission will also hold a public workshop on **September 28, 2021, from 9 a.m. to 4 p.m.** to gather additional stakeholder input to inform the Commission's examination and policy statement. A workshop agenda and attendance information will be provided in this docket in mid-September.

### **WRITTEN COMMENTS AND QUESTIONS FOR CONSIDERATION**

The Commission gives notice of the opportunity to submit comments by **5 p.m., Friday, September 10, 2021.**

The Commission requests written comments in response to the following questions. Commentors are welcome to provide additional written comments, beyond these specific questions, detailing their interpretations of the statutory language and how it should be implemented.

#### **Questions regarding ESSB 5295 Section 4(1)**

1. Section 4(1) of ESSB 5295 states: "A gas company or electrical company shall, upon request, enter into one or more written agreements with organizations that represent broad customer interests in regulatory proceedings conducted by the commission, subject to commission approval in accordance with subsection (2) of this section, including but not limited to organizations representing low-income, commercial, and industrial customers, vulnerable populations, or highly impacted communities." How should the Commission interpret "broad customer interests" and "regulatory proceedings"?
2. Should the Commission require intervenor funding agreements between utilities and organizations to take a particular form, and should the agreements require organizations to provide financial spreadsheets, details of funding need, reporting of costs and expenses, or other requirements? If so, please provide suggested agreement models from other states or other preferred agreement requirements, including content.
3. What standards should the Commission use for approving, approving with modifications, or rejecting an agreement for funding?
4. What constitutes a reasonable allocation of financial assistance?
  - a. Should the Commission establish an overall amount of assistance provided to intervenors by each utility?
  - b. What standards should the Commission use to determine whether an agreement is consistent with a reasonable allocation of financial assistance?

#### **Questions regarding ESSB 5295 Sections 4(2) and (3)**

5. Should intervenor funding be prioritized and/or dispersed based on utility budgets for funding, or should agreements be considered case-by-case and without the use of utility budgets for intervenor funding?
6. Should eligibility for organizations to enter into an agreement for intervenor funding require a demonstration of need? Should eligibility be based on other considerations, such as a material contribution to a proceeding?
  - a. What parameters should guide this eligibility?

- b. What organizations should *not* be eligible for funding, if any?
  - c. Should the Commission consider or allow for pre-certification of organizations, similar to the methodology used by the Oregon Public Utilities Commission, to enter into agreements with utilities? Or should all agreements and all organizations be considered on a case-by-case basis?
7. Should the Commission consider interim funding needs, *i.e.*, full or partial payments provided to organizations in advance of or during a proceeding, or should all funding be dispersed at the conclusion of a proceeding?
  - a. What factors should the Commission consider to determine whether an organization is eligible for interim funding?
  - b. What documentation should an organization submit to support a request for interim funding?
  - c. Should the Commission consider a process for the return of interim funding payments if a payment grantee does not materially contribute to a proceeding or must excuse itself from the proceeding for any reason?
8. What administrative procedures should be in place for the distribution of financial assistance, such as cost audits, documentation, reporting, or others?
9. What should be the Commission's role, if any, in administering agreements and funding *after* approving agreements? For example, should the Commission have a role in assessing the validity or reasonableness of intervenor costs; approving or rejecting final funding amounts or payments; providing templates for forms and paperwork, including agreements, funding applications, and cost or budget tracking of funding awards; or requiring reporting from intervenors and utilities? Please provide administrative models from other states or jurisdictions as relevant.
10. What types of expenses or costs should be eligible for funding (*e.g.*, legal costs, professional services, expert witnesses, consultants, etc.)? What types of expenses or costs should not be eligible for funding, if any?
11. If the Commission reviews the reasonableness of expenses or costs, what factors should the Commission consider? For example, what factors should the Commission consider to determine reasonable attorney and expert witness fees? What supporting documentation should the Commission require in order to establish the reasonableness of services provided?
12. How might the Commission require intervenor funding to be recovered in gas or electric utility rates? What should the Commission consider in adjusting rates to reflect any written funding agreements?

**Questions regarding ESSB 5295 Section 4(4)**

13. Section 4(4) of ESSB 5295 states: "Organizations representing vulnerable populations or highly impacted communities must be prioritized for funding under this section."
  - a. What does it mean to prioritize organizations representing vulnerable populations and highly impacted communities? Please explain in detail and relative to the other comments you have provided in response to this notice.
    - For example: If you advocate for utilities setting aside standing budgets for intervenor funding, should prioritizing vulnerable populations and

highly impacted communities require a specific budget item? If so, what is a reasonable amount or percentage of an overall budget? If you advocate for all funding agreements to be considered on a case-by-case basis without the use of standing utility budgets, how might vulnerable populations and highly impacted communities be prioritized in such a case-by-case model?

- b. Should the Commission define “highly impacted communities” and “vulnerable populations”? If yes, please provide definitions or provide references to existing legal definitions in statute or administrative rule.

Pursuant to WAC 480-07-250(3), written comments must be submitted in electronic form, specifically in searchable .pdf format (Adobe Acrobat or comparable software). As provided in WAC 480-07-140(5), those comments must be submitted via the Commission’s web portal at [www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing). If you are unable to submit documents via the portal, you may submit your comments by email to the Commission’s Records Center at [records@utc.wa.gov](mailto:records@utc.wa.gov) or by mailing an electronic copy to the Commission’s Records Center on a flash drive, DVD, or compact disc that includes the filed document(s). Comment submissions should include:

- The docket number of this proceeding (Docket U-210595).
- The commenting party’s name.
- The title and date of the comment or comments.

The Commission will post on its web site all comments that are provided in electronic format. The web site is located at <https://www.utc.wa.gov/casedocket/2021/210595>.

If you are unable to file your comments electronically the Commission will accept a paper document by mail.

### **STAY INFORMED OF THIS PROCEEDING**

Information about any workshops and other aspects of the Commission’s examination in this docket, including comments, will be posted on the Commission’s website as it becomes available. Persons filing comments in response to this Notice will receive future communications the Commission issues in this docket. If you do not file comments but wish to receive such information you may contact the Commission’s Records Center by telephone at (360) 664-1139 or by email at [records@utc.wa.gov](mailto:records@utc.wa.gov) and ask to be included on the mailing list for Docket U-210595.

When contacting the Commission, please refer to Docket U-210595 to ensure that you are placed on the appropriate service list. The Commission’s mailing address is:

Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, WA 98504-7250

**OTHER INFORMATION**

The Commission is committed to providing reasonable accommodations to participants with disabilities. If you need a reasonable accommodation for this workshop, please contact the Commission at least one business day prior to the workshop by calling (360) 664-1132 or by sending an email to [human\\_resources@utc.wa.gov](mailto:human_resources@utc.wa.gov). For TTY service, please call the Washington Relay Service at 7-1-1 or 1-800-833-6384.

If you wish to participate and need an interpreter, one will be provided at no cost to you. If possible, please inform the Commission of which language you will need interpretation services for at least one business day prior to the meeting by calling (360) 664-1140, or by sending an email to [paige.doyle@utc.wa.gov](mailto:paige.doyle@utc.wa.gov).

If you have questions regarding the workshop or opportunity to comment, you may contact staff lead Kate Griffith at (360) 742-2628, or by email at [kate.griffith@utc.wa.gov](mailto:kate.griffith@utc.wa.gov).

A handwritten signature in black ink, appearing to read "Mark L. Johnson", is written over a light gray horizontal line.

MARK L. JOHNSON  
Executive Director and Secretary