



UE-220066/UG-220067/UG-210918

ANDREW S. FULLER
206.223.2036
afuller@omwlaw.com

October 17, 2022

VIA THE UTC WEB PORTAL

Ms. Amanda Maxwell
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Sq. Loop SE
P. O. Box 47250
Lacey, Washington 98503

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COMMISSION

Re: Washington Utilities and Transportation Commission v. Puget Sound Energy, Dockets
UE-220066, UG-220067, UG-210918 (Consolidated)

Dear Executive Director Maxwell:

This letter is in response to PSE’s submission of its Revised First Exhibit (Nonconfidential) to the Prefiled Testimony of Ronald J. Roberts (Exhibit RJR-31r), which was provided to you on October 11, 2022.

The Tribe objected to admission of Exhibit RJR-31 during the hearing before the Washington Utilities and Transportation Commission’s (Commission) held on October 3, 2022, in the above-captioned docket. The basis for the Tribe’s objection was that Exhibit RJR-31, which contains excerpts of the written direct testimony of a PSE witness that was submitted to the Pollution Control Hearings Board (PCHB) in March 2021, is inadmissible hearsay when it is offered to prove the truth of the matter asserted and that witness is not subject to cross examination. Judge Howard denied the Tribe’s request to exclude Exhibit RJR-31 but directed PSE to replace the exhibit with a complete version of the written testimony that Exhibit RJR-31 was excerpted from.

Unfortunately, the contents of the replacement exhibit provided by PSE on October 11 (RJR-31r) only exacerbate the evidentiary issues raised in the Tribe’s objection. Exhibit RJR-31r includes as attachments three declarations from additional individuals that PSE did not make available as witnesses. Additionally, Exhibit RJR-31r contains an appended addendum to the original written testimony that is not part of the document PSE excerpted to create Exhibit RJR-31. Because PSE’s replacement exhibit compounds the evidentiary issues the Tribe raised at hearing, the Tribe is now forced to object to the admission of Exhibit RJR-31r and make a record on this increasingly-problematic evidentiary issue. Enclosed for filing in the above dockets are:

1. The Puyallup Tribe of Indians’ Motion to Strike Puget Sound Energy’s Exhibit RJR-31r;

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2. The following proposed cross-examination exhibits containing cross-examination testimony associated with the written testimony included within Exhibit RJR-31r:
 - a. **Exhibit RJR-37X** – Excerpts of Libicki Cross-Examination Transcript, PCHB No. P19-087c (4/27/2021) (responding to the excerpts from “Prepared Direct Testimony of Dr. Shari Beth Libicki on Behalf of Puget Sound Energy, Inc.” included in PSE’s original Exhibit RJR-31).
 - b. **Exhibit RJR-38X** – Complete Libicki Cross-Examination Transcript, PCHB No. P19-087c (4/27/2021) (responding to “Prepared Direct Testimony of Dr. Shari Beth Libicki on Behalf of Puget Sound Energy, Inc.” at pp. 1-169 of Exhibit RJR-31r).
 - c. **Exhibit RJR-39X** – Eri Ottersburg Cross-Examination, PCHB No. P19-087c (4/23/2021) (responding to “Attachment B – Declaration of Eri Ottersburg” at pp. 180-185 of Exhibit RJR-31r).
 - d. **Exhibit RJR-40X** – Matthew Stobart Cross Examination, PCHB No. P19-087c (4/23/2021) (responding to “Attachment C – Declaration of Matthew Stobart on Behalf of CB&I Regarding Flaring Case 5” at pp. 187-194 of Exhibit RJR-31r).
 - e. **Exhibit RJR-41X** – Dr. Laura Kinner Cross-Examination, PCHB No. P19-087c (4/27/2021) (responding to “Attachment D – Declaration of Dr. Laura Kinner” at pp. 196-208 of Exhibit RJR-31r).

3. Certificate of Service

An electronic copy of this filing will be provided to all parties listed on the current master service list. Please contact the undersigned if you have any questions or concerns regarding this matter.

Sincerely,

OGDEN MURPHY WALLACE, P.L.L.C.

/s/ Andrew S. Fuller

Andrew S. Fuller

ASF:

CERTIFICATE OF SERVICE**DOCKETS UE-220066 and UG-220067 (Consolidated)
*Washington Utilities & Transportation Commission v. Puget Sound Energy***

I HEREBY CERTIFY that I have this day served *Motion to Strike Puget Sound Energy's Exhibit RJR-31r* upon all parties of record in this proceeding, by electronic transmission to the email address(es) or by mailing a true and correct copy, postage prepaid, to each party or party representative listed in the Commission's master service list for this docket.

PARTY	REPRESENTATIVE	PHONE	E-MAIL
Puget Sound Energy	Sheree Carson Perkins Coie LLP 10885 NE Fourth Street, Suite 700 Bellevue, WA 98004	(425) 635-5579	scarson@perkinscoie.com
	David Steele		dsteele@perkinscoie.com
	Donna Barnett		dbarnett@perkinscoie.com
	Pamela Anderson		pjanderson@perkinscoie.com
	Byron Starkey		byronstarkey@perkinscoie.com
	Ryan Thomas		rthomas@perkinscoie.com
	Service email		psedrs@perkinscoie.com
			Jon Piliaris P.O. Box 97304 EST-07W Bellevue, WA 98009
Commission Staff	Jennifer Cameron-Rulkowski Assistant Attorney General Office of the Attorney General P.O. Box 40128 Olympia, WA 98504	(360) 664-1186	jennifer.cameron-rulkowski@utc.wa.gov
	Jeff Roberson		jeff.roberson@utc.wa.gov
	Nash Callaghan		nash.callaghan@utc.wa.gov
	Harry Fukano		harry.fukano@utc.wa.gov
	Joe Dallas		joe.dallas@utc.wa.gov
	Daniel Teimouri		daniel.teimouri@utc.wa.gov
	Betsy DeMarco		Betsy.demarco@utc.wa.gov
	Jeanne Roth		Jeanne.roth@utc.wa.gov
	Betty Erdahl		Betty.erdahl@utc.wa.gov
	Jason Ball		Jason.ball@utc.wa.gov

PARTY	REPRESENTATIVE	PHONE	E-MAIL
Public Counsel	Lisa Gafken Assistant Attorney General Washington Attorney General’s Office Public Counsel Unit 800 Fifth Avenue, Suite 2000 Seattle, WA 98104-3188	(206) 464-6595	lisa.gafken@atg.wa.gov
	Ann N.H. Paisner		Ann.Paisner@utc.wa.gov
	Nina Suetake		nina.suetake@atg.wa.gov
	Shay Bauman		Shay.bauman@atg.wa.gov
	Chanda Mak		chanda.mak@atg.wa.gov
	Stephanie Chase		Stephanie.chase@atg.wa.gov
	Thomas Johnson		Thomas.johnson@atg.wa.gov
	Brice Hartman		Brice.hartman@atg.wa.gov
The Energy Project	Simon J. ffitch Attorney at Law 321 High School Rd. NE Suite D3, BoxNo. 383 Bainbridge Island, WA 98110	(206) 669-8197	simon@ffitchlaw.com
	Yochanan Zakai Shute, Mihaly & Weinberger LLP 396 Hayes Street San Francisco, CA 94102	(415) 552-7272	Yzakai@smwlaw.com
	Shawn Collins The Energy Project 3406 Redwood Avenue Bellingham, WA 98225	(360) 389-2410	shawnC@oppco.org
Alliance of Western Energy Consumers	Brent Coleman Davison Van Cleve, P.C. 1750 SW Harbor Way, Suite 450 Portland, OR 97201	(503) 241-7242	blc@dvclaw.com
	Jesse Gorsuch		jog@dvclaw.com
	Lance Kaufman	(541) 515-0380	lance@aegisinsight.com
	Bradley G. Mullins		brmullins@mwanalytics.com
Nucor Steel Seattle, Inc.	Damon Xenopoulos Stone Mattheis Xenopoulos & Brew, PC 025 Thomas Jefferson Street N.W. Suite 800 West Washington, DC 20007	(202) 342-0800	dex@smxblaw.com
	Shaun Mohler		scm@smxblaw.com
	Laura Baker		lwb@smxblaw.com

PARTY	REPRESENTATIVE	PHONE	E-MAIL
Microsoft Corporation	Tyler Pepple Davison Van Cleve, PC 1750 SW Harbor Way STE 450 Portland, OR 97201	(503) 241-7242	tcp@dvclaw.com
	Corrine Milinovich		com@dvclaw.com
	Jesse O. Gorsuch		jog@dvclaw.com
NW Energy Coalition	Jan Hasselman Earthjustice 705 Second Avenue STE 203 Seattle, WA 98201	(206) 701-7613	jhasselman@earthjustice.org
	Jaimini Parekh		jparekh@earthjustice.org
	Lauren McCloy NW Energy Coalition 811 First Avenue, Suite 305 Seattle, WA 98104		lauren@nwenergy.org
	Amy Wheelless		amy@nwenergy.org
CENSE	J. Richard Aramburu 705 2 nd Ave. STE 1300 Seattle, WA 98104	(206) 625-9515	rick@aramburu-eustis.com
Puyallup Tribe	Lisa Anderson Law Office Puyallup Tribe of Indians 3009 E Portland Ave Tacoma, WA 98404	(253) 573-7852	lisa.anderson@puyalluptribe-nsn.gov
	Samuel Stiltner		sam.stiltner@puyalluptribe-nsn.gov
	Alec Wrolson		Alec.wrolson@puyalluptribe-nsn.gov
Walmart	Vicki M. Baldwin Parsons Behle & Latimer 201 South Main Street STE 1800 Salt Lake City, UT 84111	(801) 532-1234	vbaldwin@parsonsbehle.com
	Alex Kronauer Walmart Inc. 2608 Southeast J Street Bentonville, Arkansas 72716-0550		Alex.Kronauer@Walmart.com
King County	Benjamin Mayer K & L Gates LLP 925 4th Ave. STE 2900 Seattle, WA 98104-1158	(206) 370-8074	Ben.mayer@klgates.com
	Kari L. Vander Stoep		kari.vanderstoep@klgates.com
	Dirk Middents		Dirk.middents@klgates.com

PARTY	REPRESENTATIVE	PHONE	E-MAIL
	Verna Bromley King Co Prosecuting Attorney's Office 1191 2nd Avenue, Suite 1700 Seattle, WA 98101	(206) 477-1097	Verna.bromley@kingcounty.gov
	Raul Martinez		Raul.martinez@kingcounty.gov
Sierra Club	Gloria Smith Sierra Club 2101 Webster STE 1300 Oakland, CA 94612	(415) 977-5532	gloria.smith@sierraclub.org
Federal Executive Agencies	Rita Liotta United States Navy One Avenue of the Palms, Suite 161 San Francisco, CA 94130	(415) 743-4718	rita.liotta@navy.mil
	Kay Davoodi	(202) 685-3319	khojasteh.davoodi@navy.mil
	Larry Allen	(202) 685-3320	larry.r.allen@navy.mil

Dated this 17th day of October, 2022, at Seattle, Washington.

/s/Catherine Berry _____
Catherine Berry, Legal Assistant