

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,**

**Complainant,**

**v.**

**PUGET SOUND ENERGY,**

**Respondent.**

**Docket UE-220066/Docket UG-220067  
and UG-210918 (consolidated)**

**PUGET SOUND ENERGY'S  
RESPONSE TO THE PUYALLUP  
TRIBE OF INDIANS' MOTION TO  
STRIKE PUGET SOUND ENERGY'S  
EXHIBIT RJR-31R**

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**In the Matter of the Petition of**

**PUGET SOUND ENERGY**

**For an Order Authorizing Deferred  
Accounting Treatment for Puget Sound  
Energy's Share of Costs Associated with  
the Tacoma LNG Facility**

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**I. INTRODUCTION**

*I.* Pursuant to WAC 480-07-375(4), Puget Sound Energy ("PSE") hereby submits this response to the Puyallup Tribe of Indians' ("Tribe's") Motion to Strike Puget Sound Energy's Exhibit RJR-31r ("Motion"). PSE filed Exhibit RJR-31r in response to Judge Howard's ruling at the evidentiary hearing. Exhibit RJR-31r is a revised version of the

first exhibit to the Prefiled Testimony of Ronald J. Roberts on Behalf of Puget Sound Energy in Support of the Multiparty Settlement for Tacoma LNG (Exh. RJR-30T) in the above referenced dockets (“Roberts Testimony in Support of the Tacoma LNG Settlement”). The original Exhibit RJR-31 filed with the Roberts Testimony in Support of the Tacoma LNG Settlement is an excerpt of the Prepared Direct Testimony of Dr. Shari Beth Libicki on Behalf of Puget Sound Energy, Inc. (“Dr. Libicki Testimony”) in an appeal before the Pollution Control Hearings Board (“PCHB”).<sup>1</sup>

2. At the October 3, 2022 evidentiary hearing in this proceeding, in response to an objection from the Tribe, Judge Howard ordered PSE to file the full version of Dr. Libicki’s Testimony.<sup>2</sup> In response to that order, PSE filed Exhibit RJR-31r, the full version of Dr. Libicki’s testimony in PCHB No. 19-087c which includes: (a) narrative testimony in the form of written questions and answers; (b) Attachment A, the curriculum vitae of Shari Beth Libicki, Ph.D.; (c) Attachment B, the Declaration of Eri Ottersburg; (d) Attachment C, the Declaration of Matthew Stobart on Behalf of CB&I Regarding Flare Case 5; (e) Attachment D, the Declaration of Dr. Laura Skinner; and (f) the Addendum to Prepared Direct Testimony of Dr. Shari Beth Libicki on Behalf of Puget Sound Energy, Inc. (“Addendum”).

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<sup>1</sup> *Advocates for a Cleaner Tacoma, et al., v. Puget Sound Clean Air Agency and Puget Sound Energy*, PCHB No. 19-087c, Findings of Fact, Conclusions of Law, and Order on NOC Issues 4, 4a, 4b, 4c, 4d, 4e, 4f, 4g, 4i, 4j, 4k, 4o, 4p, 4u, 6, and 8 (Nov. 19, 2021).

<sup>2</sup> Howard, TR 265:19-22.

## II. RESPONSE AND PROPOSED RESOLUTION

3. The Tribe's Motion seeks to strike certain portions of the full version of Dr. Libicki's Testimony before the PCHB. Contrary to the Tribe's claims about "hearsay within hearsay" and "cherry-picked" testimony, the Exhibit RJR-31r that PSE filed in response to Judge Howard's order at the hearing is in fact the full version of Dr. Libicki's prepared direct testimony in PCHB No. 19-087c. All of Attachments A through D were included as part of Dr. Libicki's Prepared Direct Testimony, and the Addendum is additional narrative questions and answers that replace or add to the original questions and answers in Dr. Libicki's Prepared Direct Testimony.
4. The Roberts Testimony in Support of the Tacoma LNG Settlement referred to Dr. Libicki's Testimony to dispute claims by the Tribe that the Tacoma LNG Facility creates significant adverse air pollution and put in context the scale of emissions associated with the Tacoma LNG Facility to show such emissions are extremely low when compared to sources that trigger more stringent permitting requirements.<sup>3</sup> The Roberts Testimony in Support of the Tacoma LNG Settlement also showed that in its final decision, the PCHB agreed with Dr. Libicki's conclusions about the scale of emissions from the Tacoma LNG Facility.<sup>4</sup>
5. The Tribe states that it "accepts Judge Howard's determination that [Exhibit] RJR-31 is admitted" and then claims that Exhibit RJR-31r should be stricken in its

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<sup>3</sup> Exh. RJR-30T at 38:1:11.

<sup>4</sup> Exh. RJR-30T at 39:1-12.

entirety.<sup>5</sup> That claim is completely inconsistent with Judge Howard's order at the hearing that PSE submit the full version of Dr. Libicki's testimony. Nonetheless, if the Commission were to grant the Tribe's Motion, ignore Judge Howard's order, and limit the record to Exhibit RJR-31, the Tribe proposes to submit as an exhibit, an excerpt from the transcripts of Dr. Libicki's April 24, 2021, cross-examination testimony before the PCHB.<sup>6</sup> The Tribe's proposal to submit an excerpt of the transcript is inconsistent with the Tribe's objection to Exhibit RJR-31, in part, because it was an excerpt of Dr. Libicki's testimony.

6. In the alternative, the Tribe claims that if Exhibit RJR-31r is admitted, the Tribe should be allowed to submit as an exhibit the complete transcript of the cross-examination testimony of Dr. Libicki as well as excerpts of the transcripts of the cross-examination testimony of the three other PSE witnesses before the PCHB that had provided the sworn statements that were included as Attachments B through D to Dr. Libicki's testimony.<sup>7</sup> Those three witnesses are Eri Ottersburg, Matthew Stobart, and Dr. Laura Kinner. This proposal is also at odds with the Tribe's initial objection to Exhibit RJR-31.

7. In an effort to resolve the issues raised by the Tribe's Motion, PSE proposes that the Commission order that: (a) PSE file a revised Exhibit RJR-31r that includes only the initial 169 pages of narrative questions and answers and Attachment A, Dr. Libicki's

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<sup>5</sup> Motion at 9:1-3.

<sup>6</sup> Motion at 9:5-11.

<sup>7</sup> Motion at 9:12-25.

curriculum vitae; and (b) the Tribe file an Exhibit that includes the complete transcript of Dr. Libicki's cross-examination testimony at the Pollution Control Hearings Board hearing in PCHB No. 19-087C. The complete transcript of Dr. Libicki's cross-examination testimony was included in the Tribe's Motion as proposed Exhibit RJR-38X.

8. Although PSE does not agree with the Tribe's claims that it was inappropriate for PSE to file the entirety of Dr. Libicki's Testimony, including Attachments A through D and the Addendum, as the full version of Dr. Libicki's Testimony, PSE is willing to file an excerpt of Dr. Libicki's Testimony that does not include Attachments B through D or the Addendum. PSE understands this result is not entirely consistent with Judge Howard's order requiring PSE to file the full version of Dr. Libicki's Testimony, but PSE believes it would resolve certain issues raised in the Tribe's Motion.

9. The PSE proposal for the Tribe to submit the complete transcript of Dr. Libicki's cross-examination testimony is consistent with the Tribe's proposal to include the full transcript of cross-examination testimony if Exhibit RJR-31r is admitted. Although PSE is proposing to file an excerpt of Dr. Libicki's Testimony (that does not include Attachments B through D or the Addendum) as Exhibit RJR-31r, PSE believes it is important to include the complete transcript of Dr. Libicki's cross-examination testimony in the record here to resolve the remaining issues raised in the Tribe's Motion.

10. In the alternative, if the Commission decides to retain the full version of Dr. Libicki's testimony as was previously filed by PSE as RJR-31r, and is considering the proposal by the Tribe to submit excerpts of the cross-examination testimony of PSE witnesses Ottersburg, Stobart, and Dr. Kinner, then PSE requests that the Commission

order PSE to file complete copies of the direct testimony of those three witnesses and the Tribe to file complete transcripts of the cross-examination testimony of those three witnesses. PSE would prefer that the record include complete witness transcripts rather than excerpts to avoid any content being taken out of context at this late stage of the proceeding, which would not allow for an opportunity to clarify or correct the record.

### III. CONCLUSION

11. The Commission should deny the Tribe's Motion to Strike PSE's Exhibit RJR-31r and the requests therein. Instead, the Commission should require: (a) PSE to submit a revised Exhibit RJR-31r that is an excerpt of Dr. Libicki's Prepared Direct Testimony before the Pollution Control Hearings Board that includes only the initial 169 pages of narrative questions and answers and Attachment A, Dr. Libicki's curriculum vitae; and (b) the Tribe to submit a new Exhibit that includes the complete transcript of Dr. Libicki's cross-examination testimony before the Pollution Control Hearings Board hearing in PCHB No. 19-087C.

RESPECTFULLY SUBMITTED this 24th day of October, 2022.

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