

**BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKETS UE-220066, UG-220067,
UG-210918 (*Consolidated*)

**POST-HEARING BRIEF OF NW ENERGY
COALITION, SIERRA CLUB, AND FRONT
AND CENTERED**

INTRODUCTION

The NW Energy Coalition, Sierra Club, and Front and Centered (collectively, the Joint Environmental Advocates (“JEA”)) respectfully submit this Post-Hearing Brief to the Washington Utilities and Transportation (“UTC” or “Commission”) in support of approval of the proposed partial multiparty settlement stipulation related to all other issues excepting Tacoma LNG and PSE’s Green Direct program (“Revenue Requirement settlement”) in the matter of Puget Sound Energy’s (“PSE) general rate case.¹

The JEA recommend the Commission adopt the Revenue Requirement settlement stipulation because its terms are supported by the extensive testimony and evidence put forward by the stipulating parties. The Revenue Requirement settlement is consistent with the public interest because it encourages PSE to pursue cost-effective decarbonization that centers equity, includes terms that will meaningfully advance equity in the Company’s operations, and includes

¹ *Settlement Stipulation & Agreement On Revenue Requirement And All Other Issues Except Tacoma LNG And PSE’s Green Direct Program*, Dkts. UE-220066/UG-220067/UG-210918, Aug. 26, 2022 (“Revenue Requirement Settlement Stipulation”). The parties to this settlement stipulation include Puget Sound Energy, UTC Staff, Alliance of Western Energy Consumers, Kroger, Walmart, Nucor Steel, The Energy Project, the Federal Executive Agencies, Front and Centered, NW Energy Coalition, Sierra Club, and Microsoft.

other conditions that individually are in the public interest. This settlement also adopts a comprehensive set of metrics that will provide the necessary data to develop more robust performance-based regulation, either as part of the UTC’s generic proceeding in Docket U-210590 or in PSE’s next general rate case. Lastly, the Joint Environmental Advocates urge the Commission to review the Tacoma LNG settlement² independently of the Revenue Requirement settlement, because these are separate agreements.

PROCEDURAL BACKGROUND

Puget Sound Energy (“PSE”) filed a petition for a rate increase for both their electric and gas utility businesses in January 2022. In PSE’s initial filing, the Company anticipated expending \$1.2 billion on the gas- side of its business between July 1, 2021 and December 31, 2025.³ PSE anticipated adding over 80,000 new gas customers during that same period.⁴ Significant rate increases were similarly proposed on the electric side of the business, which PSE publicly and inaccurately attributed to the Clean Energy Transformation Act (“CETA”).⁵

Sierra Club, Front and Centered, and NW Energy Coalition (collectively the “Joint Environmental Advocates” or “JEA”) timely moved to intervene in this rate case. The JEA filed responsive testimony on July 28, 2022 that challenged the inadequate performance-based regulation proposed by PSE, the Company’s failure to align its multi-year rate plan (“MYRP”) with its Clean Energy Implementation Plan, its substantial and ill-advised expenditures on gas customer growth—including to subsidize the costs of new service lines—and inadequate focus

² *Settlement Stipulation & Agreement On Tacoma LNG*, Dkts. UE-220066/UG-220067/UG-210918, Aug. 26, 2022.

³ Exh. PSE/CAK-1Tr2 at 45 (Rev. July 6, 2022).

⁴ Exh. PSE/CAK-4 at 4 (Rev. July 6, 2022).

⁵ Exh. JEA/LCM-1T at 9-16.

on equity that failed to integrate equity into the Company’s planning and capital investments, among other issues. Before and after filing testimony, the JEA actively participated in settlement negotiations.

As a result of these negotiations, a majority of parties agreed to the terms described in the Revenue Requirement settlement, which was signed by the stipulating parties on August 26, 2022. Separately, UTC Staff, PSE, Kroger, Walmart, Nucor Steel, and the Alliance for Western Energy Consumers (“AWEC”) agreed to the Tacoma LNG settlement, also on August 26, 2022. These two agreements were jointly filed by PSE on the same day. A number of parties also negotiated the Green Direct Settlement, which was filed on August 5, 2022. The JEA did not join either the Green Direct or Tacoma LNG settlements, nor did they file testimony objecting to either settlement.

DISCUSSION

I. THE REVENUE REQUIREMENT SETTLEMENT IS SUPPORTED BY THE EVIDENCE AND CONSISTENT WITH THE PUBLIC INTEREST

When considering whether to approve a settlement, the Commission looks to whether the settlement terms are supported by an appropriate record, and whether the result is consistent with the public interest in light of all the information available to the Commission.⁶ The Revenue Requirement settlement satisfies this standard because ample evidence supports the settlement terms, and for the reasons described below, the settlement is in the public interest.

The Revenue Requirement settlement settles all issues in the case, except for issues related to the Tacoma LNG facility and the Green Direct program. The Revenue Requirement settlement includes numerous conditions that are in the public interest. Specifically, the Joint

⁶ WAC 480-07-750(2).

Environmental Advocates focus here on the provisions related to environmental improvement and equity. Approval of the settlement would (1) advance electrification and decarbonization of gas utility service, (2) integrate equity into PSE’s decision-making on capital expenditures, distribution system planning, and administration of the electrification pilot, (3) require a scorecard of metrics to track PSE’s performance to ensure grid reliability and resilience, advancing equity, environmental improvement, and customer affordability, (4) increase PSE’s commitment to procuring demand response resources, (5) prohibit recovery of the Dry Ash Waste Disposal Facility for the Colstrip power plant, and provide for annual Commission review of all Colstrip costs, and (6) provide for more support for low-income customers.

1. The Revenue Requirement Settlement Stipulation Represents a Reasonable Compromise to Address Natural Gas Utility Emissions and Growth

The Revenue Requirement settlement advances gas decarbonization by phasing out the line extension allowance for gas customers—a policy that subsidizes gas customer growth. The Commission recently revised the line extension allowance for gas customers and reduced the allowable subsidy per customer to \$1,997.⁷ Eliminating this allowance through settlement would further disincentivize the construction of new service lines for gas utility service. As explained in the testimony of Edward A. Burgess, eliminating this subsidy is in the public interest by limiting gas customer growth, thereby reducing the costs to decarbonize gas utility service under the Climate Commitment Act (“CCA”), reducing stranded asset risks of expanding the gas system in the face of climate targets that necessitate a shift away from gas, and reducing customers’ exposure to volatile and increasing gas fuel costs.⁸ Installing electric-only home

⁷ Advice No. 2021-43 Cover Letter, Compliance Filing on Behalf of Puget Sound Energy, UG-210729, Nov. 17, 2021 (Exh. EAB-18).

⁸ See Exh. JEA/EAB-1T at 7, 38-47.

energy service for new connections is cheaper for the residential ratepayer in the long-run, and represents “low-hanging fruit” for full home electrification.⁹

The Revenue Requirement settlement also requires revisions to PSE’s decarbonization study, development of a pilot program that promotes electrification to 10,000 residential and small commercial customers, and a Targeted Electrification Strategy to be included in a compliance filing in this docket by January 2025, and in PSE’s next gas Integrated Resource Plan.¹⁰ This Targeted Electrification Strategy will consider a comprehensive set of electrification measures, and will include a proposed budget, an electrification rebate, a proposal to limit or phase out incentives for new gas appliances, and a set of annual targets to continue reducing new gas customer additions in future years.¹¹ The electrification pilot and Targeted Electrification Strategy will prioritize low-income, energy-burdened, highly-impacted, and vulnerable customers and populations, and will include measures to help ensure that these populations benefit from electrification.¹²

In testimony, PSE identified targeted electrification as one of its four main decarbonization strategies.¹³ Its decarbonization study found that “[e]lectrification is the largest single source of emissions reductions” under both decarbonization scenarios the Company evaluated.¹⁴ Despite these findings, PSE in its initial testimony never proposed adopting any

⁹ *Id.* at 22, 65-66.

¹⁰ Revenue Requirement Settlement Stipulation at 40.

¹¹ Exh. JEA/GDS-1T at 6; Revenue Requirement Settlement Stipulation at 41-42.

¹² Exh. JEA/GDS-1T at 6; Revenue Requirement Settlement Stipulation at 39, 41.

¹³ Exh. PSE/JJJ-1T at 42.

¹⁴ Exh. PSE/JJJ-6 at 16.

strategies or programs during the rate plan period to promote electrification.¹⁵ Additionally, in his testimony, Mr. Burgess identified several flaws in PSE's decarbonization study wherein the Company failed to consider existing heat pump technology that can operate in cold climates.¹⁶ The decarbonization provisions of the Revenue Requirement settlement seek to resolve these deficits.

To this end, the settlement requires PSE to revise its decarbonization study to include analysis of existing cold-climate heat pump technology, and to consider cost-effective ways to promote electrification, such as working through the Company's conservation planning process.¹⁷ The settlement also requires PSE to develop a pilot program for existing gas customers that will promote electrification by offering customers information about electrification opportunities, in-home electrification assessments, and financial incentives to promote fuel-switching to efficient electric-only appliances.¹⁸ As part of this program, PSE will evaluate barriers, and promote electrification to low-income customers, highly-impacted, and vulnerable populations with the Low-Income Advisory Group, and the Conservation Resources Advisory Group.¹⁹ Lastly, PSE will use findings from the Electrification Pilot and the revised decarbonization study to develop a targeted electrification strategy for PSE's electric service territory, which will include integrating fuel-switching concepts into the biennial conservation planning process, and providing rebates when customers fuel switch away from gas appliances.²⁰

¹⁵ Exh. JEA/EAB at 14-15.

¹⁶ *Id.* at 24-26.

¹⁷ Revenue Requirement Settlement Stipulation at 35-37.

¹⁸ *Id.* at 37-40.

¹⁹ *Id.* at 39-40.

²⁰ *Id.* at 40-42.

Additionally, the Revenue Requirement settlement includes a condition for PSE to phase out all promotional advertising that encourages new customers to connect to gas utility service, or switch to gas service away from other forms of energy service by January 1, 2023.²¹

These provisions related to gas system decarbonization are all in the public interest because they promote decarbonization, and present a cost-effective pathway for achieving the greenhouse gas (“GHG”) emission reduction targets set out in the CCA.²² They are also consistent with the authorization that the Commission may consider “environmental health and greenhouse gas emissions reductions” when determining whether rates are in the public interest.²³ No party has opposed these provisions of the Revenue Requirement settlement, and testimony of Public Counsel, which did not join the settlement, explains that Public Counsel supports the decarbonization and targeted electrification provisions.²⁴

2. *The Revenue Requirement Settlement Takes Tangible Steps to Incorporate Equity into Company Operations and Decision-making*

RCW 80.28.425(1) specifically calls out equity as an element the Commission may consider in evaluating whether a company’s rate filing is in the public interest.²⁵ Recently, the Commission indicated that it will “apply an equity lens in all public interest considerations going

²¹ Revenue Requirement Settlement Stipulation at 42.

²² Exh. JEA/GDS-1T, Exh. JEA/EAB-1T.

²³ RCW 80.28.425(1).

²⁴ Exh. Public Counsel/ACC-19T at 3, 15. The only other party who filed testimony in opposition to the Revenue Requirement Settlement is the Coalition of Eastside Neighborhoods for Sensible Energy (CENSE), whose opposition testimony focuses on provisions related to the prudence of Energize Eastside, and does not mention the provisions related to gas system decarbonization. Exh. RL-35T at 4.

²⁵ RCW 80.28.425(1).

forward”²⁶ and that “regulated companies should inquire whether each proposed modification to their rates, practices, or operations corrects or perpetuates inequities.”²⁷ The Revenue Requirement settlement would require PSE to consider equity throughout its business operations and decision-making by taking specific and tangible steps. These provisions are consistent with the public interest because they promote distributional, structural, and procedural equity²⁸ and are meaningful steps to advance and integrate equity considerations in Company decisions and operations.

As part of this settlement, PSE’s board and senior management are required to develop a process or procedure to plan for equitable outcomes when making capital planning decisions.²⁹ CETA’s equity mandate³⁰—as well as the Commission’s general guidance regarding equity in the Cascade Natural Gas general rate case order referenced above—will require fundamental paradigm shifts for how regulated companies like PSE consider equity in all of their planning and decision-making.³¹ This condition is a tangible and concrete step to start to make that shift.

In addition, the Revenue Requirement settlement requires that PSE conduct a pilot distributional equity analysis on the 80 MW of Distributed Energy Resources (“DER”) that PSE plans to acquire pursuant to its pending Clean Energy Implementation Plan (“CEIP”) or an alternative program if this amount of DER is not included in the approved CEIP.³² The

²⁶ WUTC v. Cascade Natural Gas Corporation, Dkt. UG-210755, Order No. 09, at paragraph 58 (Aug. 23, 2022).

²⁷ *Id.*

²⁸ Exh. JEA/LCM-10T at 13-14.

²⁹ Revenue Requirement Settlement Stipulation at 14-15.

³⁰ RCW 19.405.010(6).

³¹ Exh. JEA/LCM-10T at 5.

³² Revenue Requirement Settlement Stipulation at 27.

settlement will also require PSE to participate in a Commission staff-led process to refine the methods for distributional equity analysis.³³ These conditions advance equity in alignment with CETA objectives and the Commission's guidance. First, PSE's implementation of its DER portfolio should provide immediate benefits and reductions of burdens to participating customers and communities; a distributional equity analysis will help inform program design to ensure the benefits are equitably distributed and ensure there is clear, qualitative information on how the program has helped facilitate a more equitable clean energy transition.³⁴ Second, refining the methods for distributional equity analysis via a facilitated process will help make a more robust analysis and could provide shared learnings amongst the investor-owned utilities to develop strong standards and best practices for these analyses.³⁵

Together, these conditions will meaningfully advance equity in PSE's planning, capital decision-making, and program design. The requirements listed in this settlement, however, are not the ending point, but a continuation of our collective understanding of how equity considerations should best inform utility operations.

3. The Revenue Requirement Settlement Makes Progress on Other Issues Important to the JEA

Lastly, as described in the testimony of Lauren C. McCloy supporting the Revenue Requirement settlement, in addition to the above-described conditions, the Revenue Requirement settlement achieves a number of outcomes that individually are in the public interest.

For example, the Revenue Requirement settlement specifically excludes PSE's share of expenditures in the Colstrip Dry Ash Waste Disposal Facility and has the Company track all

³³ *Id.* at 27-28.

³⁴ Exh. JEA/LCM-10T at 5-6.

³⁵ *Id.* at 6-7.

Colstrip costs in a separate tracker to ensure only appropriate costs are passed on to customers.³⁶

While the JEA had planned to recommend that Colstrip costs be removed from rates, the settlement is a reasonable compromise because it removes previously incurred Colstrip costs from the revenue requirement and ensures that stakeholders will have the opportunity to review and challenge any other future costs invested in the coal plant.

In addition, as CETA did not drive the Company's electric rate increase in this case, the settlement clarifies how PSE will recover the costs of CETA implementation as part of this rate case.³⁷ The settlement will also have PSE update its power cost model to incorporate impacts to dispatch logic related to the CCA, to ensure that the price effect of the CCA is incorporated into PSE's planning, power costs, and real-time operations.³⁸ Further, the agreement describes PSE's commitment to minimum payment methods for publicly accessible electric vehicle charging stations, a multi-tiered approach to reducing bills for low-income customers, and a proposal for supporting arrearage management.³⁹ Provisions regarding performance-based regulation are also in the public interest, for the reasons described below.

All these components individually and cumulatively comport with the public interest because they encourage reductions in GHG emissions, promote equity, and promote environmental health by reducing the demand for fossil gas and preventing further investment into coal-based electric resources.

³⁶ *Id.* at 9-11.

³⁷ *Id.* at 3-4.

³⁸ Revenue Requirement Settlement Stipulation at 17.

³⁹ *See, generally*, Exh. JEA/LCM-10T.

II. THE REVENUE REQUIREMENT SETTLEMENT IS CONSISTENT WITH LEGAL REQUIREMENTS FOR A MULTIYEAR RATE PLAN.

The performance-based regulation conditions described in the Revenue Requirement settlement comports with the requirements of SB 5295 (2021) because they provide a set of performance measures by which to assess PSE’s performance over the two years of the rate plan. While most of the performance measures merely track performance, as opposed to incent or penalize PSE’s achievement of public interest objectives, these measures represent a reasonable start that will provide the necessary groundwork for developing robust performance-based regulation in future rate cases or in the Commission’s generic docket, U-210590.

In deciding whether to approve a petition for a rate increase, the Commission must consider the “public interest,” meaning “environmental health and greenhouse gas emissions reductions, health and safety concerns, economic development, and equity, to the extent such factors affect the rates, services, and practices of a gas or electrical company regulated by the commission.”⁴⁰ To this end, utilities are required to propose MYRPs starting in January 1, 2022, for every general rate case filing of a gas or electric utility company.⁴¹ The Commission “must, in approving a multiyear rate plan, determine a set of performance measures that will be used to assess a gas or electrical company operating under a multiyear rate plan.”⁴² The Commission is required to “align, to the extent practical, the timing of approval of a multiyear rate plan of an electrical company submitted pursuant to this section with the clean energy implementation plan[.]”⁴³

⁴⁰ RCW 80.28.425(1).

⁴¹ *Id.*

⁴² RCW 80.28.425(7).

⁴³ RCW 80.28.425(1).

The performance-based regulation included in the Revenue Requirement settlement is consistent with these requirements for multiyear rate plans. First, the settlement proposes adopting a performance incentive mechanism (“PIM”) to promote acquisition of demand response resources. The PIM, as agreed to by the parties, improves on PSE’s initial application for a PIM, and more than doubles the target for acquiring demand response resources to 40 MW over a two-year period, although it leaves the CETA demand response target to the CEIP proceeding, UE-210795.⁴⁴ Further, PSE would not receive a financial incentive pursuant to this PIM unless it exceeds the 40 MW target, and the total incentive recovery is capped at \$1 million.⁴⁵

Second, the metrics adopted pursuant to the settlement will help customers and stakeholders assess PSE’s performance in a variety of areas including grid resiliency and reliability, environmental improvement, energy burden and customer affordability, as well as advancing equity in utility operations.⁴⁶ These metrics will provide necessary data to push for more robust performance-based regulation in PSE’s next multiyear rate plan.

While the Joint Environmental Advocates initially pushed for more robust performance-based regulatory tools in responsive testimony, the settlement represents a compromise and comports with the statutory requirements given the circumstances of this case. Performance-based regulation is a new policy approach in Washington State, and the Commission has opened a policy docket to evaluate options and opportunities to implement these tools.⁴⁷ Given that, the

⁴⁴ Exh. JEA/LCM-10T at 7-9; *see also* Exh. JEA/AEW-1T at 25-33 (describing problems with PSE’s initial proposed PIM on demand response).

⁴⁵ Exh. JEA/LCM-10T at 7-9.

⁴⁶ *Id.*

⁴⁷ WUTC, Docket No. U-210590.

Revenue Requirement settlement provides for a reasonable first effort. Implementation of the demand response PIM will provide insights into whether this approach actually encourages PSE to accelerate achievement of beneficial public interest outcomes, such as acquiring demand response resources rather than thermal peaking resources. Further, metrics adopted through Settlement will provide necessary data to develop PIMs across a wider range of public interest outcomes in future rate cases.

Additionally, the Settlement proposes a two-year rate plan as opposed to the originally proposed three-year plan. A two-year plan allows for an overlap between the CEIP and PSE's next proposed MYRP—consistent with statutory objectives to encourage an overlap between these two dockets. Further, as described in the testimony of Ronald J. Binz, PSE's current proposal failed to incorporate enough components of performance-based regulation—making a three-year plan inappropriate. Using the next two years to implement the demand response PIM and to assess PSE's performance through the adopted metrics would set the groundwork for more robust performance-based regulation in future rate plans.⁴⁸ Since the metrics and PIM proposed “assess” PSE's performance, these conditions comply with the requirements of SB 5295—given the circumstances here, including: an existing ongoing policy docket regarding performance-based rulemaking, the lack of an approved CEIP plan, and a short rate period. However, the Commission has substantial authority, as explained in the testimony of Ronald J. Binz,⁴⁹ to adopt more robust performance-based regulation in PSE's next multiyear rate plan under its authority to set rates that are supported by the public interest. In doing so, the

⁴⁸ Exh. JEA/LCM-10T at 7-9.

⁴⁹ Exh. JEA/RJB-1T.

Commission can build off of findings and data developed in this first effort at pursuing performance-based regulation.

III. THE COMMISSION SHOULD CONSIDER THE REVENUE REQUIREMENT SETTLEMENT SEPARATELY FROM THE OTHER AGREEMENTS.

Lastly, the Joint Environmental Advocates urge the Commission to consider the Revenue Requirement settlement independently of all other agreements reached in this case. As noted in the Revenue Requirement stipulation, “[t]his Settlement is the product of negotiations and compromise amongst the Settling Parties and *constitutes the entire agreement of the Settling Parties.*”⁵⁰ The Revenue Requirement stipulation does not incorporate or rely upon either the Green Direct settlement or the Tacoma LNG settlement as a condition of the agreement. Those agreements should be considered and evaluated independently and separately from the Commission’s consideration of the Revenue Requirement settlement.

The Joint Environmental Advocates take no position on either the Green Direct or the Tacoma LNG settlement. As explained in the testimony supporting settlement of Lauren C. McCloy: “The JEA did not file testimony in this proceeding regarding the Tacoma LNG project. The JEA take no position on the prudence of the project in this proceeding.”⁵¹ Ms. McCloy notes, however, that “the JEA support of the Partial Multi-Party Settlement Stipulation is contingent on the removal of the [Tacoma LNG] Facility from the agreement for separate consideration by the Commission.”⁵² In other words, the Joint Environmental Advocates chose to agree to the Revenue Requirement settlement because prudence of the Tacoma LNG facility

⁵⁰ Revenue Requirement Settlement Stipulation at 42 (emphasis added).

⁵¹ Exh. JEA/LCM-10T at 17.

⁵² *Id.*

was excluded. Considering the Revenue Requirement settlement separate and apart from the Tacoma LNG or Green Direct settlements is consistent with the intent of the parties.

CONCLUSION

For the foregoing reasons, the Joint Environmental Advocates respectfully request that the Commission approve the Revenue Requirement settlement.

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