

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,  Complainant,  v.  PUGET SOUND ENERGY,  Respondent.	DOCKETS UE-220066 and UG- 220067 ( <i>Consolidated</i> )  ORDER 27
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	DOCKET UG-210918  ORDER 13  APPROVING PAYMENTS

**BACKGROUND**

- 1 On January 31, 2022, Puget Sound Energy (PSE or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-60, Tariff G, Electric Service, and its currently effective Tariff WN U-2, Natural Gas. The Commission initiated an adjudication in consolidated Dockets UE-220066 and UG-220067.
- 2 On March 3, 2022, the Commission entered Order 03, Prehearing Conference Order and Notice of Hearing, set for October 3-4, 2022 (Order 03). The Commission granted petitions to intervene filed by The Energy Project (TEP) and other intervenors. Pursuant

to the Interim Agreement filed in Docket U-210595, the Commission required the parties to file any requests for case certification and notices of intent to seek funding on or before March 14, 2022. Proposed budgets were due 30 days later, on April 13, 2022.

3 On March 24, 2022, the Commission issued Order 08, Granting Requests for Case Certification (Order 08). The Commission granted case certification to each of the six parties who requested it. This included TEP, the Alliance of Western Energy Consumers (AWEC), the NW Energy Coalition (NWECC), the Puyallup Tribe of Indians (Puyallup Tribe), Front and Centered, and the Coalition of Eastside Neighbors for Sensible Energy (CENSE).

4 On April 12, 2022, the Commission issued a Notice Extending Deadline for Proposed Budgets. The Commission required any proposed budgets to be filed by April 25, 2022.

5 By April 25, 2022, each of the six case-certified parties filed Proposed Budgets and Requests for Fund Grants.

6 On May 26, 2022, the Commission entered Order 16/02, Approving Proposed Budgets and Fund Grants in Part; Rejecting in Part (Order 16/02). The Commission approved proposed budgets and fund grants for the following intervenors: \$50,000 for TEP; \$50,000 for the AWEC; \$50,000 for NWECC; and \$15,000 for Front and Centered. The Commission approved in part, and rejected in part, proposed budgets and fund grants for the following intervenors: \$45,000 for the Puyallup Tribe of Indians and \$15,000 for CENSE.

7 On December 22, 2022, the Commission entered Final Order 24/10, Rejecting Tariff Sheets; Approving Settlements, with Conditions; Authorizing and Requiring Compliance Filing (Final Order 24/10). Final Order 24/10 approved three partial multiparty settlements, which, considered together, resolved all of the disputed issues in PSE's general rate case.

8 On January 13, 2023, AWEC filed a Request for Payment of Fund Grant and Eligible Expenses Report for a payment of \$50,000 from PSE's Customer Representation Sub-Fund.

9 On February 3, 2023, CENSE filed a Request for Payment of Fund Grant, requesting a payment of \$18,327.27 from the Customer Representation Sub-Fund.<sup>1</sup>

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<sup>1</sup> The exact amount of CENSE's request is sometimes unclear. \$18,327.27 is not the only figure provided for the total amount of the request. On one page, CENSE requests a payment of \$50,000. CENSE Request for Payment at 4. But on another page, CENSE requests a payment of \$15,000 plus "an additional amount of demonstrated cost of \$2,661.87." *Id.* at 3.

- 10 That same day, February 3, 2023, the Puyallup Tribe filed a Request for Payment of Eligible Expenses, requesting a payment of \$45,000.
- 11 On February 14, 2023, NWECA filed a Request for Payment of Fund Grant, requesting a payment in the amount of \$40,331 from the Customer Representation Sub-Fund.
- 12 On February 16, 2023, TEP filed a Request for Payment of Fund Grant, requesting a payment of \$50,000 from the Customer Representation Sub-Fund.<sup>2</sup>
- 13 Although the Commission approved \$15,000 for Front and Centered in Order 16/02, Front and Centered did not file any Request for Payment within 60 days of the Commission's final order.<sup>3</sup>

### DISCUSSION

- 14 Pursuant to RCW 80.28.430, utilities must enter into funding agreements with organizations that represent "broad customer interests." The Commission is directed to determine the amount of financial assistance, if any, that may be provided to any organization; the way the financial assistance is distributed; the way the financial assistance is recovered in a utility's rates; and other matters necessary to administer the agreement.<sup>4</sup>
- 15 On November 19, 2021, the Commission issued a Policy Statement on Participatory Funding for Regulatory Proceedings (Policy Statement) in Docket U-210595.<sup>5</sup> The Commission provided "high-level guidance regarding the amount of financial assistance that may be provided to organizations, the manner in which it is distributed to participants and recovered in the rates of gas or electrical companies, and other matters necessary to administer agreements."<sup>6</sup>
- 16 On February 24, 2022, the Commission issued Order 01, Approving Agreement with Modifications (Order 01).<sup>7</sup> The Commission approved the Interim Agreement filed by the parties on February 23, 2022, subject to certain modifications, and adopted the Interim

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<sup>2</sup> TEP refers more broadly to PSE's Customer Access Fund, but we construe this as a request from the Customer Representation Sub-Fund.

<sup>3</sup> See Interim Agreement § 7.1.

<sup>4</sup> RCW 80.28.430(2).

<sup>5</sup> *In the Matter of the Commission's Examination of Participatory Funding Provisions for Regulatory Proceedings*, Docket U-210595 (November 19, 2021).

<sup>6</sup> *Id.* ¶ 3.

<sup>7</sup> *In the Matter of the Petition of Puget Sound Energy, et al.*, Docket U-210595 Order 01 (February 24, 2022).

Agreement as Appendix A to the Order. Among other points, the Commission clarified that it is not bound by the timeframes set forth in the Interim Agreement.<sup>8</sup> The Commission also determined that of the amount authorized for funding, fully one third would be dedicated to organizations representing highly impacted communities and vulnerable populations.<sup>9</sup>

17 Pursuant to the Interim Agreement, participating organizations must submit to the Commission a Request for Payment. The Request for Payment must:

(a) Itemize the expenses, payees, and hourly rates for amounts to be reimbursed, including billing details, and including separately identified amounts for consultant or expert witness fees and travel expenses;

(b) Demonstrate that the expenses are reasonable and are directly attributable to issues and positions pursued on behalf of customers and consistent with the intervenor's proposed budget;

(c) Provide information sufficient to show that the Participating Organization has complied with any condition or requirement of the Fund Grant; and

(d) Specify whether the request for payment is for interim funding, in the case of Prioritized Organizations only, or final payment in full, and indicate whether any approved budget amount may be released back to the applicable Sub-Fund because the Participating Organization does not intend to request payment for the full approved budget amount."<sup>10</sup>

18 The Commission may disallow, in whole or in part, a Request for Payment if it determines that the request seeks reimbursement for (a) expenses that are not Eligible Expenses,<sup>11</sup> or (b) expenses that are inconsistent with the Participating Organization's Consumer Access Fund Grant or any conditions placed on the Consumer Access Fund Grant.<sup>12</sup> Upon authorization of payment, the Commission will make a determination on how to recover the Fund Grants from the various customer classes of the affected Participating Public Utility.<sup>13</sup> Additionally, the Commission may determine whether Fund Grants that were used to advocate positions on behalf of a broad cross-section of

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<sup>8</sup> *Id.* ¶ 17.

<sup>9</sup> *Id.* ¶ 4.

<sup>10</sup> Interim Agreement § 7.1.

<sup>11</sup> Interim Agreement § 7.3.

<sup>12</sup> Interim Agreement § 7.6.

<sup>13</sup> Interim Agreement § 7.7.

customers should be assessed against all customers or multiple classes of customers, to fairly align the costs of the advocacy with the intended potential beneficiaries of the advocacy.

- 19 On February 9, 2023, the Commission entered Order 02, Approving Agreement Subject to Condition, Requiring Refiling of Modified Agreement (Order 02).<sup>14</sup> The Commission approved the Revised Agreement submitted by the parties, subject to the removal of paragraph 7.9, which authorized deferred accounting treatment.<sup>15</sup> The Commission also clarified that it was not bound by the timelines set forth in the Revised Agreement.<sup>16</sup>
- 20 As relevant here, the Revised Agreement carried forward the same requirements for requests for payments of fund grants.<sup>17</sup> It also makes clear that “[e]ligible expenses” may include costs for eligible proceedings incurred prior to the approval of the Revised Agreement.<sup>18</sup>
- 21 In this case, each of the case-certified parties filed Requests for Payment of Fund Grants. The parties’ requests would, if approved in whole, equal \$158,658.27 of the \$200,000 allocated to PSE’s Customer Representation Sub-Fund for proceedings in 2022. The parties’ requests would equal \$45,000 of the \$100,000 allocated to PSE’s Prioritized Organization Sub-Fund. We address each of the Requests for Payment in turn.
- 22 **AWEC.** On January 13, 2023, AWEC filed a Request for Payment of Fund Grant and Eligible Expenses Report for a payment of \$50,000 from the Customer Representation Sub-Fund.
- 23 After considering the requirements set forth in Sections 7.1, 7.3, and 7.7 of the Interim Agreement, we determine that AWEC’s request for payment of \$50,000 should be approved and that it should be assessed against industrial customers. AWEC investigated and participated in multiple issues in this proceeding, supporting both the Revenue Requirement Settlement and the Tacoma LNG Settlement.<sup>19</sup> AWEC submitted a timely Request for Payment. It describes its attorney fees, consultant fees, and costs in sufficient

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<sup>14</sup> *In the Matter of the Petition of Puget Sound Energy, et al.*, Docket U-210595 Order 02 (February 9, 2023).

<sup>15</sup> *Id.* ¶ 20.

<sup>16</sup> *Id.* ¶ 21.

<sup>17</sup> Revised Agreement § 7.1.

<sup>18</sup> Revised Agreement § 7.3. *See also* Interim Agreement § 9.3 (providing that the Commission will require a participating utility to pay eligible expenses incurred under an approved fund grant that was awarded before the date of the termination of the Interim Agreement).

<sup>19</sup> *E.g.*, AWEC Brief ¶ 5.

detail for the Commission to determine that they are reasonable, and it maintains that this time is directly attributable to participating in the case. AWEC's request represents only a portion of its costs for participating in this proceeding.

- 24 Because AWEC is concerned with representing industrial customers, these participatory funding costs should be assigned proportionally between electric and natural gas customers based on total billed revenue, and only allocated to and recovered from the industrial customer class.
- 25 **CENSE.** On February 3, 2023, CENSE filed a Request for Payment of Fund Grant, requesting a payment of \$18,327.27 from the Customer Representation Sub-Fund. As we have observed, the exact amount of this request is unclear, and CENSE requests different dollar amounts on different pages of its Request for Payment. CENSE submits sufficient evidence to show, however, that it paid \$15,666 in legal fees for attorney Richard Aramburu.
- 26 After considering the requirements set forth in Sections 7.1, 7.3, and 7.7 of the Interim Agreement, we determine that CENSE's request for payment should be approved in part and rejected in part. CENSE should receive payment in the amount of \$15,000 reflecting reasonable attorney fees paid to Richard Aramburu, which is the amount approved by the Commission in Order 16/02. The Commission does not find any justification for departing from this authorized amount.
- 27 CENSE requests payment for additional expenses and costs, which include printing paper copies and travel to Seattle. These requests exceed the organization's approved budget and are not compensable at this time. We also observe that Order 03 waived the requirements for filing paper copies and that the Commission held the evidentiary hearing in this case online, over the Zoom platform, which calls the necessity of these expenses and costs into question.
- 28 CENSE's participation in this case focused on the prudence of the Energize Eastside investment. Because this issue broadly affected PSE's customers, it is appropriate to assess these costs are assessed against all customer classes taking electric service.
- 29 **Puyallup Tribe.** On February 3, 2023, the Puyallup Tribe filed a Request for Payment of Eligible Expenses, requesting a payment of \$45,000. This reflects a total of 180 hours of attorney time at a rate of \$250 an hour, which is only a portion of the time spent by outside counsel in this proceeding.
- 30 After considering the requirements set forth in Sections 7.1, 7.3, and 7.7 of the Interim Agreement, we determine that the Puyallup Tribe's request for payment of \$45,000 should be approved from the Prioritized Organizations Sub-Fund and that it should be

assessed against all customer classes. The Puyallup Tribe describes its request in sufficient detail for the Commission to determine that they are reasonable, and it maintains that this time is directly attributable to participating in this proceeding. The Puyallup Tribe appropriately limited its participation in this case to the issue of the Tacoma LNG Facility.

31 Because the Puyallup Tribe advocated positions on behalf of a broad cross-section of customers, these costs should be assessed against all customer classes taking gas service.

32 **NWEC.** On February 14, 2023, NWEC filed a Request for Payment of Fund Grant, requesting a payment in the amount of \$40,331 from the Customer Representation Sub-Fund.

33 After considering the requirements set forth in Sections 7.1, 7.3, and 7.7 of the Interim Agreement, we determine that NWEC's request for payment of \$40,331 should be approved and that it should be assessed against all customer classes. NWEC's request for \$40,331 represents only a portion of the \$50,000 approved by the Commission. NWEC addressed a variety of issues in this proceeding and presented testimony from several witnesses.<sup>20</sup> It has provided sufficient information for the Commission to determine that its expert witness fees and wages for in-house staff are reasonable, and it submits that this time is directly attributable to participating in this proceeding.

34 NWEC addresses a number of issues on behalf of a broad cross-section of customers. These costs should be assigned proportionally between electric and natural gas customers based on total billed revenue and should be assessed against all customer classes on an equal percentage basis.

35 **TEP.** On February 16, 2023, TEP filed a Request for Payment of Fund Grant, requesting a payment of \$50,000 from the Customer Representation Sub-Fund.

36 After considering the requirements set forth in Sections 7.1, 7.3, and 7.7 of the Interim Agreement, we determine that TEP's request for payment of \$50,000 should be approved and that it should be assessed against residential customers. TEP investigated and addressed several issues pertaining to low-income customers.<sup>21</sup> It only requests payment for a portion of its attorneys' time and for reasonable expert witness fees. It does not request payment for in-house staff time, other fees, or other costs. TEP's costs appear reasonable, and it maintains that these costs are directly attributable to participating in this proceeding.

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<sup>20</sup> See NWEC's Request for Payment ¶¶ 5, 6(b).

<sup>21</sup> TEP Request for Payment ¶ 5.

- 37 Because TEP focuses on issues affecting low-income customers, these costs should be assigned proportionally between electric and natural gas customers based on total billed revenue, and it is appropriate to assess TEP's costs against the residential customer class.
- 38 PSE must pay the above Requests for Payment as directed within 30 days of the entry of this Order.<sup>22</sup>

**ORDER**

39 THE COMMISSION ORDERS That:

- 40 (1) The Alliance of Western Energy Consumer's Request for Payment from the Customer Representation Sub-Fund in the amount of \$50,000 is APPROVED.
- 41 (2) The Coalition of Eastside Neighbors for Sensible Energy's Request for Payment from the Customer Representation Sub-Fund is APPROVED IN PART and REJECTED IN PART, with the Commission approving a payment in the amount of \$15,000.
- 42 (3) The Puyallup Tribe of Indians' Request for Payment in the amount of \$45,000 from the Prioritized Organizations Sub-Fund is APPROVED.
- 43 (4) The NW Energy Coalition's Request for Payment in the amount of \$40,331 from the Customer Representation Sub-Fund is APPROVED.
- 44 (5) The Energy Project's Request for Payment in the amount of \$50,000 from the Customer Representation Sub-Fund is APPROVED.

DATED at Lacey, Washington, and effective March 2, 2023.

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<sup>22</sup> Interim Agreement § 7.8.



**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**DAVID W. DANNER, Chair**

**ANN E. RENDAHL, Commissioner**

**MILTON H. DOUMIT, Commissioner**