

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKETS UE-240004 &  
UG-240005 (*Consolidated*)

ORDER 11

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In the Matter of the Petition of

PUGET SOUND ENERGY

Petitioner,

For an Accounting Order Authorizing  
deferred accounting treatment of purchased  
power agreement expenses pursuant to  
RCW 80.28.410.

DOCKET UE-230810

ORDER 09

ORDER DENYING PSE'S PETITION  
FOR RECONSIDERATION;  
DENYING NUCOR'S PETITION FOR  
RECONSIDERATION IN PART AND  
GRANTING IN PART; DENYING  
JEA'S PETITION FOR  
RECONSIDERATION AND  
CLARIFICATION IN PART AND  
GRANTING IN PART; AND  
GRANTING AWEC AND TEP'S  
PETITION FOR CLARIFICATION

**SUMMARY**

**Synopsis:** *The Commission denies PSE's petition for reconsideration and finds that PSE's petition fails to present arguments not considered and addressed in Order 09/07. The Commission denies Nucor's petition for reconsideration as it pertains to the issues of cost-of-service studies and rate spread but grants clarification as to how PSE should implement reduced revenue requirement for Schedules 87/87T. Further, the Commission grants JEA's petition for reconsideration on the issue of electrification and grants*

*providing clarification on JEA's position on accelerated depreciation but denies clarification on differentiated ROE. Finally, the Commission grants AWEC and TEP's joint motion for clarification.*

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## BACKGROUND

- 1 **PROCEDURAL HISTORY.** On February 15, 2024, 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 Company characterizes this filing as a general rate case (GRC). The Commission commenced an adjudication in this proceeding in consolidated Dockets UE-240004 and UG-240005.
- 2 On September 29, 2023, in Docket UE-230810, PSE filed with the Commission a petition seeking an accounting order authorizing the Company to defer the costs associated with three demand response power purchase agreements pursuant to Revised Code of Washington (RCW) 80.28.410 to track and preserve them for later ratemaking treatment. On March 8, 2024, PSE filed a revised petition adding the benefits of the PPAs to its request for deferred accounting and modifying the requested start date of the deferral period from July 2023 to September 2023. On March 5, 2024, the Commission entered Order 01 in Dockets UE-240004 and UG-240005 suspending the GRC and ordering the dockets be consolidated for further investigation and adjudication.<sup>1</sup>
- 3 On March 29, 2024, in Order 03/01, the GRC was consolidated with Docket UE-230810, as the Commission found that the dockets raise issues and legal principles the Commission could most efficiently consider through consolidation.
- 4 Following the two-day evidentiary hearing in this matter in November 2024, and briefing by the Parties, the Commission entered Order 09/07 Final Order (Order 09/07 or Final Order), on January 15, 2025, resolving all issues in the consolidated dockets.
- 5 On January 24, 2025, PSE filed a Petition for Reconsideration (PSE Petition) advocating for various modifications to Order 09/07. On January 27, 2025, Nucor Steel Seattle, Inc. (Nucor) filed a petition for reconsideration (Nucor Petition), the Joint Environmental Advocates (JEA)<sup>2</sup> filed a motion for clarification and petition for reconsideration (JEA Petition), and the Association of Western Energy Consumers (AWEC) and The Energy Project (TEP) jointly filed a separate petition for clarification (Joint Petition), each advocating for various modifications to Order 09/07.

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<sup>1</sup> Dockets UE-240004 & UG-240005, Order 01 at ¶¶ 6-7 (Mar. 5, 2024).

<sup>2</sup> Front and Centered, Sierra Club, and NW Energy Coalition (NWEC) are collectively referred to as the Joint Environmental Advocates (JEA).

6 On February 3, 2025, the Commission issued a Notice specifying the date on which the Commission would act on the various petitions and allowing for parties to file responses to the petitions.

7 On February 13, 2025, Commission Staff (Staff), AWEC, and TEP filed responses to the petitions. Pursuant to the Commission's Notice, the Commission addresses the petitions together in this Order.

8 **PARTY REPRESENTATIVES.** Donna L. Barnett, Sheree Strom Carson, Pamela J. Anderson, David S. Steele, and Byron C. Starkey of Perkins Coie LLP represent PSE. Nash Callaghan, Liam Weiland, Cassandra Jones, Colin O'Brien, and Lisa W. Gafken represent the Commission staff (Staff).<sup>3</sup> Tad Robinson O'Neill represents the Public Counsel Unit of the Washington Attorney General's Office (Public Counsel). Yochanan Zakai of Shute, Mihaly & Weinberger LLP represents TEP. Sommer Moser and Corinne O. Olson of Davison Van Cleve, P.C. represent AWEC. Jan Hasselman of Earthjustice represents JEA. Justina A. Caviglia of Parsons Behle & Latimer represents Walmart. Damon E. Xenopoulos, Shaun C. Mohler, Joseph R. Briscar, and Laura W. Baker of Stone Mattheis Xenopoulos & Brew, PC represent Nucor. Rita M. Liotta of the U.S. Navy represents the Federal Executive Agencies. Kurt J. Boehm and Jody Kyler Cohn of Boehm, Kurtz & Lowry represent Fred Meyer Stores, Inc. and Quality Food Centers, Divisions of The Kroger Co. Tyler C. Pepple of Davison Van Cleve, P.C. represents Microsoft Corporation.

9 **COMMISSION DETERMINATIONS.** The Commission denies PSE's Petition and finds that PSE does not present arguments that have not been considered and addressed in Order 09/07. Further, the Commission finds that balancing of interests between customers and the Company does not warrant further improvements to Company cash flows on reconsideration. The Commission denies Nucor's Petition, finding that the Commission appropriately addressed, reviewed, and considered Public Counsel and Nucor's arguments on rate spread. However, the Commission grants clarification in response to Nucor's Petition as to how PSE should implement the reduced revenue requirement for Schedules 87/87T. Further, the Commission grants JEA's Petition on the issue of PSE's targeted electrification program phase II and grants clarification relating to JEA's position on accelerated depreciation. However, the Commission denies JEA's

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<sup>3</sup> In formal proceedings such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

requested clarification on differentiated ROE. Finally, the Commission grants AWEC and TEP's Joint Petition on the Commission's rationale in paragraph 64 of Order 09/07.

## MEMORANDUM

### STANDARD OF REVIEW

- 10 Pursuant to Washington Administrative Code (WAC) 480-07-850(1) any party may seek reconsideration of a final order. An appropriate motion for reconsideration requests that the Commission change the outcome with respect to one or more determinations in the final order and must identify each determination challenged, site portions of the record, statute, or rule on which the petitioner relies for support and present brief argument in support of its request.<sup>4</sup>
- 11 Pursuant to WAC 480-07-835(1), any party may seek clarification of a final order. An appropriate motion for clarification requests that the Commission modify the final order or take other action to clarify the meaning of the final order, make technical changes, or correct errors.<sup>5</sup>

### PETITIONS FOR RECONSIDERATION

#### A. PSE PETITION

##### *Construction Work in Progress/Accelerated Depreciation of Gas Assets*

- 12 PSE requests the Commission reconsider its decisions in Order 09/07 related to construction work in progress (CWIP) in rate base, accelerated depreciation of gas assets, and operations and maintenance expense (O&M expense) as well as the associated findings of fact and conclusions of law in paragraphs 514, 515, 539, 542, 588, 593, and 594 of the Final Order.<sup>6</sup>
- 13 PSE argues in relation to all areas of requested reconsideration that the Commission's finding that "approving a higher [return on equity (ROE)], capital structure, and resulting [rate of return (ROR)] allows the Company the opportunity to maintain its credit rating, attract needed capital, continue to be a viable utility providing service to its ratepayers, and continue working toward CETA compliance" conflicts with the findings related to

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<sup>4</sup> WAC 480-07-850(1).

<sup>5</sup> WAC 480-07-835(1).

<sup>6</sup> PSE's Pet. for Recon., at ¶ 2.

CWIP, accelerated depreciation of gas assets, and O&M expense.<sup>7</sup> Specifically, PSE argues that in addition to improved ROE and equity ratio, PSE needs the other items to maintain credit ratings, improve cash flows, and attract capital, and that the decisions in relation to the three items on which PSE seeks reconsideration decrease cash flow by \$109 million in rate year 1 (RY1) and \$106 million in rate year 2 (RY2).<sup>8</sup>

- 14 In relation to the Commission's finding not to include CWIP in rate base for the Beaver Creek Wind Project, PSE argues that reconsideration is appropriate because inclusion of CWIP in rate base for Beaver Creek is consistent with the Commission's desire to ensure PSE can provide reliable and adequate service, improve its financial position, and meet its obligations under CETA.<sup>9</sup>
- 15 Further, PSE argues that allowing CWIP in rate base for Beaver Creek will be less costly to customers than treatment through the alternative method of Allowance for Funds Used During Construction (AFUDC), and the Commission should reverse course to increase PSE's cash flow and transition to clean energy.<sup>10</sup> In response, Staff argues that PSE has provided no new arguments as to why the Commission should approve CWIP in this instance.<sup>11</sup> Staff notes that the Commission explained its decision in Order 09/07 as to why Beaver Creek is not a good candidate for CWIP since it is nearing completion, and that the cash flow arguments present nothing new in the record, and therefore the request for reconsideration should be denied.<sup>12</sup>
- 16 Similarly, AWEC argues in its response that PSE has not put forward any new arguments related to CWIP, and therefore PSE's request should be denied.<sup>13</sup> AWEC notes the Commission considered the entire record in making its finding and notes the other avenues for PSE to recover costs associated with Beaver Creek.<sup>14</sup>
- 17 In its response, TEP concurs with AWEC and Staff that PSE's petition should be denied, but on different grounds. TEP argues that the Commission has already taken monumental

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<sup>7</sup> PSE's Pet. for Recon., at ¶¶ 4-7, 25 (*citing*, Order 09/07 at ¶ 109).

<sup>8</sup> PSE's Pet. for Recon., at ¶ 19, Table 2.

<sup>9</sup> PSE's Pet. for Recon., at ¶ 20.

<sup>10</sup> PSE's Pet. for Recon., at ¶ 21.

<sup>11</sup> Staff's Resp., at ¶ 12.

<sup>12</sup> Staff's Resp., at ¶ 13.

<sup>13</sup> AWEC's Resp., at ¶ 13.

<sup>14</sup> AWEC's Resp., at ¶ 13.

steps in approving PSE's increase in ROE and that to grant any of PSE's requests on reconsideration would only harm ratepayers and increase PSE's already historic profits.<sup>15</sup>

18 With respect to PSE's Petition, as it pertains to accelerated depreciation of gas assets,<sup>16</sup> PSE broadly states a desire for increased cash flow.<sup>17</sup> It notes that the proposed accelerated depreciation was "consistent with gradualism principles and to avoid future inequitable financial burdens for natural gas customers."<sup>18</sup> AWEC and Staff argue the Petition does not offer new arguments or identify unconsidered ones, as it relates to accelerated depreciation of gas assets.<sup>19</sup>

### **Commission Determination.**

19 As it relates to PSE's request that the Commission reconsider disallowing CWIP in rate base for the Beaver Creek Wind project, we agree with Staff, AWEC, and TEP. First, we agree with Staff and AWEC that PSE has not put forward any additional arguments regarding allowing CWIP in rate base and on this point encourages reconsideration only on the basis that it will provide additional cash flow and be credit positive for PSE.<sup>20</sup>

20 While inclusion of CWIP may in fact help PSE's cash flow and general financial situation, this is not a sufficient basis for reconsidering our decision on this issue in this circumstance. PSE relies on the language in Order 09/07 approving a higher ROE and ROR as a basis for reconsidering treatment of CWIP.<sup>21</sup>

21 However, while there is recognition that PSE's financial situation could benefit from some increased cash flow and improvement in credit metrics, this does not justify granting every request made by PSE to meet these ends. Rather, we must evaluate, and have evaluated, each proposal on its own merits, assessing whether it will result in fair, just, and reasonable rates. In making our determination in the Final Order, we found that inclusion of CWIP in rate base for Beaver Creek, and PSE's larger request to allow CWIP for future projects, were not at this time a good use of CWIP. Furthermore, as

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<sup>15</sup> TEP's Resp., at ¶¶ 4-10.

<sup>16</sup> PSE's Pet. For Recon., at ¶¶ 2, 6, 8.

<sup>17</sup> PSE's Pet. For Recon., at ¶¶ 19-20.

<sup>18</sup> PSE's Pet. For Recon., at ¶ 22.

<sup>19</sup> We note that AWEC's Response to Petitions for Reconsideration at ¶ 12, questions the sufficiency of PSE's filing against the standard for reconsideration.

<sup>20</sup> See, PSE's Pet. for Recon., at ¶ 20.

<sup>21</sup> See, PSE's Pet. for Recon., at ¶¶ 4-7, 25 (*citing*, Order 09/07 at ¶ 109).

noted by TEP, reconsidering the issues raised by PSE, including CWIP, would together result in potentially unjust and unreasonable increases in rates for customers.

Accordingly, we find PSE's Petition to allow CWIP in rate base for Beaver Creek should be denied.

22 With respect to PSE's Petition for reconsideration of paragraphs 337-339 of Order 09/07, as it pertains to accelerated depreciation of gas assets,<sup>22</sup> we decline to alter the substance of our decision. As stated in Order 09/07, the Commission retains the power to set rates and, in turn, to authorize accelerated depreciation of natural gas assets, notwithstanding the passage of Ballot Initiative 2066 (I-2066 or Initiative). However, upon review of the record and given the balance of customer and company interests, we find the record insufficient at this time to authorize the requested accelerated depreciation.

23 Finally, we note that PSE appears to make an argument in its Petition that without reconsideration on CWIP in rate base for Beaver Creek and accelerated depreciation of natural gas assets, PSE will struggle to comply with its statutory obligations under CETA.<sup>23</sup> On this, we note that PSE maintains a myriad of options for complying with CETA, including entering into power purchase agreements with independent power producers, furthering demand response and energy efficiency measures, as well as many others. Some of these options may not be as financially beneficial to the Company, but nonetheless they are viable and will assist the Company in complying with CETA. With the options before it, we reject any assertion that because the Company may not be able to get the most favorable treatment or return on any given project, it may not be able to comply with CETA.

#### *Forecasted Expenses*

24 PSE argues that the Commission should reconsider the disallowance of \$47.7 million related to its management reserves and reserve contingencies. First, PSE argues that the Commission failed to consider the re-allocated budget information related to the management reserves and reserve contingency, arguing that nearly all of the management reserves and reserve contingency funds had been allocated to specific programs as of the filing of its rebuttal testimony.<sup>24</sup> PSE asserts that the Commission has previously allowed updates to O&M expenses during the pendency of rate proceedings, and that the Company provided specific details during this proceeding regarding how the

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<sup>22</sup> PSE's Pet. For Recon., at ¶¶ 2, 6, 8.

<sup>23</sup> PSE's Pet. for Recon., at ¶ 20.

<sup>24</sup> PSE's Pet. for Recon., at 6-9 ¶¶ 11-15.



management reserves and reserve contingencies were allocated to particular programs, making them known and measurable.<sup>25</sup>

25 Second, PSE contends that the Commission improperly cited to Staff's testimony that PSE's management reserves consisted of \$65 million and that this figure should not be relied on to make the \$33 million management reserve disallowance appear more reasonable.<sup>26</sup> Instead PSE asserts that if the Commission does disallow the management reserves, it should disallow \$4.5 million related to the net value of the management reserves based on the 2025 and 2026 allocation of the management reserves as reflected in PSE's testimony.<sup>27</sup> PSE maintains that Staff's recommended disallowance of \$33 million was improperly based on a single line item related to the management reserves, rather than the management reserves as a whole.<sup>28</sup>

26 Staff urges the Commission to reject PSE's argument that management reserves and reserve contingency O&M amounts are known and measurable and, therefore, proper pro forma adjustments. Staff argues that PSE's arguments on reconsideration are tautological and fail to respond to the Commission's reasoning in disallowing the management reserves and reserve contingency amounts because they are both the product of budget estimates and forecasts.<sup>29</sup> Staff notes that the Commission acknowledges in Order 09/07 the budget allocation process PSE describes and concludes that the allocation process did not alter the conclusion that the management reserves and reserve contingency are themselves a product of a budget forecast and estimate.<sup>30</sup> Consequently, Staff asserts that PSE has not demonstrated that the Commission's analysis regarding the management reserves and reserve contingency is erroneous or incomplete.

27 Staff further maintains that the Commission should reject PSE's contention that the Commission should have disallowed the net amount of management reserves. Staff characterizes the negative line items identified by PSE as representing "over allocated" management reserve amounts because the negative items reflect PSE's estimate that the budget will be greater than what was originally included in its management reserve

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<sup>25</sup> PSE Pet. for Recon., at 8 ¶ 14 (citing *WUTC v. Cascade Natural Gas*, Docket UG-200568, Order 05 ¶ 202 (May 18, 2021) and *WUTC v. PacifiCorp*, Docket UE-130043 Order 05 ¶¶ 188-202 (December 4, 2013)).

<sup>26</sup> PSE Pet. for Recon., at 9 ¶ 16.

<sup>27</sup> PSE Pet. for Recon., at 9-10 ¶ 17.

<sup>28</sup> PSE Pet. for Recon., at 9-10 ¶ 17.

<sup>29</sup> Staff's Resp., at 2-3 ¶ 5.

<sup>30</sup> Staff's Resp., at 2-3 ¶ 5-7 (citing *WUTC v. PSE*, Dockets UE-240004, UG-240005, and UE 230810, Order 09/07, 133 ¶¶ 423-24 (January 15, 2025)).

forecast.<sup>31</sup> Accordingly, Staff argues that the negative amounts do not reflect any actual or estimated reductions in costs, but rather are a product of a reconciliation between PSE's pro forma adjustment and its Board-approved O&M budget.<sup>32</sup> Staff states that removing the negative items related to the management reserves would indirectly increase PSE's pro forma O&M expense adjustment beyond its original request and does not fully account for the amounts that were otherwise allocated to other projects as part of PSE's budget process.<sup>33</sup> Finally, Staff contends that PSE's analysis of its O&M allocation is still the product of a budget estimate and forecast that fails to meet the Commission's known and measurable standard.<sup>34</sup>

- 28 AWEC also recommends that the Commission reject PSE's arguments on reconsideration regarding the disallowance of management reserve and reserve contingency O&M amounts. AWEC asserts that PSE's arguments on reconsideration are an attempt to reargue the merits of the issue without identifying an error warranting reconsideration.<sup>35</sup> AWEC similarly argues that the Commission should not allow PSE to reargue the amount of the disallowance related to management reserve O&M amounts, and that, to the extent that the Commission does grant reconsideration on this issue, it should be limited to correcting calculation errors.<sup>36</sup>

#### **Commission Determination.**

- 29 The Commission rejects PSE's argument that its management reserve and reserve contingency pro forma adjustments were known and measurable. As Staff notes, the Commission explained in Order 09/07 that PSE's allocation process did not address the fundamental defect that the management reserve and reserve contingency amounts were themselves a product of a budget estimate and forecast that is incompatible with the Commission's traditional pro forma standard.<sup>37</sup> Although PSE cites to two prior Commission cases in support of its argument that its management reserve and reserve contingency O&M amounts were known and measurable, both of those cases are distinguishable as they concern updates to amounts that became actually known and

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<sup>31</sup> Staff's Resp., at 4-5 ¶ 10.

<sup>32</sup> Staff's Resp., at 4-5 ¶ 10.

<sup>33</sup> Staff's Resp., at 5-6 ¶ 11.

<sup>34</sup> Staff's Resp., at 5-6 ¶ 11.

<sup>35</sup> AWEC's Resp., at 3-4 ¶ 7.

<sup>36</sup> AWEC Resp., at 4 ¶ 8.

<sup>37</sup> *WUTC v. PSE*, Dockets UE-240004, UG-240005, and UE 230810, Order 09/07, 133 ¶¶ 423-24 (January 15, 2025).

measurable during a rate case or were otherwise supported by known and measurable data, rather than forecasts and estimates.<sup>38</sup>

30 Turning to PSE’s argument regarding the amount of management reserve funds that should be disallowed, the Commission is not persuaded that its disallowance of \$33 million was erroneous. In testimony urging the Commission to reject Staff’s proposed \$65 million calculation of PSE’s management reserves, PSE witness Huizi states “[h]ad McGuire followed the cell references and pulled from the correct source information from within Exh. TRH-3 [. . .], he would have seen that *the management reserves were \$15.8 million for 2025 and \$17.3 million for 2026[.]*”<sup>39</sup> Elsewhere in testimony, witness Huizi again clearly states that “[*t]he management reserves for 2025 were \$15.8 and in 2026 were \$17.3 million, approximately 1.8 percent and 1.9 percent, respectively, of the total O&M expenses in both 2025 and 2026.*”<sup>40</sup> PSE does not address this testimony in its Petition, which unequivocally states what the total management reserve O&M amounts were, or provide any explanation why its analysis on reconsideration differs from its own witness’s testimony. PSE has not demonstrated that the Commission determination was erroneous or otherwise unsupported by the record. The Commission rejects PSE’s argument.

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<sup>38</sup> *WUTC v. Cascade Natural Gas*, Docket UG-200568, Order 05 ¶ 202 (May 18, 2021)(“The Company’s original request for a 4 percent non-union wage increase reflected budgeted amounts. On rebuttal, Kaiser updated the wage increases for non-union employees to 3.55 percent, *which reflect the actual 2020 amount*. Because the rebuttal testimony reflects known and measurable expenses, it is appropriate for the Company to recover these 2020 wage increases.”)(emphasis added)(citations omitted); *WUTC v. PacifiCorp*, Docket UE-130043 Order 05 ¶¶ 193, 201-202 (December 4, 2013)(“PacifiCorp placed the Jim Bridger Unit 2 upgrade into service in May 2013. *There is no dispute that it is now used and useful and its costs are known and measurable. . . .* In addition, we accept the pro forma additions for Soda Springs, Swift and Prospect, *based on updated actuals as revised by the Company in rebuttal*. We also accept PacifiCorp’s proposed recovery of O&M costs for the Swift facility. *Eight months of operation data are adequate to support recovery of annualized costs* at the level PacifiCorp proposes in its rebuttal testimony[.]”)(emphasis added)(citations omitted).

<sup>39</sup> Huizi, Exh. TRH-1T at 20:15-18 (emphasis added).

<sup>40</sup> Huizi, Exh. TRH-1T at 22:8-10 (emphasis added).

## B. NUCOR PETITION

- 31 Nucor requests the Commission reconsider Findings of Fact 37, 39, and 44, Conclusions of Law 15, 16, and 20, and discussion in several paragraphs related to natural gas cost allocation.<sup>41</sup>
- 32 Regarding Findings of Fact 37 and 39 and Conclusions of Law 15 and 16, Nucor argues the Commission failed to substantively evaluate Nucor and AWEC's Cost of Service Study (COSS) proposals.<sup>42</sup> Nucor notes that the Commission allowed an exemption proposed by PSE from the Cost of Service rules in 480-85 WAC, and that WAC 480-85-060(2), 480-85-070, and 480-07-110, respectively allow alternative cost of service studies to be filed, allow the Commission to grant exemptions for the provisions of 480-85 WAC, and set forth the procedures for doing so.<sup>43</sup>
- 33 More specifically, Nucor argues that the Commission's suggestion that Nucor and AWEC's petition for amending 480-85 WAC shows the Commission did not meaningfully consider Nucor and AWEC's COSS proposals.<sup>44</sup> Further, Nucor argues that the Commission acted inconsistently in approving PSE's exemption regarding FERC Account 870, but denying to consider Nucor and AWEC's proposals.<sup>45</sup> Finally, Nucor argues that the Commission acknowledged direct assignment of mains may be consistent with 480-85 WAC with a sufficient showing such costs could be assigned and argues the Commission erred in not finding sufficient evidence in the record to directly assign mains as sought by Nucor and AWEC.<sup>46</sup>
- 34 In regard to Finding of Fact 44 and Conclusion of Law 20, along with associated paragraphs, Nucor argues the Commission erred in failing to evaluate rate spread proposals by Nucor and Public Counsel.<sup>47</sup> Nucor requests the Commission reconsider and adopt Nucor witness Higgins' proposals to:
- a. Apply 90 percent of the system average increase to Schedules 16/23/53;

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<sup>41</sup> Nucor's Pet. for Recon., at ¶ 1.

<sup>42</sup> Nucor's Pet. for Recon., at ¶ 3.

<sup>43</sup> Nucor's Pet. for Recon., at ¶¶ 3-5.

<sup>44</sup> Nucor's Pet. for Recon., at ¶ 6.

<sup>45</sup> Nucor's Pet. for Recon., at ¶¶ 8-9.

<sup>46</sup> Nucor's Pet. for Recon., at ¶¶ 10-11, *citing* Order 09/07 at ¶ 278.

<sup>47</sup> Nucor's Pet. for Recon., at ¶ 13.

- b. Apply 110 percent of the system average increase to Schedules 41/41T, 85/85T, and 87/87T;
- c. Apply 125 percent of the system average increase to Schedules 31/31T;
- d. Apply 70 percent of the system average increase to Schedules 86/86T; and
- e. Set Schedule 88T rates to full parity.<sup>48</sup>

- 35 Nucor asserts that failing to adopt Higgins' proposals results in an increase for Schedule 87T customers that is nearly twice the system average and does not conform with the Commission's preference for gradualism in rate increases.<sup>49</sup> Regarding Public Counsel's allocation methods, Nucor argues the Commission should have considered witness Dismukes' proposals as rate spread proposals limiting increases to no more than 1.25 times the system average and asks the Commission to reconsider its findings through that lens.<sup>50</sup>
- 36 Finally, Nucor argues that in relation to paragraphs 315-317 in Order 09/07, that the Commission's Order is incomplete and fails to instruct PSE as to how to implement reduced revenue requirement for Schedules 87/87T.<sup>51</sup> As a result, Nucor argues PSE did not reduce proposed demand charges for Schedules 87/87T relative to its filed case and requests the Commission reconsider and add language directing PSE to "proportionately [reduce] the Schedules 87/87T volumetric delivery charges and demand charge by an equal percentage ... to target the class revenues."<sup>52</sup>
- 37 Staff and AWEC filed responses to Nucor's petition. In its response, Staff argues the Commission "thoroughly considered the evidence and arguments presented by all parties" and therefore should deny Nucor's Petition.<sup>53</sup> Staff argues that each of the Findings of Fact and Conclusions of Law which Nucor asks to be reconsidered is supported by discussion examining the position and arguments of each party in the case.<sup>54</sup> Staff addresses Nucor's contentions regarding the Commission's consideration of alternate cost of service studies and argues that the Commission reviewed and considered

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<sup>48</sup> Nucor's Pet. for Recon., at ¶ 13, *citing* Higgins, Exh. KCH-1T at 24:4-12.

<sup>49</sup> Nucor's Pet. for Recon., at ¶ 15.

<sup>50</sup> Nucor's Pet. for Recon., at ¶ 16.

<sup>51</sup> Nucor's Pet. for Recon., at ¶ 18.

<sup>52</sup> Nucor's Pet. for Recon., at ¶ 18, *citing* Higgins, Exh. KCH-1T at 27:8-10.

<sup>53</sup> Staff's Resp., at ¶ 22.

<sup>54</sup> Staff's Resp., at ¶¶ 24-25.

each of the studies and discussed at length the various recommendations of the parties, but ultimately found that PSE's proposed study met the intent of 480-85 WAC.<sup>55</sup>

38 Staff also addresses Nucor's proposition that because the Commission approved PSE's requests for exemption, the Commission must also approve Nucor's. Staff argues in response that the requests for exemption were "inapposite", that Nucor's request was in essence asking the Commission to revisit compromises made during a prior rulemaking, and that therefore Nucor's argument should be rejected.<sup>56</sup>

39 In its response, AWEC expresses support for Nucor's petition and asserts that if the Commission is inclined to grant PSE's request to reconsider accelerated depreciation for its natural gas system, it must also grant Nucor's petition.<sup>57</sup> To support its assertion, AWEC argues that accelerated depreciation without proper allocation methodologies would lead to inappropriate rate shock and be contrary to the public interest.<sup>58</sup>

#### **Commission Determination.**

40 The Commission agrees with Staff and finds that Nucor has not put forward any new arguments not already considered and addressed by the Commission in Order 09/07 in regard to cost of service studies, cost allocation, and rate spread. However, because PSE has apparently failed to adjust revenue requirements for Schedules 87/87T, we find Nucor's request regarding rate spread should be read as a request for clarification and granted.<sup>59</sup>

41 First, we address Nucor's request for reconsideration on the Commission's decision regarding natural gas cost allocation. As noted above, Nucor asserts three arguments in support of its petition. First, that Commission rules allow the Commission to consider alternate cost studies. Second, that the Commission granted PSE's requested exemptions and therefore should consider granting Nucor and AWEC's requested exemptions. Third, that the direct assignment of distribution mains is consistent with Commission rules and the record supports such a ruling. Underlying each of these arguments is an assertion that the Commission "failed to substantively evaluate" Nucor and AWEC's proposals.<sup>60</sup>

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<sup>55</sup> Staff's Resp., at ¶¶ 27-29.

<sup>56</sup> Staff's Resp., at ¶¶ 31-33.

<sup>57</sup> AWEC's Resp., at ¶ 21.

<sup>58</sup> AWEC's Resp., at ¶ 21.

<sup>59</sup> See, Nucor's Pet. for Recon., at ¶¶ 17-18.

<sup>60</sup> Nucor's Pet. for Recon., at ¶ 3.

- 42 We reject Nucor’s arguments and note that Order 09/07 spends pages discussing the various proposals put forward by the parties, including the context underlying the promulgation of 480-85 WAC.<sup>61</sup> As Staff notes, the Commission weighed the various studies put forward by the parties and ultimately found that amongst those presented, PSE’s complied best with the intent of 480-85 WAC.<sup>62</sup> On this, we agree with Staff. While Nucor is correct that parties may propose alternate COSSs under 480-85 WAC, the Commission is not obligated to accept those COSSs.
- 43 We further agree with Staff that acceptance of one exemption does not necessitate granting another. While parties may petition the Commission for an exemption from 480-85 WAC, pursuant to WAC 480-85-070, the Commission retains discretion to grant or deny the requested exemption. As Staff notes, the exemptions requested by PSE versus those requested from Nucor and AWEC are starkly different.<sup>63</sup> PSE’s requested exemptions were unopposed, supported by the record, and found to be just and reasonable.<sup>64</sup> Contrarily, Nucor and AWEC’s requested exemption was contested and found to be relitigating rulemaking.<sup>65</sup>
- 44 Regarding allocation, we disagree with Nucor’s argument that the Commission erred in finding the record lacked sufficient evidence to support direct assignment of distribution mains.<sup>66</sup> Nucor notes the Commission recognized such an assignment may be consistent with WAC 480-85-060(3), if the record could support such an assignment.<sup>67</sup> Nucor goes on to reiterate evidence supporting their position. However, Order 09/07 considered this evidence but ultimately found the changes to allocation recommended by AWEC and Nucor were not fully developed and did not address questions raised by PSE including the failure to consider back-looped pipelines, differing replacement costs, and pipe length, all needed before such a proposal could be adopted.<sup>68</sup> Accordingly, we find Nucor’s Petition on these points unpersuasive and decline to grant its request.
- 45 We further find unpersuasive Nucor’s requests for reconsideration related to Public Counsel and Nucor’s proposed rate spreads. Nucor argues that the Commission

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<sup>61</sup> Order 09/07, at ¶¶ 260-80.

<sup>62</sup> Staff’s Resp., at ¶ 28, *citing* Order 09/07, at ¶¶ 269-70.

<sup>63</sup> Staff’s Resp., at ¶¶ 31-32.

<sup>64</sup> Order 09/07, at ¶ 273.

<sup>65</sup> Order 09/07, at ¶ 279.

<sup>66</sup> Nucor’s Pet. for Recon., at ¶ 11.

<sup>67</sup> Nucor’s Pet. for Recon., at ¶ 10, *citing* Order 09/07, at ¶ 278.

<sup>68</sup> Order 09/07, at ¶ 278.

improperly considered Public Counsel’s natural gas rate spread proposals as an allocation proposal and erred in not considering Nucor’s proposed rate spread.<sup>69</sup> While Order 09/07 may have included imperfect labeling for some arguments and their related decisions, Order 09/07 addresses each of the proposals. After examination, one can see that the Section titled COSS Results, Parity, and Rate Design deals primarily, and nearly exclusively, with electric rate spread and parity issues.<sup>70</sup>

46 Further, paragraph 302 notes that AWEC and Nucor make arguments related to natural gas costs allocation addressed above, meaning in the natural gas cost of service study section.<sup>71</sup> In context, this would indicate the electric issues addressed in the section on COSS Results, Parity and Rate Design are also addressed in the natural gas cost allocation section in Order 09/07. For clarity, the section should have included testimony proffered by Public Counsel as well.

47 In clarifying this point, we find that Public Counsel’s proposal was adequately and properly rejected. We find no basis for reconsidering Order 09/07 because the Commission referred to it as an allocation rather than a rate spread proposal, particularly when the parties used the terms interchangeably.<sup>72</sup>

48 Further, we note that the rate spread proposals for which Nucor requests reconsideration are predicated on and determined using witness Higgins’ COSS. The rate spread proposals largely mirror those proposed by PSE, and as witness Higgins states are “guided by the parity ratios resulting from my recommend COSS” and “based on the results of my recommended COSS.”<sup>73</sup> While the Commission did not fully evaluate witness Higgins’ cost allocation proposals in Order 09/07, we did not need to do so, as we rejected the COSS which served as the basis for rate design and rate spread considerations. To do otherwise would have been to adopt at least in part the COSS, for which the recommendations were explicitly based upon.

49 As for Nucor’s final argument, we agree that Order 09/07 should have instructed PSE “as to how to implement, with respect to rate design, the reduced revenue requirement for

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<sup>69</sup> Nucor’s Pet. for Recon., at ¶¶ 13-16.

<sup>70</sup> Order 09/07, at ¶¶ 291-306.

<sup>71</sup> Order 09/07, at ¶ 302.

<sup>72</sup> *Compare*, Nucor’s Pet. for Recon., at ¶ 13 (referring to witness Higgins’ listed recommendations as a “rate spread proposal”), with Exh. KCH-1T 23:21-24:12 (where witness Higgins refers to the exact same proposals as his “recommended revenue allocation.”)

<sup>73</sup> Exh. KCH-1T at 23:21-24:1.



Schedules 87/87T....”<sup>74</sup> From a review of the record, witness Higgins’ proposal on this point was uncontested.<sup>75</sup> Accordingly, PSE should “proportionately [reduce] the Schedules 87/87T volumetric delivery charges and demand charge by an equal percentage...” consistent with the lower revenue requirement approved in this case.<sup>76</sup>

### C. JEA PETITION

#### *TEP Phase 2, General Electrification, DCARB Tracker*

- 50 JEA requests that the Commission reconsider its denial of PSE’s Targeted Electrification Pilot Phase 2 (TEP Phase 2)<sup>77</sup> and JEA’s general electrification program for PSE, raising four issues. First, JEA argues that neither TEP Phase 2 nor the general electrification program are inconsistent with I-2066, because the programs are voluntary and do not require customers to terminate gas service.<sup>78</sup> Second, JEA asserts that Order 09/07 is inconsistent because it approves of “ongoing electrification efforts where cost-effective” despite the fact that there are no other ongoing electrification programs and questions how ongoing electrification would be otherwise consistent with I-2066.<sup>79</sup> Third, JEA maintains that the Commission’s Order 09/07 fails to resolve all issues before the Commission by not expressly analyzing whether TEP Phase 2 and the general electrification program violate I-2066.<sup>80</sup> Finally, JEA contends that the legal uncertainty presented by I-2066 does not provide a reasonable basis to reject the TEP Phase 2 and general electrification program proposals in this proceeding.<sup>81</sup>
- 51 The Energy Project supports JEA’s request that the Commission reconsider the denial of PSE’s TEP Phase 2 program. Specifically, The Energy Project states that the Commission should authorize the income-qualified portion of TEP Phase 2 and argues that because I-2066 did not remove the requirement to include low-income electrification programs as part of utilities’ integrated system planning requirements, such programs do not conflict

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<sup>74</sup> Nucor’s Pet. for Recon., at ¶ 182.<sup>75</sup> *See generally*, JDT-8T.

<sup>75</sup> *See generally*, JDT-8T.

<sup>76</sup> Higgins, Exh. KCH-1T at 27:8-10.

<sup>77</sup> To avoid confusion, in this section we refer to TEP as the Targeted Electrification Pilot, not the Energy Project.

<sup>78</sup> JEA Pet. For Recon., at 8-10 ¶¶ 17-19.

<sup>79</sup> JEA Pet. For Recon., at 10-11 ¶¶ 20-21.

<sup>80</sup> JEA Pet. For Recon., at 11-12 ¶ 22 (citing RCW 34.05.570(i); *Suquamish Tribe v. Central Puget Sound Growth Management Hearings Bd.*, 156 Wn. App. 743, 783 (2010)).

<sup>81</sup> JEA Pet. For Recon., at 12-13 ¶ 23.

with I-2066.<sup>82</sup> The Energy Project further argues that weatherization agencies are currently facing substantial uncertainty regarding federal funding and that rejection of the low-income electrification pilot adds further uncertainty to these organizations.<sup>83</sup> Furthermore, The Energy Project requests that the Commission respond to its retroactivity argument advanced in briefing with respect to I-2066.<sup>84</sup> Finally, The Energy Project maintains that the TEP Phase 2 low income program will provide additional benefits in the form of decreasing individual customers' energy burdens and providing access to air conditioning.<sup>85</sup>

- 52 Staff also supports JEA's request to reconsider the denial of PSE's TEP Phase 2 and takes no position with respect to JEA's general electrification program. Staff argues that TEP Phase 2 does not require or incent PSE to terminate natural gas service to customers because the programs are voluntary and the choice to terminate gas service in favor of electrification is within the discretion of the customer.<sup>86</sup> Staff notes that the Commission's rules distinguish between customer-directed termination of gas service and utility-directed termination of gas service, and argues that Section 4(12) of I-2066, codified in RCW 80.28.425(12), does not prohibit customer-directed, or voluntary, termination of service.<sup>87</sup>
- 53 With respect to Section 4(13) of the I-2066, codified in RCW 80.28.425(13), Staff asserts that none of the TEP Phase 2 programs would result in involuntary fuel switching because customer participation in the programs is voluntary. Staff further maintains that the TEP Phase 2 programs do not provide PSE an incentive to terminate gas services, and the record does not suggest that restricting natural gas service would be financially beneficial to PSE as a result of the Commission approving the pilot.<sup>88</sup> Staff also argues that TEP Phase 2 is not a "planning requirement," suggesting that the term as used in RCW 80.28.425(13) refers to incentives or penalty mechanisms available to the Commission under RCW 80.28.425(7), and even if it was, the record does not indicate that approving TEP Phase 2 would make gas service cost-prohibitive.<sup>89</sup> Finally, Staff

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<sup>82</sup> TEP's Resp., at 5-6 ¶¶ 11-12. See also, RCW 80.86.020(4)(h).

<sup>83</sup> TEP's Resp., at 6-7 ¶ 14.

<sup>84</sup> TEP's Resp., at 6 ¶ 13.

<sup>85</sup> TEP's Resp., at 7 ¶ 16.

<sup>86</sup> Staff's Resp., at 7-9 ¶¶ 15-16.

<sup>87</sup> Staff's Resp., at 8-9 ¶ 16 (citing WAC 480-90-128(1)-(2)).

<sup>88</sup> Staff's Resp., at 8-9 ¶ 16.

<sup>89</sup> Staff's Resp., at 9 ¶ 17.

submits that approving TEP Phase 2 is in the public interest because voluntary customer electrification will help PSE achieve cost-effective compliance with the Climate Commitment Act (CCA), thereby preventing natural gas service from reaching cost-prohibitive levels, and requests that the Commission also reconsider Staff's recommendation that TEP Phase 2 incorporate a distributional equity analysis.<sup>90</sup>

54 AWEC opposes JEA's request to reconsider the rejection of PSE's TEP Phase 2 and JEA's general electrification program. AWEC argues that the Commission is not required to resolve a legal conclusion when doing so is unnecessary to resolve a contested issue, and that the Commission has discretion to reject both TEP Phase 2 and JEA's general electrification program as neither are required by law.<sup>91</sup> AWEC contends that the case cited in JEA's Petition does not support the relief sought, because the contested issue presented at hearing was whether to approve TEP Phase 2 and the general electrification program, not the interpretation of I-2066, and that the Commission provided adequate reasoning to reject TEP Phase 2 and the general electrification program.<sup>92</sup> AWEC also reasserts its prior arguments that PSE's TEP Phase 2 does not take into account the requirements of ESHB 1589, indicate how the pilot efforts will aid in satisfying ESHB 1589's requirements, or incorporate findings from the pilot into its 2025 Targeted Electrification Strategy.<sup>93</sup> Finally, AWEC argues that the Commission reasonably determined that PSE's future electrification efforts should be further considered in the context of the Company's 2027 Integrated System Plan.<sup>94</sup>

#### **Commission Determination.**

55 The Commission grants reconsideration as to PSE's TEP Phase 2 but finds that the record and policy considerations do not support ordering PSE to implement JEA's proposed general electrification program. The Commission thanks the parties for their thoughtful arguments regarding the impact of I-2066 on this case and determines, after further review, that I-2066 does not conflict with PSE's TEP Phase 2 programs. Furthermore, although the Commission grants reconsideration regarding TEP Phase 2 and authorizes

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<sup>90</sup> Staff's Resp., at 10 ¶ 18.

<sup>91</sup> AWEC's Resp., at 8 ¶ 15.

<sup>92</sup> AWEC's Resp., at 8-9 ¶¶ 16-17.

<sup>93</sup> AWEC's Resp., at 9-10 ¶ 18.

<sup>94</sup> AWEC's Resp., at 10-11 ¶ 19.

PSE's requested program budget of \$22.3 million, the Commission still determines that PSE's proposed DCARB tracker should not be implemented at this time.<sup>95</sup>

56 With respect to TEP Phase 2, the relevant provisions of I-2066, now codified under RCW 80.28.425, provide:

(12) The commission shall not approve, or approve with conditions, a multiyear rate plan that requires or incentivizes a gas company or large combination utility to terminate natural gas service to customers.

(13) The commission shall not approve, or approve with conditions, a multiyear rate plan that authorizes a gas company or large combination utility to require a customer to involuntarily switch fuel use either by restricting access to natural gas service or by implementing planning requirements that would make access to natural gas service cost-prohibitive.

57 Importantly, none of PSE's TEP Phase 2 programs compel customers to participate, and PSE acknowledged at hearing that it had an obligation to provide natural gas service if requested by a customer.<sup>96</sup> Therefore, the record supports a determination that all of PSE's TEP Phase 2 programs are offered on a voluntary basis to customers. To remove any ambiguity, the Commission requires the Company to make participation voluntary as a condition of its approval of TEP Phase 2.

58 Insofar as the TEP Phase 2 programs are voluntary, their implementation will not "require or incentivize [PSE] to terminate natural gas service to customers," because a customer, not PSE, will determine whether to discontinue natural gas service. As noted by Staff, the Commission's rules distinguish between customer-directed and utility-directed termination of natural gas service, and RCW 80.28.425(12) only concerns requirements or incentives for "a gas company or large combination utility to terminate natural gas service."<sup>97</sup> Consequently, PSE's TEP Phase 2 does not conflict with RCW 80.28.425(12).

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<sup>95</sup> Mannetti, Exh. JM-1CT at 22:3 – 23:8.

<sup>96</sup> Mannetti, Exh. JM-1CT at 4:1 – 7:19; Transcript, Vol. II, at 142:10-12. See also, RCW 80.28.110(2) ("Every gas company or large combination utility shall provide natural gas to all persons and corporations in their service area or territory that demand, apply for, and are reasonably entitled to receive, natural gas under this section, even if other energy services or energy sources may be available.").

<sup>97</sup> WAC 480-90-128(1)-(2).

- 59 Similarly, because PSE’s customers will decide whether to participate in the TEP Phase 2 programs, approval of the pilot does not “authorize [PSE] to require a customer to *involuntarily* switch fuel use.”<sup>98</sup> As noted above, PSE affirmed at hearing that it has an obligation to provide natural gas service to customers upon request, indicating that PSE will not “restrict[] access to natural gas service” as a result of TEP Phase 2. The record does not suggest that authorizing TEP Phase 2 would “make access to natural gas service cost-prohibitive.” As such, PSE’s TEP Phase 2 does not conflict with RCW 80.28.425(13).
- 60 Finally, the Commission finds AWEC’s concerns regarding HB 1589 unpersuasive. As PSE has explained, because the Company began planning TEP Phase 2 prior to the enactment of HB 1589, TEP Phase 2 does not conflict with HB 1589, and PSE is not attempting to comply with HB 1589 through the TEP Phase 2.<sup>99</sup> Given that PSE’s TEP Phase 2 does not conflict with RCW 80.28.425(12) or (13), will provide benefits to PSE customers that participate in the pilot through electrification efforts, and will enable PSE to gather additional data to evaluate how to optimally pursue future electrification efforts, the Commission grants reconsideration and authorizes PSE’s TEP Phase 2.<sup>100</sup> The Commission should require PSE to include an update on TEP Phase 2 as part of its next GRC filing and file a final report with the Commission by no later than June 30, 2027 regarding implementation and results of its TEP Phase 2. The final report shall discuss: 1) PSE’s findings from TEP Phase 2; 2) the level of participation in each of the programs contained in TEP Phase 2; and 3) the costs attributable to each TEP Phase 2 program.
- 61 Without deciding whether RCW 80.28.425(12) and (13) prohibit JEA’s proposed general electrification program, the Commission nonetheless rejects this proposal for two reasons. First, TEP Phase 2 was not developed with a cost-effectiveness analysis, and JEA describes its general electrification program as a supplement to TEP Phase 2.<sup>101</sup> While TEP Phase 2 is specifically designed as an exploratory program to gain additional information regarding future electrification efforts, the general electrification program is characterized by JEA as means to achieve its broader electrification targets to achieve

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<sup>98</sup> RCW 80.28.425(13)(emphasis added).

<sup>99</sup> Mannetti, Exh. JM-9T at 10:1-10.

<sup>100</sup> Mannetti, Exh. JM-1CT at 23:12 – 24:19. Because the Commission determines that PSE’s TEP Phase 2 does not violate RCW 80.28.425(12) and (13), the Commission declines to reach the retroactivity argument raised by The Energy Project, as it is unnecessary for the disposition of this issue.

<sup>101</sup> Kaufman, Exh. LDK-3C at 53-54; Cebulko, Exh. BTC-1T at 54:17 – 55:13.

CCA compliance.<sup>102</sup> Both in testimony and at hearing, PSE expressed concerns that pursuing general electrification would entail substantial costs.<sup>103</sup> The Commission is not persuaded that PSE should be ordered to pursue broader electrification as a means of compliance with legal obligations absent additional information and analysis that electrification is cost-effective relative to other methods of compliance.

62 Second, ordering PSE to implement a general electrification program as part of this proceeding would potentially frustrate the Commission's future prudence review of such a program. Although subject to some modification in the context of a multi-year rate plan, the Commission generally does not preapprove or otherwise direct investments or acquisitions by a utility.<sup>104</sup> Maintaining this prudence review, in turn, incentivizes the utility to, among other things: 1) maintain clear, contemporaneous documentation of its decision making, 2) consider reasonable alternatives, and 3) efficiently control costs.<sup>105</sup> While the Commission appreciates the intent underpinning JEA's proposal, the Commission finds that it is not appropriate based on the record developed in this proceeding.<sup>106</sup>

63 Finally, the Commission rejects PSE's proposed DCARB tracker. PSE currently recovers more than half of its revenue via trackers.<sup>107</sup> While this is not necessarily improper, it

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<sup>102</sup> Kaufman, Exh. LDK-3C at 53; Cebulko, Exh. BTC-1T at 49: 9-11; 54:19 – 55:13.

<sup>103</sup> Steuerwalt, Exh. MS-4T at 10:13; Transcript, Vol. II, at 156:8-18.

<sup>104</sup> *WUTC v. The Washington Water Power Company*, Docket UG-901459, Third Supplemental Order, ¶ 49 (March 9, 1992)(“ The company must independently make its own decisions and then bring them to the Commission. The Commission does not provide preapproval, whether the issue is resource acquisition or competitive sales contracts.”).

<sup>105</sup> See, e.g., *In re PURPA Standards in the Energy Independence and Security Act of 2007*, Docket U-090222, Order 01, 15 ¶ 33 fn. 52 (September 14, 2009)(collecting cases); *In re Examining Regulation of Electric Utilities*, Docket UE-940932, 12-13 (April 12, 1998)(“ A demonstration of prudence includes a showing that 1) the selection of each resource was necessary and reasonable, 2) the costs of acquisition were appropriate based upon what a reasonable board of directors and company management decided given what they knew or reasonably should have known to be true at the time the decision was made, and 3) the costs were regularly evaluated. . . . [T]he Commission does not believe preapproval of particular resource acquisitions is appropriate, as this would inappropriately shift the risk of those decisions from utility management to rate payers.”).

<sup>106</sup> Because the Commission resolves this issue on the merits, the Commission declines to reach the retroactivity argument raised by The Energy Project, as it is unnecessary for the disposition of this issue. Additionally, because the Commission denies JEA's proposed general electrification program, the Commission similarly denies JEA's recommended general electrification performance incentive mechanism that is based on the proposed general electrification program.

<sup>107</sup> Martin, Exh. JLM-1CT at 40:1-4.

raises some concerns about why the majority of its revenue is recovered in this manner, as opposed to through general rates, and highlights further policy questions regarding under what circumstances it is appropriate to recover costs through tracker mechanisms. While the Commission declines to adopt Staff's proposed criteria for implementing trackers as part of this proceeding, the extended discussion regarding the propriety of trackers may warrant additional review in the form of a proceeding to develop a Commission policy statement regarding the future use of tracker mechanisms. Consequently, the Commission declines to implement PSE's proposed DCARB tracker as part of this proceeding and anticipates further discussion regarding the use of trackers as part of a future Commission policy docket.

*AWEC TEP Phase 2 Cost Recovery Customer Exclusion*

- 64 Having granted reconsideration on PSE's TEP Phase 2, the Commission considers various parties' proposal related to the pilot, beginning with AWEC's request that the Commission exclude customers subject to Schedules 87T, 449, and 459, energy intensive trade exposed customers (EITE), and special contracts from the recovery of costs associated with TEP Phase 2.<sup>108</sup>
- 65 With respect to Schedule 87T customers, AWEC argues that while there is one combined Commercial and Industrial Targeted Electrification Grant Pilot, the pilot does not benefit unbundled gas customers and maintains that it is unlikely that 87T customers would be able to switch fuels due to the need for high temperature industrial processes.<sup>109</sup> AWEC also asserts that Schedule 87T large transport customers will likely be required to absorb stranded costs associated with fuel switching through base rates, which in turn violates the matching principle.<sup>110</sup> Regarding EITE customers, AWEC contends that PSE does not hold compliance obligations for its EITE customers, because the Company recovers net CCA compliance costs through Schedule 111, which is not applicable to EITE customers.<sup>111</sup> AWEC further argues that Schedule 449 and 459 customers will only benefit from TEP Phase 2 if they are dual-fuel customers, PSE has not determined if there are benefits to these customers, and such customers are already contributing to CCA

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<sup>108</sup> Kaufman, Exh. LDK-1T at 20:12 – 22:7.

<sup>109</sup> Kaufman, Exh. LDK-1T at 20:12-18 fn. 34.

<sup>110</sup> Kaufman, Exh. LDK-1T at 20:18 – 21:2.

<sup>111</sup> Kaufman, Exh. LDK-1T at 21:5-12.

compliance cost through their respective energy providers and receive no benefit from fuel switching.<sup>112</sup>

66 Additionally, AWEC contends that PSE has not demonstrated that the TEP Phase 2 programs are cost-effective. In support of its position, AWEC cites to PSE's responses to Staff data requests, which state in part:

PSE has not performed any cost effectiveness tests for the programs within [TEP Phase 2], as the purpose of the pilot is to further research targeted electrification work, program design, customer impacts, energy impacts, etc.

...

The proposed [TEP Phase 2] was not justified by cost effectiveness, rather it is a pilot program that provides equitable access to customer decarbonization. The work in the Duvall gas capacity constrained area has the potential to be cost-effective as it could mitigate the need to pursue major infrastructure upgrades there. Lessons learned in Phase 1 and Phase 2 of this Pilot work will shape ongoing program design and future program design but are not likely to solve the cost-effectiveness challenge.<sup>113</sup>

67 Both PSE and JEA oppose AWEC's argument that certain classes of customers should not have to bear costs associated with TEP Phase 2. JEA asserts that TEP Phase 2 will benefit all customers because "[e]lectrification programs reduce PSE's gas utility compliance obligation. Failure to reduce emissions could ultimately lead to costs reaching more than \$100 million per year in the 2030s, and more than \$1 billion per year by 2050, much or all of which could be borne by all PSE customers."<sup>114</sup> JEA argues that, similar to energy efficiency programs, all customers receive some benefits as a result of electrification, even if they do not directly participate in the programs, and that electrification is a means to comply with PSE's CCA target.<sup>115</sup> Finally, JEA recommends that the Commission adopt a modified cost-effectiveness standard for the purpose of

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<sup>112</sup> Kaufman, Exh. LDK-1T at 21:15-19 (citing Kaufman, Exh. LDK-3C at 7 ("PSE is still evaluating the eligibility for unbundled gas customers. The [TEP Phase 2] work will be focused on dual-fuel electric and gas customers, so no direct benefits are applicable unless a Choice/Retail Wheeling Customer is also a PSE gas customer and participates in Pilot Phase 2. Benefit quantitative analysis was not performed for these customers"))).

<sup>113</sup> Kaufman, Exh. LDK-3C at 53-54.

<sup>114</sup> Cebulko, Exh. BTC-18T at 8:19 – 9:1.

<sup>115</sup> Cebulko, Exh. BTC-18T at 9:1-10.



evaluating CCA compliance programs that focuses on a comparison of net benefits of various compliance programs and investments.<sup>116</sup>

- 68 PSE maintains that TEP Phase 2 is designed to benefit all customers, including the customers that AWEC seeks to exclude.<sup>117</sup> PSE states that although the customer classes identified by AWEC may not receive direct benefits from TEP Phase 2, those customers still benefit from: 1) projects in gas-constrained areas that help avoid distribution system upgrades; and 2) lower prices for carbon offsets as a result of PSE's reduced need to purchase carbon allowances.<sup>118</sup> PSE further notes that the costs for TEP Phase 2 consist of less than 1 percent of the electric and gas cost for the customers that AWEC seeks to exclude.<sup>119</sup>
- 69 At hearing, PSE did not characterize its TEP Phase 2 program as a cost of compliance with either the CCA or CETA. In response to questioning by AWEC regarding the costs to be included in PSE's proposed DCARB tracker, PSE stated that the DCARB tracker would initially include just the costs associated with TEP Phase 2 and stated that the tracker "is not intended to recover costs associated with PSE's compliance with either the CCA or CETA."<sup>120</sup> PSE further stated at hearing "[e]lectrification is not necessarily something that the CCA requires. The CCA requires that we are in legal compliance with the CCA, which we intend to be," but further explained "[a]ny electrification that PSE pursues would reduce CCA obligation."<sup>121</sup>

### **Commission Determination.**

- 70 The Commission agrees with AWEC's request to exclude Schedules 87T, 449, and 459, EITE customers, and special contracts from the cost recovery of TEP Phase 2. Although PSE and JEA argue that the customers that AWEC seeks to exclude from TEP Phase 2 cost recovery indirectly benefit from the pilot insofar as the pilot will promote future electrification, the Commission finds that those benefits are too speculative based on the record developed in this proceeding.

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<sup>116</sup> Cebulko, Exh. BTC-18T at 10:8 – 11:4.

<sup>117</sup> Mickelson, Exh. CTM-13T at 34:10-12.

<sup>118</sup> Mickelson, Exh. CTM-13T at 34:19 – 35:6.

<sup>119</sup> Mickelson, Exh. CTM-13T at 35:7-11.

<sup>120</sup> Transcript, Vol. II, at 246:10-25.

<sup>121</sup> Transcript, Vol. II, at 154:17-19; 155:8-9.

71 The Commission has explained that all customers benefit, even indirectly, when a utility invests in cost-effective conservation resources, particularly when a utility has a legal obligation to pursue and require those resources.<sup>122</sup> AWEC persuasively argues that the record demonstrates that the customers it seeks to exclude from TEP Phase 2 cost recovery do not directly benefit from the pilot's programs. Additionally, as noted by AWEC, PSE stated in response to data requests that it did not perform any cost-effectiveness analysis for its TEP Phase 2 programs.<sup>123</sup> Furthermore, PSE testified at hearing that the DCARB tracker, which was intended to recover costs associated with the TEP Phase 2 programs, was not intended to recover costs associated with PSE's compliance with the CCA or CETA, suggesting that PSE is not legally obligated to pursue TEP Phase 2.<sup>124</sup> Although both PSE and JEA maintain that the customers AWEC seeks to exclude from TEP Phase 2 cost recovery will indirectly benefit as a result of PSE future electrification efforts as informed by the results of its pilot, neither those proposals nor analysis demonstrating their effectiveness are before the Commission for consideration in this proceeding. Therefore, based on the present record, the Commission determines that the customer classes AWEC identified should be excluded from TEP Phase 2 cost recovery because they do not directly benefit from the TEP Phase 2 program, PSE has not shown that TEP Phase 2 is cost-effective, and PSE is not legally required to implement TEP Phase 2.

*TEP Phase 2 Distributional Equity Analysis*

72 As discussed in Order 09/07, Staff recommends that the Commission order PSE to conduct a distributional equity analysis (DEA) of its TEP Phase 2 programs.<sup>125</sup> PSE disagrees with Staff's recommendation, arguing that the Company is already planning to conduct an evaluation of TEP Phase 2 using the same organization that will evaluate TEP Phase 1, and that TEP Phase 2 will be subject to the Company's general equity analysis.<sup>126</sup> However, Staff raises concerns that PSE will not incorporate a DEA into its

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<sup>122</sup> *WUTC v. Avista Corp*, Dockets UE-170485 and UG-170486 (Consolidated), UE-171221, and UG-171222 (Consolidated), Order 07/02, 83 ¶ 250 (April 26, 2018).

<sup>123</sup> Kaufman, Exh. LDK-3C at 53-54.

<sup>124</sup> Transcript, Vol. II, at 246:10-25.

<sup>125</sup> *WUTC v. PSE*, Dockets UE-240004, UG-240005, and UE-230810, Order 09/07, 109 ¶ 342 (January 15, 2025).

<sup>126</sup> Hutson, Exh. TAH-10T at 21:8 – 22:2; Mannetti, Exh. JM-1CT at 24:16-19; Transcript, Vol. II, at 207:12-15.

planned evaluation of TEP Phase 2 until the Commission issues further guidance in Dockets UE-220066, UG-220067, and UG-210918.<sup>127</sup>

**Commission Determination.**

- 73 The Commission declines to adopt Staff’s recommendation to require PSE to perform Staff’s requested analysis at this time, as the Commission expects that PSE will implement a DEA analysis as part of its general equity analysis even in the absence of further Commission guidance. As the Commission recently expressed in Dockets UE-220066, UG-220067, and UG-210918:

[T]he work PSE was required to complete in relation to DEAs . . . must be completed, with or without the conclusion of the Commission-led work in Docket A-230217, and that completion of that work will provide valuable insight for the Commission as we work to further equity and the use of DEAs in important utility decisions.<sup>128</sup>

In light of this direction from the Commission, we will not require PSE to adopt Staff’s proposed DEA, but reiterate the expectation that PSE will incorporate DEA into its general equity analysis going forward. Such analysis will be of assistance to the Commission in furthering the work in Docket A-230217 and may result in further revisions to and refinement of DEA at the conclusion of that docket.

*Extension of TEP Phase 2 Low-Income Pilot*

- 74 The Energy Project expresses general support for PSE’s Low-Income Heat Pump Direct Installation Pilot (Low-Income Pilot) program but recommends that the Commission require PSE to allow gas-only customers to participate in the program rather than limiting it to dual-fuel customers.<sup>129</sup> The Energy Project argues that insofar as PSE’s gas-only customers will be charged costs associated with PSE’s TEP Phase 2 programs, it would be unfair and unequitable to exclude them from participation in the Low-Income Pilot.<sup>130</sup>
- 75 PSE disagrees with The Energy Project’s recommendation to extend Low-Income Pilot eligibility to its gas-only customers, asserting that it would be inappropriate for PSE

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<sup>127</sup> Staff Post-Hearing Brief, at ¶ 42; Franks, Exh. WF-5.

<sup>128</sup> *WUTC v. PSE*, Dockets UE-220066, UG-220067, and UG-210918 (consolidated), Order 36/22, 5 ¶ 16 (December 21, 2024).

<sup>129</sup> Stokes, Exh. SNS-1T at 22:1 – 23:8.

<sup>130</sup> Stokes, Exh. SNS-1T at 23:4-8.

electric customers to bear the costs associated with gas-only customer electrification, as there is no cost sharing mechanism with Public Utility Districts or Municipal Utilities serving PSE's gas only territories.<sup>131</sup>

**Commission Determination.**

76 The Commission orders PSE to extend Low-Income Pilot eligibility to its gas-only customers. At hearing, PSE testified that gas-only customers would be responsible for paying costs associated with the Low-Income Pilot, despite not being eligible to participate in the pilot.<sup>132</sup> The Commission agrees with The Energy Project that it would be unfair for gas-only territory customers to bear the costs of the Low-Income Pilot but be ineligible for participation simply because they receive electric service from a public utility district or municipal utility. Moreover, PSE has not provided any persuasive rationale for why its electric customers should bear the cost of dual-fuel customer electrification, but not gas-only customers electrification.<sup>133</sup> Consequently, the Commission requires PSE to make its gas-only customers eligible for the Low-Income Pilot.<sup>134</sup>

*Clarification of rejection of differentiated ROE*

77 In its motion for clarification, JEA's requests the Commission clarify Order 09/07's rejection of differentiated ROEs in paragraph 105.<sup>135</sup> JEA proposed that "PSE receive a modestly reduced return on equity . . . as a performance incentive for investments that grow its gas system via capacity expansion or new customers."<sup>136</sup> The paragraph at issue noted that the incentive as proposed would be inconsistent with the company's obligation to serve new and existing customers.

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<sup>131</sup> Mannetti, Exh. JM-9T at 10:14 – 11:2.

<sup>132</sup> Transcript, Vol. II, at 151:24 – 152:11.

<sup>133</sup> Mannetti, Exh. JM-9T at 10:17-20; Transcript, Vol. II, at 149:17-22 ("Q: Okay. And is the reasoning that you view that PSE's electric customers should not share the cost burden of extending that pilot because consumer energy utilities are not contributing any funds to it? A: That's one of reasons, but I think there are others, considering that this is a pilot.").

<sup>134</sup> In reaching this conclusion, the Commission declines to consider TEP's additional arguments on reconsideration regarding the federal funding of weatherization agencies and similar community-based organizations, as those facts are not properly part of the record before the Commission in this proceeding.

<sup>135</sup> JEA Pet. at ¶¶ 1, 10-13.

<sup>136</sup> Cebulko, Exh. BTC-1T at 93:10-94:2; JEA's Post-Hearing Brief at ¶ 55.

### **Commission Determination**

78 We decline to grant JEA’s motion on this point. We appreciate JEA’s argument that alternatives to gas system expansion must be evaluated, that these alternatives may be appropriate to incentivize in the future, and that such incentives would not inherently interfere with PSE’s obligation to serve. However, to the extent that such hypothetical performance-based incentive mechanisms are to be explored, we decline to speculate further here.

#### *Clarification of JEA’s depreciation proposal*

79 In its testimony in the case, JEA proposed that the Commission allow PSE to accelerate the depreciation of gas assets. JEA asserts that Order 09/07 erroneously states that JEA’s proposal was more aggressive than PSE’s depreciation proposal.<sup>137</sup> JEA asks that the Commission clarify this representation of their position.

### **Commission Determination**

80 We agree with JEA’s request and clarify Order 09/07. The Order erroneously characterized JEA’s gas depreciation proposal as “more aggressive” than PSE. JEA proposed a more modest five-year reduction rather than PSE’s proposed ten.<sup>138</sup> In total, JEA’s proposal resulted in “\$43.8 million less in depreciation expense compared to [PSE’s proposed] 10 year service life.”<sup>139</sup>

### **D. AWEC AND TEP**

81 AWEC and TEP filed a Joint Petition requesting the Commission clarify its rationale in paragraph 64 of Order 09/07.<sup>140</sup> AWEC and TEP argue that the paragraph, as written, contains a legal error.<sup>141</sup>

82 Paragraph 64 of Order 09/07 reads as follows:

Upon review of the evidence, testimony, and the law, we agree with PSE. Under state law and policy, Washington embarks on an era of transition to clean energy as well as regulatory reform in rate making. The multi-year

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<sup>137</sup> Order 09/07, at ¶337.

<sup>138</sup> JEA Post-Hearing Br. at ¶ 36.

<sup>139</sup> JEA Post-Hearing Br. at ¶ 14, *citing* Gerke, Exh. WAG-1T at 7:3-15.

<sup>140</sup> AWEC/TEP Pet. for Clarification, at ¶ 2.

<sup>141</sup> AWEC/TEP Pet. for Clarification, at ¶ 2.

rate plan [MYRP] is one of many tools the Legislature has provided to assist that transition, including allowing recovery in rates for up to four years beyond the rate effective period. It is not for the Commission to buck state law and policy and attempt to turn back the clock. AWEC's recourse is to make its case to the Legislature. In the meantime, we will implement the multi-year rate plan statute with the public interest in mind. Accordingly, we conclude that it is in the public interest to leave intact and accept a two-year MYRP for PSE.<sup>142</sup>

83 AWEC and TEP jointly argue that pursuant to RCW 80.28.425 and RCW 80.04.250, the Commission does have authority to grant AWEC's request to only approve plant in service as of the rate effective date.<sup>143</sup> Further, AWEC and TEP argue AWEC's proposal is not asking the Commission to "buck state law and policy" but to approve what the Legislature has plainly authorized consistent with RCW 80.28.425(3)(b).<sup>144</sup>

84 The joint petitioners also argue that AWEC's proposal, which the Commission denied, is a hybrid proposal, with individual project reviews for projects exceeding \$1 million in capital costs.<sup>145</sup> AWEC and TEP argue that pursuant to RCW 80.28.425(3)(d), the Commission retains "discretion to use project-by-project review, portfolio, and hybrid review processes."<sup>146</sup>

85 AWEC and TEP request the Commission amend paragraph 64 to correct the legal interpretation presented, and to include that the Commission has discretion to approve or reject AWEC's proposal.<sup>147</sup>

86 Staff supports AWEC and TEP's motion, and notes that while not strictly necessary, it would be helpful for the Commission to grant the Joint Petition. Staff argues that while it reads the language contained in paragraph 64 differently than AWEC and TEP, AWEC and TEP's interpretation is also reasonable, and clarification may serve to avoid future unnecessary litigation.<sup>148</sup>

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<sup>142</sup> Order 09/07, at ¶ 64.

<sup>143</sup> AWEC/TEP Pet. for Clarification, at ¶¶ 4-7.

<sup>144</sup> AWEC/TEP Pet. for Clarification, at ¶¶ 7-8.

<sup>145</sup> AWEC/TEP Pet. for Clarification, at ¶ 9.

<sup>146</sup> AWEC/TEP Pet. for Clarification, at ¶ 10.

<sup>147</sup> AWEC/TEP Pet. for Clarification, at ¶ 11.

<sup>148</sup> Staff's Resp., at ¶¶ 19-20.

87 **Commission Determination.**

88 We agree with Staff that further clarification of paragraph 64 may avoid future unnecessary litigation and issue preclusion, although clarification is not strictly necessary. Accordingly, we grant in part AWEC and TEP's Joint Petition to clarify our intent in paragraph 64. In doing so, we note that we have affirmed our ability to review on a portfolio, hybrid, or project-by-project basis in several recent orders.<sup>149</sup> In reaching those decisions, the Commission exercised its discretion to approve various models of capital project review during the multi-year rate plans and noted that the process is intended to be flexible and can be modified if problems or concerns arise.

89 Accordingly, we find it appropriate to amend paragraph 64 as follows:

Upon review of the evidence, testimony, and the law, we agree with PSE. Under state law and policy, Washington embarks on an era of transition to clean energy as well as regulatory reform in rate making. The multi-year rate plan [MYRP] is one of many tools the Legislature has provided to assist that transition, including allowing recovery in rates for up to four years beyond the rate effective period. ~~It is not for the Commission to buck state law and policy and attempt to turn back the clock. AWEC's recourse is to make its case to the Legislature. In the meantime, we will implement the multi-year rate plan statute with the public interest in mind. Given the evidence and testimony in this case, we find PSE's recommended approach is in the public interest.~~ Accordingly, we conclude that it is in the public interest to leave intact and accept a two-year MYRP for PSE.

### FINDINGS OF FACT

90 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the Parties and the reasons therefore, the Commission now makes the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:

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<sup>149</sup> See, *WUTC v. Avista Corp.*, Dockets UE-240006 & UG-240007 (*consolidated*), at ¶¶ 259-68 (Dec. 20, 2024) (The Commission discussed that if review of provisional plant continues to be problematic, the Commission may revisit Staff's proposal [for a separate tariff sheet]. *Id.* at ¶ 263.); see also, *WUTC v. Cascade Nat. Gas Corp.*, Docket UG-240008, at ¶¶ 72-74 (Feb. 24, 2025) (Approving a hybrid portfolio/project-by-project review process.); and *WUTC v. PacifiCorp*, Docket UE-250086, at ¶¶ 7-9 (Feb. 28, 2025) (Interpreting a hybrid portfolio/project-by-project review of capital projects.)

- 91 (1) The Commission is an agency of the state of Washington vested by statute with the authority to regulate rates, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including electric and natural gas companies.
- 92 (2) PSE is a “public service company,” an “electrical company,” and a “gas company” as those terms are defined in RCW 80.04.010 and used in Title 80 RCW. PSE provides electric and natural gas utility service to customers in Washington.
- 93 (3) On January 24, 2025, PSE filed a petition for reconsideration, advocating for various modifications to Order 09/07. On January 27, 2025, Nucor filed a petition for reconsideration, JEA filed a motion for clarification and petition for reconsideration, and AWEC and The Energy Project (TEP) jointly filed a separate petition for reconsideration, each advocating for various modifications to Order 09/07.
- 94 (4) PSE’s request to reconsider the Commission’s rejection of CWIP in rate base for the Beaver Creek Wind Project does not present additional arguments not considered in Order 09/07.
- 95 (5) PSE’s request to reconsider the Commission’s rejection of accelerated natural gas depreciation does not present additional arguments not considered in Order 09/07.
- 96 (6) PSE has not demonstrated that its management reserves and reserve contingency O&M amounts are known and measurable.
- 97 (7) PSE has not demonstrated that the amount of management reserves and reserve contingency O&M funds that were disallowed in Order 09/07 is not supported by the record.
- 98 (8) The Commission adequately, substantively, and thoroughly considered the alternative COSS proposals of Nucor and AWEC.
- 99 (9) The Commission rules allow for exemptions to the cost of service rules and treated Nucor and AWEC’s proposals first as alternate studies and second for requests for exemptions from Commission rules.
- 100 (10) The evidentiary record did not support direct assignment of mains as requested by AWEC and Nucor.



- 101 (11) The Commission considered Public Counsel's recommendations as rate spread proposals and not allocation proposals.
- 102 (12) Nucor's rate spread proposals were based on and predicated on Nucor's COSS, which witness Higgins explicitly stated in his testimony.
- 103 (13) Order 09/07 should have instructed PSE on how to implement the reduced revenue requirement for Schedules 87/87T.
- 104 (14) JEA's request for clarification of paragraph 110 of Order 09/07 is unnecessary and denied.
- 105 (15) JEA's proposed depreciation of natural gas assets was in fact more moderate than PSE's proposal. Order 09/07 erroneously states otherwise at paragraph 337.
- 106 (16) PSE's TEP Phase 2 is a voluntary program and does not require any PSE customer to participate in the programs.
- 107 (17) Implementation of TEP Phase 2 will allow PSE to gather additional data and information that will inform its future electrification efforts.
- 108 (18) JEA has not demonstrated that its proposed general electrification program is a cost-effective means for PSE to achieve compliance with regulatory obligations based on the record developed in this proceeding.
- 109 (19) PSE recovers half of its revenue through trackers, raising policy questions regarding the propriety and purpose of trackers.
- 110 (20) PSE has not demonstrated that TEP Phase 2 provides benefits for Schedule 87T, 449, and 459, EITE, and special contract customers.
- 111 (21) PSE has not shown that TEP Phase 2 was developed in a cost-effective manner.
- 112 (22) PSE has not demonstrated that it would be fair to exclude gas-only customers from participation in the Low-Income Pilot while having those customers pay costs related to the Low-Income Pilot.
- 113 (23) PSE should be incorporating DEA currently into its general equity analysis and should not wait for further Commission guidance regarding such analysis.

- 114 (24) A reasonable reading of paragraph 64 could be interpreted to limit Commission discretion in approving multi-year rate plans and capital review processes, and result in unnecessary litigation.

### CONCLUSIONS OF LAW

115 Having discussed above all matters material to this decision, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:

- 116 (1) The Commission has jurisdiction over the subject matter of, and Parties to, this proceeding.
- 117 (2) PSE is an electric company, a natural gas company, and a public service company subject to Commission jurisdiction.
- 118 (3) Given the Commission's balancing of customer and company concerns, PSE's petition for reconsideration of the Commission's denial of PSE's request to include CWIP in rate base for the Beaver Creek Wind Project is not in the public interest, and should be denied.
- 119 (4) Given the Commission's balancing of customer and company concerns, PSE's request for reconsideration of the Commission's denial of PSE's request for accelerated depreciation of natural gas assets is not in the public interest, and should be denied.
- 120 (5) PSE's request to reconsider the Commission's rejection of CWIP in rate base for the Beaver Creek Wind Project, does not demonstrate that Order 09/07 is "erroneous or incomplete."
- 121 (6) PSE's request to reconsider the Commission's rejection of accelerated natural gas depreciation, does not demonstrate that Order 09/07 is "erroneous or incomplete."
- 122 (7) The Commission should reject PSE's arguments that the Commission erred by finding the Company's management reserves and reserve contingency O&M amounts were not known and measurable and that the Commission should have disallowed a smaller amount of funds related to those O&M categories.
- 123 (8) The Commission adequately, substantively, and thoroughly addressed the COSSs presented by Nucor and AWEC, and the Commission should deny Nucor's request for reconsideration for adoption of Nucor or AWEC's COSSs.

- 124 (9) Nucor's request to reconsider the Commission's rejection of Nucor and AWEC's COSSs, does not demonstrate that Order 09/07 is "erroneous or incomplete."
- 125 (10) The Commission properly treated Nucor and AWEC's COSSs as alternative proposals and then properly considered and denied their arguments for exemptions to Commission rules, and Nucor's arguments do not show Order 09/07 was "erroneous or incomplete."
- 126 (11) The Commission properly considered Public Counsel and Nucor's arguments regarding rate spread, and concluded that Public Counsel's were unsupported by the record, and Nucor's were reliant on a COSS not accepted by the Commission, and therefore were also unsupported by the record.
- 127 (12) Nucor's argument that PSE requires further direction as to how to implement the reduced revenue requirements for Schedules 87/87T is reasonable and should be granted, and PSE shall file updated tariffs proportionately reducing the volumetric delivery charges and demand charge in Schedules 87/87T by an equal percentage.
- 128 (13) JEA's proposed depreciation of natural gas assets was in fact more moderate than PSE's proposal. Order 09/07 erroneously states otherwise at paragraph 337, and should be amended accordingly.
- 129 (14) PSE's TEP Phase 2 does not conflict with RCW 80.28.425(12) or (13).
- 130 (15) The Commission should approve PSE's \$22.3 million TEP Phase 2 proposal and require that customer participation be on a voluntary basis.
- 131 (16) The Commission should require PSE to include an update on TEP Phase 2 as part of its next GRC filing and file a final report with the Commission by no later than June 30, 2027 regarding its implementation and results of its TEP Phase 2. The report shall discuss: 1) PSE's findings from TEP Phase 2; 2) the level of participation in each of the programs contained in TEP Phase 2; and 3) the costs attributable to each TEP Phase 2 program.
- 132 (17) JEA has not shown that its proposed general electrification program is reasonable based on the record developed in this proceeding and its general electrification program should be rejected.
- 133 (18) The Commission should reject PSE's proposed DCARB tracker, pending additional future potential discussions and analysis in a Commission policy docket.

- 134 (19) The Commission should approve AWEC’s proposal to exclude Schedule 87T, 449, and 459, EITE, and special contract customers from the recovery of TEP Phase 2 costs.
- 135 (20) The Commission should approve The Energy Project’s recommendation to require PSE to extend eligibility for the TEP Phase 2 Low-Income Pilot to gas-only customers.
- 136 (21) The Commission should not order PSE to perform Staff’s recommended DEA with respect to TEP Phase 2, because PSE should already be incorporating such analysis into its general equity analysis.
- 137 (23) To avoid unnecessary litigation and issue preclusion, the Commission should clarify its rationale and amend paragraph 64 of Order 09/07 consistent with paragraph 89 of this Order.

## ORDER

### THE COMMISSION ORDERS:

- 138 (1) The Petition for Reconsideration of Puget Sound Energy is DENIED,
- 139 (2) The Petition for Reconsideration of Nucor Steel Seattle, Inc. is DENIED in part, and GRANTED in part.
- 140 (3) The Petition for Reconsideration and Clarification of the Joint Environmental Advocates is DENIED in part, and GRANTED in part.
- 141 (4) The Petition for Clarification of the Alliance of Western Energy Consumers and The Energy Project is GRANTED.
- 142 (5) Puget Sound Energy is authorized and required to make compliance filings in this docket including all tariff sheets that are necessary and sufficient to effectuate the terms of this Order.
- 143 (6) The language in paragraph 337 of Order 09/07 shall be amended by the substitution of the word “more” with the word “less.”
- 144 (7) The language in paragraph 64 of Order 09/07 shall be amended consistent with paragraph 89 of this Order.

- 145 (8) The Commission Secretary is authorized to accept by letter, with copies to all Parties to this proceeding, filings that comply with the requirements of this Order.
- 146 (9) The Commission retains jurisdiction to effectuate the terms of this Order.

DATED at Lacey, Washington, and effective March 17, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



ANN E. RENDAHL, Commissioner



MILT DOUMIT, Commissioner

**NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.**