

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION)	
)	DOCKET UE-230968
Complainant,)	
)	
v.)	
)	
PUGET SOUND ENERGY,)	
)	
Respondent.)	
<hr/>		

REPLY BRIEF OF THE
ALLIANCE OF WESTERN ENERGY CONSUMERS

November 21, 2024

TABLE OF CONTENTS

I. INTRODUCTION	1
II. ARGUMENT.....	1
A. The Commission should reject Joint Environmental Advocates’ new risk-sharing mechanism proposal raised for the first time in its initial post-hearing brief.	1
III. CONCLUSION	3

I. INTRODUCTION

1 Pursuant to the Washington Utilities and Transportation Commission’s (“Commission”) Order 02 in the above-referenced docket, the Alliance of Western Energy Consumers (“AWEC”) hereby files this Reply Brief. AWEC has been monitoring this proceeding in the interest of its members that include large industrial users on Puget Sound Energy’s (“PSE”) natural gas system. Because parties’ proposals set forth during the time that the evidentiary record was open in this proceeding did not raise sufficient concerns for AWEC, AWEC did not offer responsive testimony or file an initial post-hearing brief. However, for the first time in this proceeding and after the evidentiary record in this case closed, the Joint Environmental Advocates (“JEA”) filed an effectively new risk-sharing mechanism proposal in their initial post-hearing brief.¹ AWEC, along with the other parties to this proceeding, have not had the opportunity to review this proposal during the evidentiary phase of this proceeding with the opportunity to issue discovery and cross-examine JEA’s witnesses. Adoption of JEA’s proposal, without additional record evidence, is prejudicial to AWEC and other parties in this proceeding.

II. ARGUMENT

A. The Commission should reject Joint Environmental Advocates’ new risk-sharing mechanism proposal raised for the first time in its initial post-hearing brief.

2 If the Commission does not grant PSE’s Motion to Strike JEA’s new risk-sharing mechanism proposal² raised for the first time in its initial post-hearing brief, the Commission should nevertheless reject in its final order JEA’s proposal because the parties to this proceeding

¹ Joint Environmental Advocates’ Initial Post-Hearing Brief at ¶¶ 26-31 (Nov. 7, 2024).

² Puget Sound Energy’s Motion to Strike Portions of Joint Environmental Advocates’ Opening Brief (“PSE Motion to Strike”) (Nov. 15, 2024).

have not had the opportunity to fully review and respond to JEA's proposal on the record in this proceeding.

3 JEA's updated proposal is a substantial departure from its initial proposal, is not a minor modification to a proposal or concept already raised by another party and is not fully developed. Specifically, JEA's proposed changes to its initial proposal include a new sharing band, revised thresholds, amounts considered to be *per se* imprudent, and an as-yet-to-be defined price risk component. As PSE pointed out in its Motion to Strike, parties changing or updating their proposals in the post-evidentiary portion of a proceeding is not new and should not in and of itself be precluded.³ However, the Commission should maintain limits on what can reasonably be proposed for the first time in a post-hearing brief and should ensure that parties' procedural due process rights are preserved.⁴ It is unclear at this time what the implications of JEA's proposal are and thus it is not possible for AWEC to evaluate JEA's proposal. Of particular concern is JEA's proposal that actual costs above the price ceiling will be deemed imprudent and borne by PSE's shareholders.⁵ This provision may reduce costs for affected customers by disallowing costs above the price ceiling but may also create incentives for PSE that are not in customers' interest. For example, PSE may be incited to invest heavily in emissions reduction measures that are not cost-effective in order to avoid being placed in a situation where shareholders are guaranteed to bear costs. Additional process and an opportunity to develop an evidentiary record to evaluate this concern is therefore needed if the Commission is inclined to

³ PSE Motion to Strike at ¶ 7.

⁴ See e.g. *In re PacifiCorp*, Docket No. UE-230172 & UE-210852, Order No. 06/04 at ¶ 10 (Nov. 29, 2023) (Commission denying Staff's Motion for Leave to Revise Testimony in the interest of "procedural due process, overall fairness, and consistency with past Commission decisions" because Staff's proposed changes included substantive updates to testimony that PacifiCorp would have limited ability to respond).

⁵ Joint Environmental Advocates' Post-Hearing Brief at ¶ 30.

adopt JEA's recommendation. Additionally, it is impossible to evaluate JEA's proposed "added component to the risk-sharing mechanism...to address Public Counsel's price risk concerns related to PSE's market performance" because it has not yet been developed. Again, additional process and ability to develop an evidentiary record would be necessary in order for the parties to fully evaluate the proposal and make informed recommendations to the Commission. Because the evidentiary record in this matter has closed, JEA's proposal should be rejected.

III. CONCLUSION

4 For the reasons discussed herein, if the Commission is inclined to adopt a risk-sharing mechanism applicable to PSE's CCA-related compliance costs for its natural gas system, it should reject the risk-sharing mechanism set forth by JEA at this time. Adoption of this risk-sharing mechanism would be unduly prejudicial to the parties to this proceeding, including AWEC.

Dated this 21st day of November 2024.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Sommer J. Moser

Sommer J. Moser, OR State Bar # 105260

107 SE Washington St., Suite 430

Portland, OR 97214

(503) 241-7242 (phone)

sjm@dvclaw.com

Of Attorneys for the

Alliance of Western Energy Consumers