

# **EXHIBIT E**

**From:** Steele, David S. (Perkins Coie)  
**To:** ["Jim King"](#)  
**Cc:** [Carson, Sheree S. \(Perkins Coie\)](#); [Casey Chris \(UTC\)](#); [ffitch Simon \(ATG\)](#); [Jeffrey D. Goltz](#); [Julie Muller-Neff](#)  
**Subject:** RE: WSHVACCA response to letter of May 11, 2016  
**Date:** Thursday, May 19, 2016 11:43:12 AM

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Jim:

Thank you for your letter. PSE is disappointed that WSHVACCA continues to take the position that not one of PSE's Data Requests requests information that could lead to relevant information in this adjudication and thus WSHVACCA continues to refuse to substantively respond to PSE's Data Requests.

PSE's Data Requests all center on obtaining information on relevant issues central to this case including documents relating to PSE's Leasing Program (DRs 001, 022), efforts to provide energy efficient HVAC equipment in Western Washington (DR 002), the market for sale, installation, maintenance of HVAC equipment (DR 003, 011, 012, 014), the market for financing HVAC equipment (DRs 004, 005, 006, 007), the market for leasing or renting HVAC equipment (DRs 008, 009, 010, 021), questions about specific, affirmative statements made by WSHVACCA in its petition to intervene (DR 013), the relative age of HVAC equipment in Western Washington (DR 016), efforts to replace aging HVAC equipment in Western Washington (DR 017), and demand response technology (DRs 018, 019, 020). It is inconceivable to PSE, nor is it a reasonable position by WSHVACCA, that none of these requests seek information that would lead to the discovery of relevant information.

If WSHVACCA is concerned about producing competitive information that meets the definition of "Confidential" or "Highly Confidential" as set forth in the Protective Order issued by Judge Kopta, then the appropriate course of action is to designate its responses or any documents produced as either Confidential or Highly Confidential using the mechanisms provided by the Protective Order. Refusing to produce documents based on those concerns is inappropriate. It is commonplace for parties in litigation to be required to share competitive information and this litigation is no different. The entire purpose of the Commission's Protective Order is to protect such information from misuse.

PSE continues to offer and is willing to discuss WSHVACCA's specific concerns with PSE's Requests in an effort to find a reasonable solution. Indeed, as a compromise, PSE has already agreed that your responses to these Requests may be limited to documents that are in the possession or control of WSHVACCA, and that you need not produce individual members documents that are not in WSHVACCA's possession or control. Aside from this, because your responses to PSE's data requests all contain the same, general objections without any specificity, PSE has no way of knowing what WSHVACCA believes is objectionable. PSE is not willing or able to guess what WSHVACCA believes is a proper data request. Your insistence that PSE "narrow [its] data requests to only that information which is relevant to this adjudication" not only reflects a fundamental misunderstanding as to what the standard for discovery is, but provides no guidance whatsoever as to what WSHVACCA believes is reasonable.

Finally, WSHVACCA's apparent concerns with PSE's "Preamble," which PSE interprets to be its "Definitions" or "Instructions" sections, again, does not provide information to PSE as to what WSHVACCA specifically believes is objectionable. Providing definitions or instructions is entirely permissible and commonplace in litigation. If WSHVACCA has specific concerns with PSE's Definitions or Instructions, again, the proper course is to state those objections in its responses and the parties can discuss at a later date. But categorically not responding to any discovery request is not a reasonable position. PSE notes that SMACNA, who received a similar set of data requests from PSE, both responded to and provided documents in response to PSE's requests. PSE also timely responded to discovery requests propounded by WSHVACCA.

Courts and the Commission strongly encourage parties to work out discovery disputes between themselves and PSE has repeatedly offered to work with WSHVACCA to better understand its concerns

and to attempt to find an amenable solution to both parties. So far, WSHVACCA has been unwilling to engage in productive discussions. I am available today to if you would like to discuss in detail WSHVACCA's specific concerns with PSE's Requests. If we do not hear from you today, I will have no choice but to move forward with filing a motion to compel with the Commission.

Regards,

David

**David Steele | Perkins Coie LLP**

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**From:** Jim King [mailto:jimkingjr@yahoo.com]

**Sent:** Wednesday, May 18, 2016 4:58 PM

**To:** Steele, David S. (Perkins Coie)

**Cc:** Carson, Sheree S. (Perkins Coie); Casey Chris (UTC); ffitich Simon (ATG); Jeffrey D. Goltz; Julie Muller-Neff

**Subject:** WSHVACCA response to letter of May 11, 2016

Please find response to your letter of May 11, 2016, attached.

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