

**EXH. WG-1T
DOCKET NO. UE-161123
WITNESS: WENDY GERLITZ**

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

Docket No. UE-161123

**TESTIMONY OF WENDY GERLITZ
IN SUPPORT OF SETTLEMENT STIPULATION AND AGREEMENT
ON BEHALF NW ENERGY COALITION**

APRIL 11, 2017

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NW ENERGY COALITION**

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This testimony supports the Settlement Stipulation and Agreement (“Settlement”). It is not intended to modify any terms of the Settlement.

1 **Q. Please state your name and position with the NW Energy Coalition (NVEC).**

2 A. I am Wendy Gerlitz, Policy Director with the NW Energy Coalition.

3 **Q. Please describe you background and qualifications to give testimony in this**
4 **proceeding.**

5 A. I am a graduate of the University of Wisconsin –Madison and have a Masters of
6 Environmental Management from Yale University. I joined the staff of the NW Energy
7 Coalition six years ago. In my capacity with the NW Energy Coalition I have provided
8 testimony on a variety of electric and natural gas utility issues at the Oregon Public
9 Utility Commission as well as in Bonneville Power Administration rate case proceedings.
10 I also have authored and contributed to comments submitted to the Washington Utilities
11 and Transportation Commission in many proceedings regarding renewable energy, utility
12 integrated resource plans, conservation, low-income programs and rate design. I am a
13 member of the Energy Trust of Oregon Conservation Advisory Committee and the
14 Energy Efficiency Advisory Committee for NW Natural Gas in Washington State.

15

16 **Q. Please describe NVEC and its interest in this proceeding.**

17 A. NVEC is a non-profit alliance of one hundred environmental, civic and human services

1 organization; utilities; businesses; labor unions; and communities of faith in the Pacific
2 Northwest. Many of our members have a substantial interest in Puget Sound Energy's
3 (PSE's) proposed Electric Schedule No. 451: Large Customer Retail Wheeling, filed on
4 October 7, 2016. PSE's proposed tariff revisions, and the subsequent settlement
5 agreement terms, would directly affect our members as well as the individual members of
6 those organizations, as direct customers and participants in utility programs that may be
7 impacted by this change. In particular, the outcome of this proceeding has a high
8 likelihood of impacting low-income customers and PSE programs that serve the interests
9 of these customers.

10
11 Additionally, NWECA, as the primary advocacy organization monitoring utility
12 implementation of the Energy Independence Act (EISA), is also concerned with matters
13 relating to PSE's state requirements under the clean energy initiative and how those
14 requirements will be impacted by the proposed actions in this filing.

15
16 Regarding the issue of direct retail access, during the mid-1990's state policymakers
17 debated the merits of deregulation of the electric sector and allowing more competitive
18 providers at the retail level. NWECA did not support deregulation or retail access during
19 those debates. In Oregon, in 1999, NWECA helped draft a comprehensive electric
20 restructuring policy that created the Energy Trust of Oregon and allowed renewable
21 energy only marketers direct access to retail customers. NWECA was not a participant in
22 the proceeding that allowed direct access to some of PSE's customers. However, it has
23 been, and continues to be, skeptical about how direct retail access may impact state

1 policies favoring renewable energy and energy efficiency, as well as state policies
2 designed to protect electric utility affordability generally, and particularly, impacts on
3 low-income customers.

4
5 **Q. Please describe Washington’s policies on energy efficiency.**

6 A. Washington law makes clear that energy efficiency is and should be the first resource.
7 The primary statute setting forth this policy is the Energy Independence Act, or I-937,
8 codified in RCW 19.285¹. It requires all utilities above a certain size to pursue all
9 conservation that is “cost-effective, reliable, and feasible.” This policy, to capture all
10 cost-effective energy efficiency preceded the enactment of I-937 and has been reinforced
11 since its enactment.² Furthermore, it is interesting to note that the most recent biennial
12 report from the Department of Commerce states “It appears that higher

¹ Chapter 19.285 RCW.

² E.g., Laws of 2010, ch. 271, §403 (requiring the state in development of its energy strategy to “[p]ursue all cost-effective energy efficiency and conservation as the state’s preferred energy resource . . .”); Laws of 2009, ch. 423, §1 (“The legislature finds that energy efficiency is the cheapest, quickest, and cleanest way to meet rising energy needs, confront climate change, and boost our economy.”); Laws of 2009, ch. 379, §1 (“The legislature finds that improving energy efficiency in structures is one of the most cost-effective means to meet energy requirements, and that while there have been significant efficiency achieved in the state over the past quarter century, there remains enormous potential to achieve even greater savings.”); Laws of 2008, ch. 284, §1 (“The legislature finds that improving energy efficiency is key to achieving the state’s goals to reduce greenhouse gas emissions to 1990 levels by 2020.”); Laws of 1991, ch. 122, §1 (“The legislature further finds that energy efficiency improvement is the single most effective near term measure to lessen the risk of energy shortage”); Laws of 1990, ch. 2, §1 (“using energy efficiency in housing is one of the lowest cost ways to meet consumer demand for energy . . . [and] helps protect the citizens of the state from negative impacts due to changes in energy supply and cost”).

1 utility conservation targets will be required if the state is to capture all of the cost-
2 effective potential identified in the new Seventh Power Plan.”³

3
4 Through the Clean Energy Fund, the Washington State Legislature has provided funding
5 for loans, grants, matching funds, research and development and credit enhancements for
6 energy efficiency. The state also provides funding for low-income weatherization to
7 leverage utility and other funding to enhance efforts to acquire energy efficiency.

8
9 The State of Washington encourages energy efficiency in large non-residential buildings
10 by requiring energy use benchmarking and disclosure - or measurement and reporting on
11 the energy use in buildings.

12 **Q. Please describe Washington’s policies on renewable energy?**

13 A. The Energy Independence Act, I-937 is the primary policy promoting renewable energy
14 in the state of Washington. When I-937 passed in 2006, Washington became only the
15 second state to pass a renewable energy standard by ballot initiative. I-937 calls for
16 Washington's 17 largest utilities (each serving more than 25,000 customers in the state) to
17 obtain 15% of their electricity from new renewable resources by 2020 and to pursue all
18 cost-effective energy efficiency and conservation opportunities.

19
20 Utilities subject to the standard must use eligible renewable resources or acquire
21 equivalent renewable energy credits (RECs), or a combination of both, to meet the

³ Washington Department of Commerce, *2017 Biennial Energy Report and State Energy Strategy Update 6* (Dec. 2016).

1 following annual targets:

- 2 • At least 3% of its load by 1/1/2012, and each year thereafter through
3 12/31/2015;
- 4 • At least 9% of its load by 1/1/2016, and each year thereafter through
5 12/31/2019; and
- 6 • At least 15% of its load by 1/1/2020, and each year thereafter.

7 Eligible renewable resources include electricity produced from the following sources if
8 the facility began operation after March 31, 1999: wind; solar; geothermal; landfill gas;
9 wave; ocean; tidal; gas from sewage facilities; certain biodiesel fuels; biomass from pulp
10 and wood byproducts, animal waste, solid organic fuels from wood, forest, or field
11 residues, or dedicated energy crops. Hydroelectric generation projects are eligible if
12 incremental electricity produced as a result of efficiency improvements completed after
13 March 31, 1999, are made to projects owned by a utility subject to the standard.

14 Hydroelectric generation from irrigation pipes, irrigation canals and municipal water
15 pipes are also eligible so long as the additional generation does not result in new water
16 diversions or impoundments. A recent amendment to the statute broadens the definition
17 of eligible biomass.

18
19 In addition to I-937, there are other statutes that support the development of renewable
20 resources to serve Washington residents. Net metering and community solar policies
21 advance the use of solar resources. Washington also has a renewable energy (solar
22 electric and thermal, as well as anaerobic digestion) cost recovery incentive payment, a

1 feed-in-tariff type arrangement, where utilities pay incentives and earn a tax credit equal
2 to the cost of those payments.

3
4 **Q. Please describe other relevant Washington policies?**

5
6 A. In addition to the clean energy policies outlined earlier in my testimony, the State of
7 Washington also has many policies that specifically address the importance of reducing
8 greenhouse gas emissions and other pollutants.⁴ Furthermore, the statute requiring
9 utilities to prepare integrated resource plans (IRPs), RCW 19.280, requires that in
10 determining the “lowest reasonable cost” of energy resources, the utility must consider
11 “the cost of risks associated with environmental effects including emissions of carbon
12 dioxide.”

13
14 State policies also support rates and programs that assist low-income customers.⁵

15
16 **Q. Why are these state policies important in the context of any proposal for retail
17 access in general and in the context of this proposed settlement in particular?**

18 A. These state policies help define the “public interest” that the Commission is obligated to
19 protect under the public service laws. It is imperative that any proposal for direct retail

⁴ RCW 70.235.020, Chapter 80.80 RCW, Chapter 173-441 WAC, Chapter 173-442 WAC, Washington Carbon Pollution Reduction and Clean Energy Action, Exec. Order 14-04 (Apr. 29 2014), Western Public Utility Commissions’ Joint Action Framework on Climate Change, Wash.-Or.-Cal. (Mar. 7, 2017).

⁵ RCW 80.28.068, RCW 74.38.070,
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1 access not weaken or undermine the effectiveness of these overriding state policies. In
2 other words, whatever arguments, legal or policy, for retail access must take into account,
3 and implement, these state policies. In fact, in order to further the “public interest”,
4 NWEAC takes the position, and would urge the Commission to adopt the policy, that any
5 proposal for retail access must go above and beyond existing state policy because the
6 regulatory certainty of compliance with these state policies becomes weaker and harder to
7 enforce.

8
9 **Q. Is there a general principle that NWEAC is suggesting to guide the Commission?**

10 A. NWEAC seeks to ensure that any retail access, being disruptive to the historic regulatory
11 construct, would result in a win-win situation, with customers and the environment
12 benefiting over the status quo. Customers should be better off with the settlement than
13 before, and the public interest in renewable energy and energy efficiency should be
14 enhanced. The result should not just protect those state policies discussed above, but
15 enhance them. The public interest should require that the risks of direct access be
16 outweighed by enhancements to state low-income, energy efficiency and renewable
17 energy policies.

18 **Q. In general, what were NWEAC’s concerns as you evaluated first the proposed tariff
19 and then the proposed settlement?**

20 A. NWEAC had the following concerns with the first proposed tariff and in discussions
21 leading up to the proposed settlement.

- 1 1. If, under the tariff, a large user were to shift some of its load from PSE to a third party
2 provider, then PSE's load would decrease. That would mean that under Initiative
3 937, the Energy Independence Act, PSE's investment in eligible renewable resources
4 could go down.
- 5 2. If Microsoft is no longer contributing to PSE's energy efficiency programs, this
6 results in two undesirable outcomes. First, energy efficiency acquired by PSE is
7 reduced or costs are shifted to other customers. Second, there is no mechanism to
8 incent or ensure that Microsoft pursues energy efficiency in its own operations.
- 9 3. Low income assistance funding would be significantly reduced, or those costs shifted
10 to other PSE customers.
- 11 4. At present, there are many unknowns about the closure costs associated with the
12 Colstrip Generating Units. PSE currently collects financial resources in its rates;
13 however, there is speculation that these collections may fall short of required costs.
14 NWECC had concerns about the original proposal's impact on allocation of liability for
15 closure and remediation of these coal plant units among all of PSE's customers and
16 whether the proposed tariff would leave existing customers with higher costs.
- 17 5. The system-wide merits of retail access in general are questionable. NWECC had
18 concerns that this filing, if approved, would lead to a potential increase in requests
19 from other customers and is concerned about the long-term implications of broad
20 retail access on customers that remain on the system and on state policy goals. This
21 potentially presents risks to affordability for those customers and particularly for low-
22 income customers.

1 **Q. In your view, does the draft Settlement conform to NWECC's position regarding**
2 **these areas of concern?**

3 A. Yes. In the Special Contract, Microsoft makes substantial commitments to: (1) procure
4 only carbon neutral and renewable energy resources; (2) maintain its contributions to, and
5 participation in, PSE's large power user self-directed energy efficiency program; (3)
6 maintain its contributions to low income funding while providing additional funds to
7 expand access for eligible low-income customers to energy efficiency services and
8 renewable energy technology; and (4) pay a transition fee sufficient to hold remaining
9 PSE customers harmless from potential adverse rate impacts.

10 In our view, the carbon neutral and renewable energy provisions, along with the energy
11 efficiency and low income commitments, maintain or enhance the status quo and enhance
12 state policy goals in these areas: preference for reducing greenhouse gas emissions,
13 promoting energy efficiency as a first choice resource, transitioning to renewable
14 resources and serving the interests of low income customers, as outlined previously in my
15 testimony.

16 Additionally, the settlement agreement makes clear that the transition fee does not
17 incorporate unknown costs associated with Colstrip generating units, ensuring that the
18 Commission can make a fair, future judgment on Microsoft's responsibilities regarding
19 decommissioning and remediation costs as they become known.

20 Additionally, for reasons outlined in the following section of my testimony, NWECC
21 concerns about the general merits of retail access are addressed through the settlement

1 agreement because it is designed as a unique agreement crafted to meet one customer's
2 needs and is not intended to establish a broader program for retail access.

3 **Q. Do you think this Settlement is an endorsement for direct access as a state policy?**

4
5 A. No. I view it as a means by which PSE can help implement the state's clean energy
6 policies by allowing a major customer to pursue its clean energy goals, the result of
7 which is a furtherance of Washington's policies. The fact that this is done by direct
8 access is a consequence, not a focus, of the purpose of this Settlement. In fact, the
9 Commission's recent approval of the PSE's Voluntary Renewable Energy Tariff [UE-
10 160997] giving customers consuming more than 10 million kWh annually, the option of
11 buying renewable energy acquired by the utility and its popularity with large customers is
12 an indication that customer's and the public's interest can be met without direct access.

13
14 That said, according to Microsoft, the company is unable to meet its corporate clean
15 energy goals within PSE's current set of tariffs in an efficient manner.⁶ Therefore, we
16 believe that the Commission should take action, in this Settlement, to facilitate Microsoft
17 in achieving its clean energy goals because that is the best to way to further the State's
18 clean energy goals.

19

⁶ See: PLENIFISCH Direct Testimony, pg.1, lines 18-21 and pp. 3-6
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1 **Q. The Settlement Agreement states that the parties disagree about whether the**
2 **Commission should initiate a general discussion on retail access. Does NVEC have**
3 **a position on that?**

4 A. The Coalition neither opposes nor supports the initiation of such a general discussion on
5 retail access. Instead, we offer a few considerations for the Commission to consider in
6 determining the merits of this request.

7
8 First and foremost is the current workload of proceedings at the WUTC and the simple
9 question of whether a discussion on retail access should be prioritized at this time.

10 Intervenors, particularly those like NVEC that have small staffs, are currently struggling
11 to keep up with all of the pending and planned proceedings at the Commission.

12 Consequently we ask the Commission to carefully consider the relative merits of staff
13 and intervenors devoting time and resources to this general discussion relative to all of
14 the other ongoing proceedings.

15
16 Additionally, as we point out previously in our testimony, PSE's new Voluntary
17 Renewable Energy Tariff was only recently approved and it may be worthwhile to allow
18 more time for large customers to explore the use of this mechanism to meet their goals
19 rather than engage in a discussion about retail access at this time. That said, if the
20 Commission does decide to initiate such a discussion, NVEC would certainly participate
21 in order to represent our member views on this topic.

22 **Q. Do you have any other comments on the Settlement Agreement?**

1 A. Yes, I would like to make a few comments about compliance and enforcement of the
2 special contract. NWECC considers compliance and enforcement of the special contract as
3 critical to its success. We believe the current Settlement Agreement and Special Contract
4 provide a workable approach to these issues. However, I feel it is worth highlighting a
5 couple of key principles for the Commission to consider.

6
7 First, compliance and enforcement of the special contract will necessitate compliance
8 filings with the Commission that contain sufficient information to evaluate whether
9 Microsoft is fulfilling the terms of the contract. We understand that, as compliance
10 filings, this information will be available to parties. It also should be available for non-
11 party stakeholders and others to review.

12
13 Additionally, the Settlement Agreement is currently drafted in a manner that assumes that
14 the Commission has the authority to hold Microsoft to the terms of the special contract
15 and to assert and collect penalties or initiate termination of the contract if the provisions
16 are not met. This authority is critical to the success of the Settlement Agreement terms.