BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UITILITIES AND TRANSPORTATION COMMISSION Complainant, v. PUGET SOUND ENERGY, Respondent.	DOCKETS UE-190529 and UG-190530 (*consolidated)*
In the Matter of the Petition of PUGET SOUND ENERGY For an Order Authorizing Deferral Accounting and Ratemaking Treatment For Short-life UT/Technology Investment.	DOCKETS UE-190274 and UG-190530 (*consolidated*)
In the Matter of the Petition of PUGET SOUND ENERGY For an Order Authorizing Deferred Accounting associated with Federal Tax Act on Puget Sound Energy's Cost of Service.	DOCKETS UE-171225 and UG-171226 (*consolidated)*
In the Matter of the Petition of PUGET SOUND ENERGY For an Order Authorizing the Accounting treatment of Costs of Liquidated Damages.	DOCKETS UE-190991 and UG-190992 (*consolidated*)

INITIAL BRIEF OF
ALLIANCE OF WESTERN ENERGY CONSUMERS

March 17, 2020

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I. INTRODUCTION

1 Pursuant to the Washington Utilities and Transportation Commission's ("Commission") Order 03 in the above-referenced dockets, the Alliance of Western Energy Consumers ("AWEC") files this Initial Brief.

2 AWEC recommends that the Commission deny Puget Sound Energy's ("PSE" or "Company") request for an attrition adjustment. Specifically, the Company has failed to carry its burden to meet the qualifying criteria established by the Commission. Furthermore, the attrition adjustment requested in this case is little more than a relabeled presentation of the electric cost recovery mechanism the Commission denied in PSE's last rate case.

3 AWEC further recommends that the Commission require PSE to comply with the terms of the stipulation resolving most issues in the Company's 2017 general rate case with respect to the treatment of PSE's interest in the Colstrip Generating Station ("Colstrip"). Specifically, and consistent with this stipulation, AWEC recommends that PSE offset its unrecovered investment in Colstrip Units 1 and 2 with production tax credits ("PTCs") it has monetized in estimated tax payments through September 2019. This amount of monetized PTCs, with interest, is sufficient to offset the entire remaining unrecovered balance of Colstrip Units 1 and 2.

4 The Commission also should accept PSE's natural gas cost-of-service study with respect to its direct assignment of mains costs where direct assignment is possible. Public Counsel's arguments against PSE's proposal are self-serving and not cost-based. Public Counsel's only argument against direct assignment is that it is different than the Company has allocated mains costs in the past. Therefore, if the Commission agrees with Public Counsel, it

should maintain the full status quo of PSE's natural gas rate spread and rate design pending the outcome of the cost of service rulemaking, which would result in spreading the natural gas rate increase on an equal percent of margin basis. Also with respect to cost-of-service, the Commission should reject Staff's attempt to relitigate its proposal to reopen PSE's special contracts, which the Commission summarily dismissed in the Company's 2017 rate case.

5 Finally, the Commission should deny the Company's request for cost recovery associated with the relocation of the Bothell and Bellevue data centers. PSE's initial siting of these facilities was imprudent and ill-advised. The Company, alone, should bear the consequence of the decision it alone made to place critical infrastructure in a known flood-plain and co-located on an individual seismic threat.

II. BACKGROUND

6 PSE filed this rate case on June 20, 2019, seeking an overall increase of $139.9 million in electric rates and $65.5 million in natural gas rates.[1/] Drivers of the rate increase included a 9.8% return on equity ("ROE") and an attrition adjustment. Allegedly to mitigate the rate increase, PSE reduced what it argued it otherwise could support through its requested attrition adjustment. The Company's increase to revenue requirement resulted in overall rate increases of 6.9% and 7.9% for electric and gas operations, respectively.[2/]

7 The overall rate increases, however, hide substantially larger customer class rate impacts. On the gas side, for instance, as a percentage of margin some customer classes would

1/ Exh. SEF-1T at 2 (Table 1).
2/ Id. at 4:17-22.

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see an increase of nearly **31%**.[3] In terms of actual bill impact, PSE's requested revenue requirement would increase bills for Schedule 87T customers by **18.58%**.[4]

8 In Rebuttal Testimony, PSE reduced its requested ROE to 9.5%, but what it gave with one hand it took away with the other by increasing its requested attrition adjustment to the full amount it alleged it could support.[5] One is left to wonder, therefore, whether PSE's attrition adjustment is truly intended to allow it recover costs beyond its control to allow it to earn a reasonable ROE, or whether it is little more than an ROE inflator. Regardless, because the ROE reduction had no material impact on PSE's revenue requirement (and none at all with respect to the gas revenue requirement), customers are still looking at the rate impacts identified above, with some customer classes (notably the large gas transportation schedules) looking at substantially higher rate impacts than the average.

III. ARGUMENT

A. The Commission Should Deny PSE's Requested Attrition Adjustment

1. The Company has failed to meet the Commission's established criteria for an attrition adjustment.

9 The Company bases its request for an attrition adjustment to inflate the revenue requirement increase requested in this matter on the conclusion that "the backward-looking, historical nature of traditional ratemaking…contributes significantly to regulatory lag and attrition"[6], which results in "unnecessary adverse financial and investment consequences [for] the Company"[7]. However, the Company has failed to provide the Commission with reliable

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[3] Exh. JDT-7 at 1:1, 18.
[4] Exh. JAP-15 at 1:22.
[5] Exh. SEF-17T at 6 (Table 1).
[6] Exh. DAD-1T at 13:19-21.
[7] Exh. KRR-1T at 5:7-10.

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evidence to demonstrate that PSE has met the Commission's criteria for an attrition adjustment. As such, the Commission should deny PSE's requested attrition adjustment.

Staff witness Mr. Chris McGuire accurately identified that:

> "The Commission has established that a utility requesting an attrition allowance must demonstrate:
> 1. A showing of chronic under-earning, and
> 2. Circumstances giving rise to claimed attrition are beyond the utility's ability to control."[8/]

AWEC does not view the Commission's recent policy statement in U-190531 regarding review and approval of property used and useful during the rate effective period as fundamentally changing the analysis of requested attrition adjustments. The record in the present matter shows that PSE failed to establish either criteria the Commission has previously applied to attrition adjustments. Accordingly, the Company has failed to carry its burden to demonstrate a need for an attrition adjustment, and the request should be denied.

a) PSE cannot show chronic under-earnings

10 The Commission has "discussed favorably the idea of using an attrition adjustment as a means to address the problem of a demonstrated inability of a utility to earn at or near its authorized return **over a period of years**.[9/] Accordingly, and in contrast to the Company's claims, a simple mathematical projection demonstrating one possible future is insufficient to warrant an attrition adjustment. However, that is all that the Company has provided in this matter.

The Company concedes that

8/ Exh. CRM-1T at 18:6-10. See also Dockets UE-160228 and UG-160229 (*consolidated*), Order 06 ("Order 06") ¶¶ 66, 69 (Dec. 15, 2016).

9/ Order 06 at 15, fn. 44. (emphasis added).

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> "[d]uring the years 2013 through 2017…PSE slightly under-earned its authorized rate of return and return on equity during the early years of the rate plan for both electric and gas operations and began to marginally over-earn its authorized rate of return and return on equity for both electric and gas operations in the latter years of the rate plan."[10]

The Company's only remedy to the fact that it was recently over-earning its authorized rate of return in an attempt to rescue its bid for an attrition adjustment is an attempt to mathematically create a representation of the historical path not taken.

11 PSE witness Doyle presents a myriad of analytical gymnastics and hypothetical assumptions of what might have been done by the Company should the recent history have been different. The Commission should not be swayed by these attempts to recreate an alternate history through modeling. The Company cannot demonstrate an actual history of chronic under-earning over a period of years. Instead, the Company presents hypothetical responses to a manufactured history in order to generate the specter of an economic threat of under-earnings that never occurred. The Company's conclusions fail to carry the burden to present "a demonstrated inability of a utility to earn at or near its authorized return over a period of years."[11] The Commission should deny PSE's request for an attrition adjustment.

b) *PSE has failed to demonstrate the underlying costs are beyond the Company's ability to control.*

12 In an attempt to demonstrate escalating costs outside of its control in order to justify an attrition adjustment, PSE witness Doyle lists three broad categories: 1) Increase to

[10] Exh. DAD-1T at 15:1-9.
[11] Order 06 at 15, fn. 44.

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power costs; 2) Reduced cash flows due to the Tax Cuts and Jobs Act ("TCJA"); and 3) Increased investment in information technology.[12]

13 As noted by AWEC witness Mr. Gorman and Staff witness Mr. McGuire, PSE already enjoys favorable regulatory treatment of power costs.[13] Indeed, the Company removed power costs from the attrition analysis, and thus admits it is an unconvincing factor to justify an attrition adjustment.[14] Likewise, as noted by Staff witness McGuire, the reduction in cash flow related to the TCJA is not a cost and "is unrelated to the assessment of rate year earnings attrition."[15] Mr. Gorman demonstrates that PSE's credit metrics, even accounting for cash flow reductions from the TCJA, "indicate adequate cash flow coverages needed to support PSE's bond ratings as published by both S&P and Moody's."[16] Finally, and as discussed in detail below, the Company has presented no additional rationale or information regarding its information technology investment pressures or engagement plan above that which was presented in support of its Electric Cost Recovery Mechanism ("ECRM") previously requested from, and rejected by, the Commission. Additionally, while PSE highlights its AMI investments as a technology investment supporting its attrition request, Mr. Gorman notes that PSE has failed to capture the cost reductions associated with these same investments in its attrition analysis.[17] As the Commission's recent policy statement emphasizes, post-test year plant additions must remain generally consistent with longstanding ratemaking practices, including the "matching principle," which "requires netting of known and measurable changes with any offsetting factors

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[12] Exh. CRM-1T at 25:5-9, citing Exh. DAD-1T at 21:1-22:4.
[13] See Exh. MPG-1T at 5:20-7:4; Exh. CRM-1T at 25:10-14.
[14] See Exh. CRM-1T at 25:12-14.
[15] Id. at 25:20-21.
[16] Exh. MPG-1T at 17:9-10.
[17] Id. at 14:16-15:22.

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that diminish the impact of the known and measurable event."[18] PSE has failed to carry its burden of proof regarding how the costs underlying its claimed attrition adjustment are outside of its control. Accordingly, the Company's request should be denied.

2. The Commission has previously denied a similar request.

14 As part of its final combined revenue requirement increase request, PSE seeks authorization to recover $84.2 million in additional electric service revenue, and $109.7 million in additional natural gas service revenue through an attrition adjustment.[19] As noted above, the Company requests approval of an attrition adjustment "to address the backward-looking, historical nature of traditional ratemaking, which contributes significantly to regulatory lag and attrition"[20]; "to counter the effects of regulatory lag and attrition that flow from traditional ratemaking"[21]; "to mitigate and prevent unnecessary adverse financial and investment consequences as the Company continues making significant investments in addressing current reliability-related issues and in modernization of its electric and gas systems"[22]; and to overcome "regulatory lag [that] prevents timely cost recovery, resulting in consistent earnings attrition, which then impacts utility credit ratings and cost of capital, [a]…trend in earnings attrition [which] may then discourage on-going critical utility infrastructure investment."[23]

15 More specifically, Company witness David Mills discussed alleged financial challenges the Company believes it faces, asserting that the Company is "heavily reliant on

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18/ Docket U-190531, Policy Statement on Property that Becomes Used and Useful After Rate Effective Date ¶¶ 23, 28 (Jan. 31, 2020).
19/ See Exh. RJA-6T at 14, Table 1; see also Exh. RJA-6T at 12:20-21:1.
20/ Exh. DAD-1T at 13:19-21.
21/ Exh. KRR-1T at 5:5-6.
22/ Id. at 5:7-10.
23/ Exh. JRA-1T at 3:11-14.

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information technology investments"[24], with much of this investment intended to "modernize the grid and increase reliability and resiliency."[25] In further discussion of this IT investment, Company witness Ms. Hopkins opined that regulatory lag disproportionately affects the Company's IT investment, asserting that "[t]he typical 27-month regulatory lag has a greater impact on these short-lived assets than traditional transmission and distribution investments, resulting in earnings erosion."[26]

16 Further, Mr. Mills notes that the Company's "rate increase requested in this case is necessary to allow PSE to…improve the safety, reliability, and resiliency of its natural gas and electric systems, for example through an intensified focus on improving the worst performing distribution circuits that have perennially struggled with outages…." Additionally, Company witness Ms. Free alleges that the fact that "Washington investor owned utilities have been filing frequent rate cases since 2010 and continue to do so" demonstrates that the existing "modified historical test year ratemaking framework" "is not sufficiently" addressing regulatory lag.[27]

17 As an initial point, AWEC submits that PSE has an obligation to properly and adequately attend to "critical utility infrastructure investment" to ensure safe and reliable service to ratepayers. This obligation exists in particular with respect to the Company's natural gas service, which involves the retail transmission and distribution of an inherently combustible commodity, without regard to the cost recovery mechanism approved by the Commission.

18 Focusing specifically on the Company's proposed attrition adjustment, AWEC notes that this is not the first instance when the Commission has heard PSE's dire claims

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[24] Exh. DEM-1T at 17:2-3.
[25] Id. at 16:22.
[26] Exh. MFH-1T at 5:23-6:3.
[27] Exh. SEF-17T at13:9-12.

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regarding the historical test-year with pro-forma adjustments ratemaking framework in Washington. In discussing the Company's argument in support of its requested ECRM in Dockets UE-170033 and UG-170034 (*consolidated*), the Commission noted that PSE claimed the proposed cost recovery mechanism "would allow the Company to accelerate the replacement of targeted reliability improvements intended to reduce the number and length of outages and recover their costs between rate cases."[28/] Additionally, the Commission noted that PSE "stated that the Company's two primary goals for the ECRM are to improve its worst-performing circuits and to replace aging underground cable that is at risk of failing."[29/] Furthermore, the Commission discussed

> the Company's defenses of the ECRM, [noting]: that PSE's projected…investments for distribution reliability improvements…will be subject to significant regulatory lag absent the mechanism; that the ECRM will reduce the need for frequent rate filings, and that it will spread cost recovery across smaller, more predictable increases, rather than large, lump sum increases.[30/]

19 The Commission also noted PSE's assertion that it "would face regulatory lag of 27 months, which would result in significant earnings erosion when applied to the level of investment contemplated in the Company's" general rate case.[31/] Finally, the Commission noted the Company's argument that electric system "reliability is a key utility function that is deserving of [a] targeted approach" such as that contained within the ECRM proposal.[32/]

20 AWEC draws the Commission's attention to the demonstrable similarities, and indeed identical arguments, made in support of the current attrition adjustment and the previous

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28/ Dockets UE-170033 and UG-170034, Order 08 ("Order 08"), ¶ 315 (Dec. 5, 2017).
29/ Id., ¶ 316 (internal quotations omitted).
30/ Id., ¶ 322 (internal quotations omitted).
31/ Id., ¶ 323 (internal quotations omitted).
32/ Id., ¶ 324 (internal quotations omitted).

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ECRM. Critically, the Commission denied the Company's previous request for a modified cost recovery mechanism designed to collect the same investment costs associated with the currently proposed attrition mechanism. Indeed, the Commission detailed the shortcomings of the Company's failures, which have been merely repeated in the present case. Specifically, the Commission found that the "representation that the Company would face 27 months of regulatory lag [absent an alternate cost recovery mechanism] is an exaggerated, worst case scenario that assumed average of monthly averages (AMA) treatment of the investments, while failing to consider other tools the Commission as adopted for attenuating regulatory lag, such as end-of-period rate base and pro forma adjustments."[33] Additionally, the Commission was "not persuaded that PSE is unable to prioritize in its capital budgeting process funding to address the worst-performing circuits and to replace aging underground cable that is at risk of failing."[34]

21 The Company has simply restated the same, deficient conclusions in seeking the current attrition adjustment that the Commission found unpersuasive and indeed exaggerated in the last general rate case. Accordingly, for the reasons articulated by the Commission in Order 08, the attrition adjustment should be denied.

22 PSE's case is no more persuasive on the gas side, where it has a gas cost recovery mechanism in place to incentivize it to make safety-related improvements and upgrades to its gas infrastructure. It is effectively the equivalent of an attrition adjustment for certain gas-related investments. While PSE claims it has removed the revenues received from its gas CRM, the

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[33] Id., ¶ 326.
[34] Id., ¶ 327.

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very fact that it must account for this mechanism demonstrates that it already has sufficient regulatory tools in place to allow it to render reliable service at just and reasonable rates.

B. The Commission should require PSE to offset the remaining unrecovered investment of Colstrip Units 1 and 2 with monetized production tax credits ("PTCs").

1. PSE has an obligation to offset the unrecovered plant balance of Colstrip Units 1 and 2 as a party to the settlement agreement from its 2017 general rate case.

23 In PSE's 2017 General Rate Case, the Company entered into a Multiparty Settlement Stipulation and Agreement ("2017 Stipulation"), approved by Order 08 in Dockets UE-170033/UG-170034, that governs how the Company is to recover remaining costs for its investment in the Colstrip Generating Station ("Colstrip"). Specifically, Paragraph 25 of the 2017 Stipulation provides that:

> *At closure of Units 1 and 2, PSE shall offset all additional unrecovered plant balances for Colstrip Units 1 and 2 with monetized [PTCs].* PSE assumes the risk that it is unable to monetize the PTCs to offset additional unrecovered plant balances for Colstrip Units 1 and 2; provided, however that if Colstrip Units 1 and 2 close prior to the monetization of sufficient PTCs to offset additional unrecovered plant balances for Colstrip Units 1 and 2, PSE shall hold remaining unrecovered plant balances of Colstrip Units 1 and 2 in a regulatory asset in rate base until the earlier to occur of (i) the recovery of all plant balances for Colstrip Units 1 and 2 through monetized PTC offsets or (ii) December 31, 2029.[35/]

24 Two facts are undisputed: (1) Colstrip Units 1 and 2 have closed, as of approximately December 31, 2019; and (2) PSE has transferred the remaining unrecovered plant balance for these units into a regulatory asset.[36/] AWEC's adjustment to offset the unrecovered

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35/ Dockets UE-170033/UG-170034, Order 08, Appen. B ¶ 25 (emphasis added).

36/ Exh. MRM-14CX; PSE Resp. to Bench Request 14.B. When AWEC filed its direct testimony, PSE was still reflecting the plant balances for Colstrip Units 1 and 2 in rate base. Exh. BGM-1T at 6:16-19.

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investment for Colstrip Units 1 and 2, therefore, is both required by the 2017 Stipulation and a "known and measurable change[]" that meets the requirements for pro forma adjustments in the Commission's rules.[37]

25 Nevertheless, PSE argues that it should not, at this time, offset this plant balance with monetized PTCs. PSE reasons that it only monetized PTCs on its 2018 tax return, which was filed in September of 2019, outside of the plant pro forma period which ended in June of 2019.[38] Alternatively, PSE argues that, if PTCs that were monetized on its 2018 tax return are used to offset the unrecovered plant balance for Colstrip Units 1 and 2 in this case, the Commission should also include additional pro forma adjustments through September of 2019.[39]

26 Both of PSE's arguments are without merit. First, while AWEC disagrees with PSE on when PTCs are "monetized" (discussed further below), even if the Commission agrees with PSE that PTCs are only monetized when they are included on a tax return, that does not change the fact that PSE has monetized PTCs available to offset the Colstrip Units 1 and 2 unrecovered plant balance.[40] The 2017 Stipulation does not say that monetized PTCs will only be used to offset unrecovered plant balances if they happen to be monetized in the test year or the pro forma period. It says these balances "shall" be offset with monetized PTCs "[a]t closure of Units 1 and 2." Even under PSE's own definition, it had "monetized" approximately $82.2 million worth of PTCs when Units 1 and 2 closed. The 2017 Stipulation therefore requires it to use those PTCs to offset the unrecovered plant balance.

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[37] WAC 480-07-510(c)(ii).
[38] Exh. SEF-17T at 50:14-19.
[39] Id. at 51:6-14.
[40] Id. at 51:6-7.

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27 Second, for the same reason, there is no need to consider the additional pro forma plant adjustments PSE includes through September of 2019. PSE's obligation to offset the Colstrip Units 1 and 2 plant balances with monetized PTCs is governed by the 2017 Stipulation. AWEC's bases for this pro forma adjustment are that it is required by this Stipulation and the impact of it is known and measurable – indeed, other than the issue of when PSE has monetized PTCs, the revenue requirement impact of AWEC's adjustment is undisputed.[41/] By contrast, the additional pro forma adjustments PSE proposes to include to offset the revenue requirement impact of complying with the 2017 Stipulation in this case, which include AMI, "Public Improvement[s]," and high molecular weight cable, are entirely unrelated to AWEC's adjustment and are far more controversial, both with regard to the investments themselves and their amounts.[42/] PSE's additional pro forma adjustments are not a matter of applying a straightforward provision in a stipulation; they are an attempt to beef up the Company's rate base in its rebuttal testimony, giving parties little opportunity to review these additional investments.

2. Production tax credits are "monetized" when PSE uses them to offset its estimated tax payments.

28 AWEC and PSE dispute the timing of when production tax credits are considered "monetized", and thus can be used to pay off the Colstrip unrecovered investment. AWEC's witness, Bradley Mullins, argues that PTCs are monetized when PSE uses them to offset its quarterly estimated tax payments.[43/] PSE's witness, Matthew Marcelia, argues that PTCs are not monetized until they are included in PSE's annual tax return, which is typically not filed until September of the subsequent year (thus, PSE's 2018 tax return was filed in September of

41/ Tr. at 314:12-315:20 (Free); see also, WAC 480-07-510(c)(ii).
42/ Exh. SEF-17T at 52 (Table 6).
43/ Exh. BGM-1T at 12:14-13:9.

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2019).[44] PSE and AWEC do not dispute, however, that this is a policy disagreement and it is within the Commission's discretion to choose either method.[45]

29 The timing of when PTCs are monetized is significant in this case because, through September 2019, PSE reduced its estimated tax liability with a substantial amount of PTCs.[46] Further, PSE acknowledges that it is appropriate to accrue interest on the monetized balance.[47] Accordingly, the Commission's decision on the timing is significant because it not only impacts the amount of PTCs available to offset Colstrip's undepreciated balance, but also results in additional interest accruals on the PTC regulatory liability balance.

30 If the Commission agrees with PSE that PTCs are only monetized when they are included on an annual tax return, then approximately $82 million is available to offset the Colstrip Units 1 and 2 unrecovered investment because that is how much PSE monetized as of December 31, 2018 on its 2018 tax return.[48] This leaves approximately $43 million associated with Colstrip Units 1 and 2 remaining in a regulatory asset, and the revenue requirement impact is an approximate $7.8 million reduction.[49] If the Commission agrees with AWEC that PTCs are monetized when used to reduce an estimated tax payment, then the monetized PTC balance increases to approximately $129 million, which is sufficient to cover the entire Colstrip Units 1 and 2 unrecovered investment.[50] The $47 million in incremental monetized PTCs in AWEC's testimony consisted of an additional $35 million in PTC monetization through September 2019,

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[44] Exh. MRM-11T at 14:2-6.
[45] Tr. at 380:18-381:18.
[46] Exh. BGM-1T at 11 (Table 4).
[47] Exh. BGM-5 at 26.
[48] Exh. SEF-29 at 2:16.
[49] Id. at 2:1, 23. AWEC does not consider PSE's additional proposed pro forma adjustments because these adjustments are without merit for the reasons discussed above.
[50] Exh. SEF-29 at 3:16.

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as well as an additional $12 million attributable to interest.[51/] Accordingly, based on AWEC's recommendation on the timing of PTC monetization, PSE has fully recovered its investment in Colstrip Units 1 and 2. The revenue requirement impact of this scenario is an $11.3 million reduction to revenue requirement.[52/]

31 Mr. Mullins provides his rationale for why PTCs should be considered monetized when they are used on a quarterly estimated tax payment on pages 12-13 of his Response Testimony:

> Puget's current tax liability is not due at the time Puget files its tax return …. Rather, Puget is required to make estimated tax payments ratably over the course of the tax year, or else incur interest penalties for failing to pay in a timely manner. Thus, production tax credits are properly considered to be monetized over the course of the tax year at the time Puget submits its quarterly estimated taxes, not at the time the tax return is submitted …. In its quarterly tax provision calculations, Puget considers all aspects of its tax liability, including production tax credits. To the extent production tax credits are available, Puget will reduce the amount of quarterly taxes that it submits to the IRS ….
>
> Supporting my position is the fact that, when calculating the unmonetized production tax credit liability as of September 30, 2019, Puget reduced the balance for production tax credits utilized in Puget Energy's September 30, 2019 tax provision, even though the tax year 2019 income tax return will not be filed until September 2020.[53/]

PSE does not dispute any of this. Instead, PSE argues that AWEC's definition of when PTCs are monetized is inconsistent with "settled history" regarding PTCs.[54/] But the settled history PSE refers to bears little relation to AWEC's proposal.

[51/] Exh. BGM-1T, Table 5; see also Table 4.
[52/] Id. at 3:1.
[53/] Id. at 12:14-13:9.
[54/] Exh. MRM-11T at 10:3.

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32 The settled history PSE references occurred between 2005 and 2010 when PSE passed the benefit of PTCs through to customers in the year those PTCs were generated, regardless of whether PSE was able to use those PTCs to offset its tax liability in the same year.[55] Indeed, PSE was not able to use these PTCs and instead carried them forward to offset future years' taxes (hence why PSE today has a large balance of PTCs available to offset Colstrip costs).[56] Because PSE provided the benefit of PTCs to customers before it could use those PTCs, however, PSE recorded this benefit as a regulatory asset, which earned a return.[57] As that asset built up over the years, the return PSE earned on it became so high that it materially diluted the value of the PTCs it was passing back to customers.[58] Accordingly, PSE and parties agreed to change the methodology so that the Company stopped passing the value of PTCs through to customers in the year they were generated and now passes them through when they are used to offset a tax liability.[59]

33 This "settled history" is fundamentally different than AWEC's definition of when PTCs are monetized. Indeed, even Mr. Marcelia admitted that it "is an improvement of that situation."[60] Under the previous method, PSE passed the value of PTCs through to customers even if it knew with virtual certainty that it would be unable to use those PTCs in the same year. By contrast, AWEC is only proposing that PSE recognize the value of PTCs when they are used to offset an estimated tax payment. As PSE itself admits, "PSE tries to be as accurate as possible when it estimates its quarterly tax payments" and "the quarterly tax payment is reduced by the

55/ Id. at 10:4-19.
56/ Id.
57/ Id.
58/ Id.
59/ Id., Docket No. UE-101767.
60/ Tr. at 380:14-15 (Marcelia).

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amount of PTCs that PSE thinks it will use."[61/] Thus, AWEC's proposal will not lead to the large regulatory asset that created problems in the past because AWEC proposes only to recognize that PTCs are monetized when PSE itself uses them to reduce its tax liability.

34 AWEC's proposal also recognizes the common definition of "monetize," which is to "establish as legal tender" or "coin into money."[62/] It is, in other words, the "process of turning a non-revenue generating item into cash."[63/] By reducing its estimated tax liability through the use of PTCs, PSE has used these PTCs to create a tangible monetary benefit for itself – it is paying less in estimated taxes than it otherwise would. Moreover, as Mr. Mullins testifies, these estimated tax payments are not voluntary: "Puget is required to make estimated tax payments ratably over the course of the tax year, or else incur interest penalties for failing to pay in a timely manner."[64/] Thus, PSE has monetized its PTCs when it uses those PTCs to provide a monetary benefit, which occurs when it makes estimated tax payments.

C. The Commission can reduce depreciation expense for Colstrip Units 3 and 4 in this case either to align the unrecovered investment with the value of remaining PTCs or to maintain current depreciation expense for these units.

35 PTCs can provide additional benefit to customers in this case by reducing the depreciation expense for PSE's interest in Colstrip Units 3 and 4. Doing so reduces PSE's requested electric revenue requirement by $23.4 million.[65/] As Mr. Mullins testifies, "[s]ince the unrecovered investment amount associated with Colstrip Units 1 and 2 is now known … it is also possible to determine the amount of production tax credit regulatory liability that will be

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61/ Exh. MRM-11T at 13:1-7.
62/ Webster's 3d New International Dictionary, unabridged at 1,458 (1993).
63/ Investopedia, available at: https://www.investopedia.com/terms/m/monetize.asp.
64/ Exh. BGM-1T at 12:15-17.
65/ Exh. BGM-8T at 2 (Table 1-CA, Adj. 7.07).

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available to apply against the unrecovered investment balances for Colstrip Units 3 and 4."[66/] Mr. Marcelia largely agrees with this.[67/]

36 Mr. Marcelia criticizes Mr. Mullins' proposal, arguing that it "contravenes the 2017 general rate case settlement agreement," and that it "drops all pretense of 'monetization'" by using "the entire remaining PTC balance immediately to lower depreciation expense."[68/] Based on this testimony, it is clear that PSE misunderstood AWEC's proposal. Mr. Mullins does *not* propose to use PTCs to reduce depreciation expense for Colstrip Units 3 and 4. Rather, he proposes to reduce depreciation expense for Colstrip Units 3 and 4 so that an unrecovered investment amount in these units will exist at the end of 2025 (when they must be removed from rates) that can *then* be offset by monetized PTCs. Mr. Mullins recognizes that the PTCs available to apply to any unrecovered investment for Colstrip Units 3 and 4 "have not yet been monetized," but he also recognizes that PSE itself expects to monetize all PTCs by 2022.[69/] Therefore, "it is appropriate to consider the production tax credit regulatory liability when calculating depreciation expenses for Colstrip Units 3 and 4."[70/]

37 Mr. Marcelia's arguments against Mr. Mullins' proposal to reduce depreciation expense for Colstrip Units 3 and 4, therefore, are misplaced. AWEC does not propose to use unmonetized PTCs to reduce depreciation expense – indeed, it does not propose to use any PTCs to offset depreciation expense. Moreover, AWEC's proposal is fully consistent with the 2017 Stipulation. Paragraph 117 specifies that PSE is to use monetized PTCs "with the following

66/ Exh. BGM-1T at 17:10-13.
67/ Tr. at 382:10-384:2 (Marcelia).
68/ Exh. MRM-11T at 15:14-19.
69/ Exh. BGM-1T at 17:13-22.
70/ Id. at 17:14-15.

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priority for use: (i) to fund community transition planning funds of $5 million …; (ii) to recover unrecovered plant balances for Colstrip Units 1 through 4; and (iii) to fund and recover prudently incurred decommissioning and remediation costs for Colstrip Units 1 through 4." By reducing depreciation expense today, Mr. Mullins' proposal effectively ensures that an unrecovered investment balance for Units 3 and 4 will exist in 2025, but only in an amount that can be definitively offset by PTCs that have been monetized on or before 2025. Indeed, because Mr. Mullins did not assume any interest accruals on monetized PTCs in calculating the reduction to depreciation expense, his assumptions regarding the value of PTCs available to offset the Colstrip Units 3 and 4 unrecovered investment are conservative.[71/]

38 If the Commission does not wish to reduce depreciation expense to the level Mr. Mullins calculates in his testimony, there is a middle ground it could take. PSE has increased depreciation expense for Colstrip Units 3 and 4 in this case. The 2017 Stipulation set these units' depreciable lives at 2027.[72/] PSE accelerated this date to 2025 in this case in consideration of the requirements of the Clean Energy Transformation Act.[73/] The impact of this adjustment is an approximate $16.5 million increase to depreciation expense.[74/] The Commission could reject this adjustment and maintain existing depreciation rates for Colstrip Units 3 and 4. This would create a smaller unrecovered investment balance in 2025 than would result under Mr. Mullins' proposal. PTCs monetized on or before 2025 would then be available to offset this unrecovered investment at that time.

71/ Exh. BGM-1T at 18:3-15.
72/ 2017 Stipulation, ¶ 26.
73/ Exh. SEF-1T at 67:11-68:20.
74/ Exh. SEF-21 at 7 (Adj. 21.07 ER, l. 12).

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D. Natural Gas Distribution System

1. The Commission should accept PSE's direct assignment of natural gas mains costs

39 Within the Class Cost of Service Study ("CCOSS"), the Company utilized the peak and average method to classify and allocate natural gas distribution mains.[75/] As discussed by Company witness Mr. Taylor, the peak and average method "allocates gas demand costs based on a combination of peak demand and average demand (or average throughput).[76/] The Company's method also included application of an estimated gas system load factor "to determine how much of [the] demand-related gas costs would be allocated based on average gas demand and how much would be allocated based on peak gas demand."[77/] Application of this gas system load factor to the Company's distribution main plant investment "provide[d] an estimate of costs that can be attributed to average use [32.23 percent], with the remainder being assigned to peak use [67.77 percent]."[78/]

40 Subsequently, the Company identified the mains used to serve the Special Contract customer and assigned 0.01315 percent of mains directly to this customer.[79/] The remaining distribution mains were segregated based upon size into three groups: "1) large distribution main (greater than or equal to four inches in diameter); 2) medium distribution mains (two to three inches in diameter); and small distribution mains (less than two inches in diameter)."[80/]

75/ Exh. JDT-1T at 15:10-11. See also, Exh BCC-1T at 3:9-10.
76/ Exh. JDT-1T at 15:11-12.
77/ Id. at 15:13-15.
78/ Id. at 15:18-19; see also Exh. JDT-1T at 16:2-6.
79/ Id. at 16:15-16.
80/ Id. at 16:17-21.

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41 The average and peak allocation percentages were then applied to the three distribution main size categories to produce the final distribution main allocations, with large mains allocated to all customer classes with the exception of the Special Contract; medium mains allocated to all classes with the exception of Non-Exclusive Interruptible and Special Contracts; and small mains allocated to all classes with the exception of Interruptible Classes and Special Contracts.[81/] In support of these size assignments, Company witness Taylor testified:

> [A] review of the meter sizes for the Non-Exclusive Interruptible (87 and 87T) showed that it is reasonable to assume that none of these customers are served from mains that are smaller than four inches. Further, the smallest main [sic] are in isolated locations on [the Company's] gas distribution system and are unlikely to provide benefits to the large gas commercial and industrial loads served on Schedules 85, 85T, 86, 86T, 87, and 87T. Further, none of the medium size mains were allocated to the Non-Exclusive Interruptible classes (Schedules 87 and 87T), given the mains serving these customers were four inch or larger.[82/]

42 In responding to the Company's proposal, AWEC witness Brian Collins opined that while the Peak & Average method used by the Company to allocate distribution mains was not the best method, the inclusion of direct assignment and the small mains adjustment was an improvement over the modeling that omitted these adjustments.[83/] Specifically, Mr. Collins concluded that the direct assignment and small mains adjustments, combined with the Peak & Average method of allocation, produced improved cost causation allocation results.

81/ See id. at 17.
82/ Exh. JDT-1T at 17:19-18:5.
83/ See Exh. BCC-1T at 4:1-6.

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43 Likewise, Staff determined that the Company's updates to the class cost of service are "directionally accurate"[84] and were properly designed to "appropriately allocate costs to cost causers."[85]

44 Public Counsel alone argues against the improved Peak & Average method employed by the Company, protesting that the Company's assignment of demand v. commodity based upon the system load factor results in a "significantly larger amount of mains-related costs allocated to the Residential class."[86] Additionally, Public Counsel asserts that the Company's reliance upon theoretical design day demands rather than actual peak demands further shifts costs to the Residential class.[87] Critically, and as identified in AWEC's Cross-Answering Testimony, Public Counsel does not challenge the veracity of the improved Peak & Average method, nor identify any analytical flaws in its application by the Company. Rather, Public Counsel is merely dissatisfied that the improved Peak & Average method results in increased costs for residential ratepayers.[88] Specifically, Public Counsel's witness Mr. Watkins' criticism can be summarized in his statement that the Company "proposes to move the goal line once again by assigning even more costs to the Residential and Commercial classes and significantly assigning fewer costs to the Large Interruptible and Special Contract classes."[89] As noted above, however, despite Public Counsel's protests, it is large industrial gas users who will see the largest rate increases from PSE's rate spread, with Schedule 87T customers looking at bill

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[84] Exh. JLB-1T at 13:6.
[85] Id. at 12:4.
[86] Exh. GAW-1T at 51:16-17.
[87] See Exh. GAW-1T at 51:18-23.
[88] See Exh. GAW-1T at 53:1-10.
[89] Exh. GAW-1T at 54:6-8.

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impacts over 18%.[90] Residential customers, by contrast, are looking at below-average rate impacts of 7.54%.[91]

45 While Public Counsel strongly protests against the Company's proposed improvements to the allocation method, it supports continued application of the underlying framework.[92] Indeed, Public Counsel admits that the refinements to the Peak & Average method used by the Company do not alter the Residential Class's parity ratio and in fact reduces the Residential Class's percentage contribution to the Company's rate of return.[93] Nonetheless, Public Counsel would have the Commission refrain from applying these refinements, which not even Public Counsel argues does not accurately assign costs based on cost causation, to the underlying framework which result in a more accurate, cost of service-based allocation method. The Commission should reject Public Counsel's recommendation to stagnate. Rather, the Commission should approve the Company's refinements to the approved Peak & Average method, while allowing larger questions about the effectiveness of the Peak & Average method overall be addressed in the cost of service rulemaking.

2. <u>If the Commission does not accept PSE's direct assignment of mains costs, it should apply the authorized natural gas rate increase based on an equal percent of margin.</u>

46 As noted above, Public Counsel's only objection to PSE's improvements to its class cost of service study with respect to its natural gas cost of service is that the Company's allocation of gas mains is different than has been done in the past. The Commission has an

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[90] Exh. JAP-15 at 1:22.
[91] Id. at 1:11.
[92] See Exh. GAW-1T at 54:19-21.
[93] See Exh. GAW-1T at 55, Table 11.

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ongoing cost of service rulemaking, and in PSE's last rate case the Commission identified this rulemaking as a basis to maintain the status quo. Specifically, the Commission:

> [D]etermine[d] that we should accept NWIGU's recommendation that we not expressly choose any one cost of service methodology over the other for purposes of allocating the costs of gas distribution mains and defer any decisions on methodology to the ongoing generic proceedings in Docket UG-170003. Further, we accept NWIGU's suggestion that we effectively ignore the COS studies presented in this case and apply a rate spread based on an equal percent of margin basis. This effectively serves to continue the status quo that is grounded in PSE's peak and average approach ....[94]

Similarly, PSE witness Jhaveri testified at the hearing that "there were other rulemakings that we're looking into changing the cost of service methodology that is currently being utilized and it may be beneficial for us to hold the course steady until we have a better idea of where these new methodologies will take us in terms of calculation for cost of service."[95]

While the cost of service rulemaking is expected to conclude prior to the rate effective date of this case, there is insufficient time to implement changes from that rulemaking in this case. Accordingly, if the Commission agrees with Public Counsel that PSE should not change its cost of service methodology to directly assign mains costs that can be directly assigned and the other refinements discussed above, it should "continue the status quo" with respect to all cost of service issues for PSE, which includes applying the natural gas rate increase on an equal percent of margin basis.

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[94] Dockets UE-170033/UG-170034, Order 08 ¶ 378.
[95] Tr. at 271:9-14 (Jhaveri).

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3. The Commission should reject Staff's proposal to require updated economic bypass studies for existing special contracts.

47 In response testimony, Staff Witness Jason Ball provides conditional support for the Company's proposed changes to its natural gas rate design.[96/] Staff's full approval was available "provided they update the economic bypass study for their special contract."[97/] The rationale provided by Staff to support this condition precedent was that "[t]he economic bypass study that PSE's only natural gas contract relies upon has not been updated since 1995. It is important to keep these economic bypass alternatives updated on a reasonable basis so that these customer rates remain in compliance with RCW 80.28.090 and RCW 80.28.100."[98/]

48 In the Company's last general rate case, Dockets UE-170033 and UG-170034 (consolidated), Staff expressed a similar concern regarding the special contract's contribution to system costs. While rejecting Staff's arguments on the issue "without further discussion"[99/], the Commission commented that PSE's arguments in rebuttal, stressing the unprecedented nature of unraveling a special contract previously reviewed and approved as in the public interest, was persuasive and relieved the Commission of any additional discourse on the issue.[100/] Staff is simply attempting to relitigate an issue the Commission summarily rejected in PSE's last rate case.

96/ See Exh. JLB-1T at 34:1-5.
97/ Id. at 34:4-5.
98/ Id. at 32:8-11.
99/ Dockets UE-170033 and UG-170034 (consolidated), Order 08, ¶ 382.
100/ Id.

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49 Furthermore, even if the Commission were inclined to revisit this issue, while Staff cites the Commission's undue preference and discrimination statutes, it does not allege that the special contract results in a preference or advantage to the Special Contract Customer. Furthermore, Staff has not even attempted to demonstrate that the Special Contract Customer receives an *undue* or *unreasonable* advantage, as would be required under RCW § 80.28.090. Indeed, Staff articulates no basis, or precedent, for the notion that these statutes require that economic bypass alternatives must be "updated on a reasonable basis," particularly when such an update would occur *during the contract term*. AWEC, in fact, is unaware of any precedent in which the Commission revisited the terms of a special contract while it was in effect. Accordingly, Staff has failed to support its conclusory concerns regarding compliance, or potential non-compliance, with RCW 80.20.100.

50 Additionally, the special contract that is the focus of Staff's concern was reapproved by the Commission on June 11, 2009, when the Commission approved an extension of the contract term to terminate June 1, 2035,[101/] specifically finding that approval of the revised contract "is consistent with the public interest…."[102/] Staff has presented no evidence to upset this existing finding, and has cited no authority to support its premise of revisiting the terms of the special contract or the Commission's finding that its terms are consistent with the public interest. The Commission should accept PSE's allocation of the Tacoma LNG upgrades as presented in its rebuttal testimony.

51 In response testimony, AWEC challenged the allocation of the natural gas system

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101/ See Docket UG-950392, Order Approving Contract (June 11, 2009).

102/ Id.

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upgrades related to the Tacoma Liquefied Natural Gas ("Tacoma LNG") Project.[103] Specifically, AWEC noted that in settlement with AWEC's predecessor in interest the Northwest Industrial Gas Users, PSE had previously agreed "not to propose to allocate any costs associated with either the 16-inch line or the Bonney Lake Lateral Improvements to transportation customers."[104]

52 In Rebuttal Testimony, Company witness Mr. Taylor agreed with AWEC's position, and presented an updated class cost of service study that accounted for the allocation method previously agreed to by PSE and AWEC.[105] Specifically, the Company conceded that the allocation of these costs to sales customers was updated to be based upon the contribution to PSE's total retail design day demand.[106] Accordingly, the Company's revenue requirement allocation related to the 16-inch line and the Bonney Lake Lateral Improvements as presented in Rebuttal Testimony should be approved by the Commission.

E. The Commission Should Disallow Costs Associated with PSE's Relocation of the Bothell and Bellevue Data Centers

53 Within PSE's revenue requirement increase, $79.3 million is related to the relocation of two data center facilities operated by the Company.[107] This total value is composed of $33.2 million related to the construction of a modular data cent at the Snoqualmie Technology Center and another on Company property in Cle Elum, Washington.[108] An additional $31.2 million is related to the purchase of infrastructure elements for the new data

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[103] See Exh. BGM-1T at 41-43.
[104] See Exh. BGM-1T at 43: 4-5; see also Docket UG-151663, Order 10, Appendix A (Full Settlement Stipulation) at ¶ 30 (Oct. 31, 2016).
[105] See Exh. JDT-9T at 10:3-6.
[106] See id. at 10:17-11:2.
[107] See Exh. MFH-1T at 26.
[108] See id. at 26:3-8.

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center operations, including "the network, server, storage, telecommunications and security hardware and software",[109] and a final $14.9 million estimated for "the labor required to configure, test, and migrate all IT systems to operate under the new disaster recovery architecture in the new facilities."[110]

54 The Company seeks to justify recovery of this $79 million from ratepayers, claiming that the exiting data centers must be replaced as they are "sub-standard"[111] and present "a significant business continuity risk [to] the critical IT systems that are essential to the safe and secure operation of [PSE's] electric and gas services."[112] This risk results, in part, from the Company's prior decisions to: 1) place both the prior data center facilities, the Bothell and Bellevue facilities, on the same seismic fault within 12 miles of each other[113]; and 2) place the Bothell facility in a known floodplain.[114] While AWEC does not contest that requirements related to data center operations have evolved as the Company's operations have become more technology-dependent, the Company's previous decisions regarding siting of the Bothell and Bellevue data centers significantly contributes to the expenses now sought to be recovered from ratepayers to move away from those decisions. Accordingly, the Company should bear some of the expense that now must be incurred to cure its prior unreasonable decisions.

55 As noted, the Company now claims that the Bothell facility is "substandard"[115], in part, due to its location within a floodplain. Indeed, the Company cites "two significant data

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[109] Id. at 26:10-11.
[110] Id. at 26:14-15.
[111] Id. at 20:3.
[112] Id. at 19:19-21.
[113] See id. at 20:5-6.
[114] See id. at 20:10.
[115] Id. at 20:7.

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center outages directly related to"[116] the facility's location in a floodplain and on the second floor of an office building, as examples of the Bothell facility's inadequacy.[117] However, the relevant floodplain existed prior to the development of the Bothell location as a data center. Indeed, the Company knew that the area around the Bothell data center was prone to flooding, as its call center operations located at the site had been disrupted prior to the development of additional space as the data canter facility.[118] Nonetheless, in October 2009, the Company pressed forward with siting its data center operations within the known floodplain.[119] In 2012, Mr. John Chao, PSE's Insurance Administrator for Insurance Risk Management, visited the Bothell data center "for our first time."[120] During this visit, Mr. Chao noted that PSE's siting decisions regarding necessary power supply and emergency generators placed these elements of the data center operations "even closer to the [flood] levee and vulnerable to flood conditions."[121] Moreover, Mr. Chao observed that due to the Company's development of the site, "Call and Data operations may be situated on the 2nd story-floors, but the power they need are vulnerable to flood."[122]

56 The floodplain that now, apparently, presents as unacceptable risk to the Bothell data center's operations existed prior to the Company's development of the data center operations, and indeed had flooded in a manner that interrupted the Company's operations at the site. Nonetheless, the Company moved forward at that time with developing data center

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116 Id. at 20:12-13.
117 See id. at 20:9-14.
118/ See Exh. MFH-9X, Attachment A to PSE Response to AWEC Data Request No. 001.
119/ See Exh. MFH-10X, Attachment A to PSE Response to AWEC Data Request No. 003.
120/ Exh. MFH-9X, Attachment A to PSE Response to AWEC Data Request No. 001, November 6, 2012 email from Mr. Chao.
121/ Id.
122/ Id.

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operations in the known floodplain, including placing critical and backup electrical equipment behind windows and doors that directly faced the flood risk.[123/] Though the Company alone was responsible for these decisions that now must be remedied through the relocation of the data center facility, PSE asks that ratepayers fund the corrective efforts. The Company bears responsibility for its unilateral actions.

57 Similarly, the existence of the seismic fault underlying both the Bothell and Bellevue facilities is not a new development that now imposes an operational risk that the Company could not have known. The fault clearly predates the development of both data center facilities. Regardless, the Company moved forward with developing data center infrastructure on this existing and known risk – a risk now that contributes to the "significant business continuity risk" the Company asserts necessitates ratepayers pay to eliminate.

58 As noted, AWEC recognizes the growing importance of, and reliance upon, data center capabilities within the Company's daily operations. Additionally, AWEC does not call for the Commission to micro-manage the Company or substitute the Commission's judgment for that of PSE's management.[124/] However, decisions outside of the review of the Commission must have consequences for the Company and its management. In this case, the Company's decision to invest capital into infrastructure in the face of known operational risks results in additional expense through relocation of those facilities. The Company should bear the financial consequence of its prior, imprudent decisions, and the Commission should disallow the

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123/ Id.

124/ See Washington Utilities and Transportation Comm'n v. Continental Tel. Co. of the Northwest, Inc., Cause No. U-75-46 at 44 (1976) (1976 Wash. UTC LEXIS; 14 P.U.R.4th 276).

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Company's revenue requirement associated with the relocation of the Bothell and Bellevue data centers.

IV. CONCLUSION

59 For the foregoing reasons, AWEC recommends that the Commission: (1) deny PSE's requested attrition adjustment; (2) require PSE to offset the unrecovered balance of Colstrip Units 1 and 2 with PTCs monetized on its estimated taxes through September 2019; (3) either reduce depreciation expense for Colstrip Units 3 and 4 or reject PSE's increase to depreciation expense for these units with the expectation of offsetting a future unrecovered investment with monetized PTCs; (4) accept the Company's modifications to its natural gas cost of service study or apply the natural gas revenue requirement on an equal percent of margin basis; (5) reject Staff's request to update the economic bypass feasibility of special contracts; (6) accept the Company's allocation of the Tacoma LNG infrastructure costs as presented in its rebuttal testimony; and (7) disallow the cost of relocating the Bothell and Bellevue data centers.

Dated this 17th day of March, 2020.

Respectfully submitted,

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