BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES 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-190275 (*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*)

REPLY BRIEF OF COMMISSION STAFF

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I. INTRODUCTION

1 In this reply brief, Staff of the Washington Utilities and Transportation Commission (Commission) responds to Puget Sound Energy ("PSE" or "Company") and to other parties regarding select points in the initial briefs. Although PSE in its initial brief disagrees with Staff's statement of the deferral standard, the Commission precedent is clear that utilities cannot defer costs in the absence of extraordinary circumstances. Regarding extraordinary circumstances, Staff asks that the Commission consider COVID-19 in its resolution of this case. Specifically, in recognition of the financial strain the pandemic may place on ratepayers, Staff commits to working with PSE and other stakeholders to closely monitor the low-income fund balance and will support a temporary funding increase during the COVID-19 recovery period if necessary.

2 None of the non-Company parties write in support of PSE's attrition proposal, and with good reason. PSE interprets last year's clean energy legislation too broadly, and its proposal is inconsistent with the Commission's recent guidance in its policy statement on utility property valuation.[1] Neither the Clean Energy Transformation Act[2] nor the amendments to the property valuation statute[3] automatically justify granting PSE an attrition allowance. Further, PSE still has not shown that it needs an attrition allowance. Issues with power costs remain, although the level of costs associated with the 2018 Colstrip outage no longer is at issue following the Commission's recent decision in the separate outage docket.[4] That decision confirmed that contemporaneous documentation is required to show prudence.

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[1] In re Commission Inquiry into the Valuation of Public Service Company Property that Becomes Used and Useful after Rate Effective Date, Docket U-190531, Policy Statement on Property that Becomes Used and Useful after Rate Effective Date (Jan. 31, 2020) (Valuation Policy Statement).
[2] LAWS OF 2019, ch. 288, §§ 1–13 and 26, *codified at* chapter 19.405 RCW (CETA).
[3] RCW 80.04.250.
[4] In re Investigation of Avista Corporation, d/b/a/ Avista Utilities, Puget Sound Energy, and Pacific Power & Light Company Regarding Prudency of Outage and Replacement Power Costs, Docket UE-190882, Order 05 (March 20, 2020) (Colstrip Outage Order).

PSE has failed to provide contemporaneous documentation supporting its decision to invest in SmartBurn, and those costs, therefore, should be excluded from the revenue requirement.

3 With regard to additional issues, not related to revenue requirement, the Commission should reject PSE's proposals for Excess Deferred Income Tax that do not provide sufficient transparency. The Commission also should reject PSE's proposal to use reporting instead of a tracking and true-up mechanism for decommissioning and remediation (D&R) costs at Colstrip. To fairly implement CETA's provision for the recovery of D&R costs, the Commission should disregard NW Energy Coalition's invitation to transfer all of the risk to ratepayers; instead the Commission should follow the careful reading of the language that Staff presents. The Commission also should decline NWEC's proposal regarding natural gas line extensions as NWEC's concerns can be addressed in ways other than reverting to the Company's previous methodology. NWEC's request that PSE implement on-bill repayment remains premature. Finally, the Commission should require PSE to resubmit its conjunctive demand pilot. Although PSE and Kroger Company (Kroger) disagree, significant questions about the purpose of the pilot and the measurement of results remain. PSE must amend the pilot program to address these questions.

II. PSE CANNOT DEFER COSTS WITHOUT EXTRAORDINARY CIRCUMSTANCES

4 PSE "disagrees with Staff's claim that deferred accounting is reserved for extraordinary events."[5] PSE's quarrel is with the Commission, not with Staff. The Commission, not Staff, requires extraordinary circumstances to justify a deferral,[6] whether

[5] Initial Brief of Puget Sound Energy, 67, ¶ 156 (PSE Brief).
[6] Higby, Exh. ANH-1T at 28:17-18; *E.g.*, *Wash. Utils. & Transp. Comm'n v. Pac. Power & Light Co.*, Docket UE-140762, Order 08, 110, ¶ 263 (Mar. 25, 2015) ("The replacement power costs in question do not qualify as extraordinary costs such as might arguably be candidates for deferral accounting."); *id.* at 114, ¶ 273 ("The

in the form of an extraordinary event outside the control of the utility[7] or circumstances that prompt the Commission to employ extraordinary ratemaking mechanisms involving a deferral and true-up.[8] None of the orders cited by PSE to support its position address the issue,[9] and they thus do not provide otherwise.[10] Though the Commission could chart a new course here with a reasoned explanation,[11] allowing utilities to defer mundane costs risks increased inter-generational inequity and further asymmetrical use of deferrals for the benefit of utilities and to the detriment of customers.[12] The Commission should reject that outcome.

III. STAFF WILL SUPPORT ADDITIONAL LOW INCOME PROGRAM FUNDING IF NEEDED DURING THE COVID-19 RECOVERY PERIOD

5 Staff maintains its support for increasing HELP funding by at least $1.4 million but, in light of the COVID-19 pandemic, will support a further increase during the pandemic recovery period if it is needed. Staff continues to believe that (1) if the Commission authorizes the funding increase to PSE's HELP program, the bill impact percentage, rather than the base rate impact percentage, should be used as the basis for the funding increase because it represents the true impact of this general rate case (GRC); and (2) the Commission should provide a minimum funding increase. However, Staff is cognizant that

costs are in no sense 'extraordinary,' a criterion that should apply to a cost deferral accounting mechanism at the time requested and at the time any recovery is sought.").

[7] *E.g., Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Dockets UG-040640 & UE-040641 & UE-031471 & UE-032043, Order 06, 84–88, ¶¶ 231–43 (Feb. 18, 2005).

[8] *E.g.*, *In re Petition of Puget Sound Energy*, Dockets UE-121697 & UE-130137, Order 07, 40, ¶ 90 (June 25, 2013).

[9] PSE Brief at 67, ¶ 156 (citing Free, Exh. SEF-17T at 42:5-16).

[10] *Cazzinigi v. Gen. Elec. Credit Corp.*, 132 Wn.2d 433, 443, 938 P.2d 819 (1997).

[11] *Stericycle of Wash. v. Wash. Utils. & Transp. Comm'n*, 190 Wn. App. 74, 93, 359 P.3d 894 (2015).

[12] *In re Cent. Vermont Public Serv. Corp.*, Docket Nos. 6946 & 6988, 2005 Vt. PUC Lexis 65 at *85, *102–04 (Vt. Public Serv. Bd. Mar. 29, 2005).

the social distancing policies implemented during the COVID-19 pandemic have caused and will continue to cause financial hardship on many households.

6 Staff recognizes that, with the current circumstances, a larger number of PSE's customers will meet the eligibility criteria for receiving assistance through HELP, and it is conceivable that increased demand for assistance will begin to strain available HELP funds, although Staff does not currently see an immediate need.[13] Staff is working with stakeholders through the PSE low income advisory group to assess the level of potential demand relative to the available funds. If there is a need, PSE can file a petition with the Commission for additional crisis funding during the pandemic recovery period.

IV. ATTRITION

7 PSE does not need an attrition adjustment in this case to comply with CETA and it has not shown that it meets the foundational element of attrition—that it is spending beyond its control. PSE's proposal to update plant placed in service is inconsistent with the Commission's guidance in the Valuation Policy Statement and would be a burden with no benefit. The Commission should not authorize an attrition adjustment because PSE does not need one. If, however, the Commission does consider an attrition adjustment, it should adopt Staff's analysis because PSE's attrition methodology is flawed. Finally, while modifying the earnings sharing mechanism has merit as a concept, PSE's specific proposal should be rejected along with the attrition adjustment in this case.

[13] As of the end of March 2020, PSE's HELP program has a cumulative balance of $33 million available for use. *See In re PSE's Proposed Tariff Revisions of Schedule 129 Low Income Program*, Dockets UE-200331 & UG-200332, Staff Memo for Open Meeting of April 10, 2020, 1 and n.1.

A. PSE Does Not Need an Attrition Adjustment in This Case to Comply With CETA

8 PSE claims in its initial brief that its proposed attrition adjustment is "foundational to a successful transition to clean electricity,"[14] but it provides no specific support for this dramatic statement. PSE cites to Mr. Ràbago, who discusses attrition from a policy perspective.[15] Mr. Ràbago, however, offers no testimony on particular investments that need to be made to comply with CETA and does not identify any particular requirements of CETA that the proposed attrition adjustment will enable PSE to fulfill. Mr. Ràbago cites to PSE witnesses Doyle and Kensok for a discussion on Company spending and impacts on earnings,[16] but neither these witnesses nor any others show any specific link between CETA requirements and the attrition adjustment. Mr. Kensok does not mention CETA. Mr. Doyle mentions CETA in reference to credit ratings[17] and quotes Mr. Mills.[18]

9 Mr. Mills testifies that the "spending in this case . . . lays the groundwork for the clean energy transformation that is mandated by statute," but, again, he does not identify specific CETA requirements that the proposed attrition adjustment would enable PSE to meet.[19] PSE invokes CETA but does not specify why any particular investment or amount is needed to comply with CETA. Indeed, Mr. Mills further testifies that "PSE's attrition adjustment is consistent with the planned level of spending through the rate year," which

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[14] PSE Brief at 4.
[15] PSE Brief at 5, ¶ 12.
[16] Ràbago, Exh. KRR-1Tr at 8:23 - 9:2.
[17] Doyle, Exh. DAD-1T at 49:12-17. This mention of "CETA" actually addresses the recent amendment to RCW 80.04.250, the utility property valuation statute, and not any of the clean energy standards of CETA.
[18] Doyle, Exh. DAD-7Tr at 18:18-22 ("[T]he Washington clean energy transformation act requires electric utilities to work towards eliminating greenhouse gas emissions.") and 19:2-7 ("[R]egulators must be willing to explore new, flexible, and dynamic approaches to the regulatory paradigm that will meet customers' changing needs and choices while also allowing PSE to comply with clean energy legislation. . . .").
[19] Mills, Exh. DEM-3T at 5:18-20. Mr. Mills testifies to the "steps . . . PSE [is] taking to comply with the Washington Clean Energy Transformation Act" but he mentions only one step PSE is taking in this rate case, which is shortening the depreciable lives of Colstrip Units 3 and 4 to 2025. Mills, Exh. DEM-1T at 8:10 - 9:3.

indicates that the purpose of the attrition adjustment is to fund PSE's spending plans rather than to meet any specific CETA requirement.[20] Mr. Mills admits as much when he testifies, "The spending in this case allows PSE to meet our customers' energy needs and lays the groundwork for the clean energy transformation that is mandated by statute."[21] Laying the groundwork, even if PSE has provided sufficient support for this concept, is not the same as making investments to comply with specific CETA requirements. It appears that PSE's actual argument is that CETA surely is going to cost money and so PSE should be able to pad the revenue requirement with an attrition adjustment.

10 PSE argues implicitly that "CETA" (actually the 2019 amendments to the utility property valuation statute) requires the Commission to authorize an attrition adjustment, but the Company's logic is flawed. The structure of PSE's argument is a classic syllogism: "CETA recognizes that flexible ratemaking tools such as . . . attrition adjustment[s]" are critical to CETA's goals; PSE proposes an attrition adjustment; therefore granting PSE's attrition adjustment is critical to achieving CETA's goals.[22] The problem with this logic is that PSE has not met its burden to show it needs an attrition adjustment (discussed in Staff's initial brief at section III); nor has PSE shown that an attrition adjustment has any concrete connection to PSE's compliance with the clean energy requirements of CETA. Under CETA, utilities will not even be filing Clean Energy Implementation Plans until 2022.[23]

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[20] *See* Mills, Exh. DEM-3T at 7:18-19.
[21] *See* Mills, Exh. DEM-3T at 5:19-20.
[22] *See* PSE Brief at 4–6, ¶¶ 10–13.
[23] RCW 19.406.060(1)(a) ("By January 1, 2022, and every four years thereafter, each investor-owned utility must develop and submit to the commission: (i) A four-year clean energy implementation plan for the standards established under RCW 19.405.040(1) and 19.405.050(1) that proposes specific targets for energy efficiency, demand response, and renewable energy; and (ii) Proposed interim targets for meeting the standard under RCW 19.405.040(1) during the years prior to 2030 and between 2030 and 2045.")

Accordingly, the Commission should disregard PSE's invocation of CETA in conjunction with the attrition adjustment as empty words.

B. PSE Has Not Shown That it is Spending Beyond its Control

11 PSE's brief contains a bullet point list of considerations that it terms "factors" that the Company contends show its spending is beyond its control; but checking off this list misses the point.[24] Further, some of the "factors" do not address the issue squarely.

12 The Commission stated its test in the 2015 Avista GRC: "it is necessary for Avista, and any other utility seeking an attrition adjustment, to demonstrate that its need to invest in non-revenue generating plant, particularly distribution plant, is so necessary and immediate as to be beyond its control."[25] So, while PSE may indeed be able to tick off the investments it lists as factors, the Company has not demonstrated that these investments must be made now, in this rate year. Instead, as indicated above, PSE discusses its proposed capital expenditures in the traditional terms of prudence and not in terms of exigency.

13 Some of the "factors" PSE cites do not actually address whether PSE will be spending beyond its control. Factor 3, whether PSE has been under-earning for several years, for example, and factor 4, whether there is a risk that, absent an attrition adjustment, PSE may not have an opportunity to achieve earnings at or near authorized levels, do not address whether PSE is spending beyond its control. (PSE's failure to show under earning is discussed in Staff's initial brief at section III.C.1.)

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[24] PSE Brief at 9–10, ¶ 22.
[25] *Wash. Utils. & Transp. Comm'n v. Avista Corp.*, Dockets UE-150204 & UG-150205, Order 05, 42–43, ¶ 116 (Jan. 6, 2016) (2015 Avista GRC Order).

C. PSE's Proposed Update to Plant Placed in Service Would be a Burden With no Benefit and is Inconsistent With the Valuation Policy Statement

14 PSE proposes to file a semiannual update to plant in service during the rate year to allow the Commission and stakeholders to compare the actual plant placed in service to "the projected rate year plant on which the attrition adjustment is based."[26] This proposal, however, has practical flaws and, contrary to the Company's argument, is inconsistent with the Commission's guidance.

15 First, there is an insufficient showing as to identified plant that will be placed in service during the rate year. This deficiency is exacerbated by PSE's request for an attrition adjustment based on escalation factors rather than specifically identified plant. In other words, under PSE's proposal, it seems that the Company could show it had invested in something—anything—that adds up to its projected net plant in service and this would show that the attrition allowance was justified. This is inconsistent with the Commission's recent guidance in its property valuation policy statement, which includes the following:

> Review of rate-effective period investment will depend on a company's request and the type of identified property. The review will not, however, simply be a matter of matching identified rate base to the rate base provided in rate-year Commission Basis Reports.[27]

PSE's proposal for a semiannual rate base review proposes exactly the type of review that the policy statement discourages. That is, PSE's proposed review would match some of its rate year plant in service (again, regardless of composition) to the projections used for calculating an attrition adjustment.

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[26] PSE Brief at 12, ¶ 25.
[27] Valuation Policy Statement at 14, ¶ 42.

16 PSE's proposed "review" would become merely a self-fulfilling prophesy and would waste the time of Commission Staff and any other parties participating in the "review."[28] Moreover the extra reporting would serve no real purpose because there is no consequence to the review such as refunds or an at-risk rate increase in a multiyear rate plan.[29] Without a consequence, the review is a burden to the reviewers without any benefits.

17 PSE seeks to minimize the review process by asserting that parties have already had an opportunity to review the plant that will be placed into service up to and during the rate year because it is "generally a continuation of the programmatic projects and plant additions reviewed in this case."[30] PSE is incorrect. The plant in service reviewed in this case is completely distinct from the plant placed in service beyond the review. Plant that was not yet in service has not yet been reviewed.

D. PSE's Attrition Methodology is Flawed

18 PSE's proposal for an attrition adjustment should be rejected also because the Company's methodology contains flaws. If, however, the Commission considers attrition, Staff's analysis produces a more accurate result. The result of Staff's analysis indicates that if PSE continues its current pace of spending it can expect a modest level of attrition in the rate year for natural gas operations but no attrition for electric operations. Staff's analysis is superior, in part because it reflects a growth rate that realistically and accurately reflects

[28] Note that PSE proposes a "semiannual" review, which is not reflected anywhere in the policy statement. The policy statement anticipates an annual or biennial review. Valuation Policy Statement at 14, ¶ 42.
[29] *See* Valuation Policy Statement at 7, ¶ 20 ("With this Policy Statement, we establish a process for the provisional recovery in rates of rate-effective period property, subject to refund, where the property, investment or project in question does not meet the current standards for inclusion in rates prior to rates becoming effective.").
[30] PSE Brief at 12, ¶ 25.

PSE's capital investment and because it analyzes transmission expense and distribution expense separately so that one does not outweigh the other.

1. PSE has not demonstrated that using an exponential growth rate results in an accurate attrition analysis.

19 PSE continues to assert that using an exponential growth rate for rate base is appropriate[31] even though Staff has demonstrated that PSE's rate base grows "step-wise."[32] Step-wise growth means that the growth is not at a constant rate every year and best fits a linear growth function rather than an exponential growth function.[33] Regarding plant accounting principles,[34] it is important to have "insight into a utility's needs and actual detailed capital budgets," because otherwise "it will be hard to judge whether rate base in certain categories in the near future will continue to increase, to plateau, or to drop."[35] A simple gross plant trend scenario such as PSE presents[36] is unrealistic because it assumes all assets will be replaced by an investment of the same value escalated by a constant inflation rate regardless of technology and market changes. It is unrealistic to assume that Colstrip Units 1 and 2, for example, will be replaced by similar plant at an exponentially escalated cost.

20 PSE argues that the use of the exponential curve does not overstate plant growth because the plant growth reflected in the attrition adjustment is below PSE's budgeted plant growth.[37] The Commission, however, does not rely on capital investment budgets to set rates. While informative, capital expenditure budgets do not neatly translate to gross plant

[31] PSE Brief at 7–8, ¶ 18.
[32] Liu, Exh. JL-1CTr at 68:15-16.
[33] Liu, Exh. JL-1CTr at 70:1-3.
[34] PSE Brief at 7–8, ¶ 18.
[35] Liu, Exh. JL-1CTr at 68:18-20.
[36] Amens, Exh. RJA-6T at 16:18 - 17:6.
[37] PSE Brief at 7–8, ¶ 18.

additions because the Company can transfer capital projects into service whenever they are ready or whenever the Company wants. Further, PSE's methodology is not explained in its comparison of PSE's proposed attrition adjustment to its gross plant capital budget going forward.[38] In short, the capital expenditure budgets that PSE has created for the next couple of years is not a reliable demonstration of the accuracy of the Company's proposed attrition adjustment.

2. Transmission expense and distribution expense must be analyzed separately or the results will be skewed.

21 PSE asserts in its initial brief that combining transmission expense and distribution expense is appropriate,[39] but this simply is inaccurate. Staff analyzed transmission expense and distribution expense separately because if combined, the growth trend in the larger of the two categories will dominate the combined growth rate, which skews the results.[40] PSE's witness Ronald Amen claims that these two categories must be combined because of an expense reclassification in the 2011–2012 time frame.[41] He fails to consider that the sample period can be designed to begin with 2012, after the reclassification, which is exactly what Staff did.

E. Modifying the Earnings Sharing Mechanism Might be Appropriate in Another Case, But PSE's Proposal in This Case is Not Appropriate

22 Because an attrition adjustment is not justified in this case, the Commission need not consider PSE's earnings sharing proposal.[42] Briefly, however, the Company's proposal involves modifying its existing earnings sharing mechanism to include three bands, but only

[38] *See* Kensok, Exh. JAK-4C.
[39] PSE Brief at 7–8, ¶ 18.
[40] Liu, Exh. JL-1CTr at 71:15-17.
[41] *See* Amen, Exh. RJA-6T at 22:9-11.
[42] *See* PSE Brief at 12–13, ¶ 26.

if the Commission authorizes an attrition adjustment.[43] Pursuant to the proposal, as earnings above the Company's authorized return move through the bands, rate payers would receive a successively larger share of earnings.[44] Staff believes that such a customer protection mechanism has merit in concept but PSE's proposal is not appropriately tailored to the case. Staff looks forward to addressing such a mechanism in a future case in which the Company includes the proposal in its direct case rather than on rebuttal.

V. POWER SUPPLY ISSUES

23 PSE's power costs case retains failings, some of which are discussed below.

A. The Commission Should Reject the Costs Associated with SmartBurn Because PSE has not Provided Contemporaneous Documentation Demonstrating that its Decision to Acquire SmartBurn was Prudent

24 The Commission recently reaffirmed that when it evaluates the prudence of a utility's actions, "the Commission must require from a regulated utility contemporaneous documentation of its decision making."[45] In the absence of contemporaneous documentation, "the Commission's ability to evaluate prudence is thwarted."[46] Furthermore, "[t]he most robust discussions, deliberations, and consensus, recalled after the fact, are not sufficient to demonstrate prudence without contemporaneous documentation."[47] Rather, "[t]he Commission should be able to follow a company's decision-making process, knowing what the company considered, and the manner and circumstances under which the company made its considerations."[48] More directly, the Commission has stated "[t]he only way to

[43] *See* Doyle, Exh. DAD-7Tr at 22, Table 1 ("PSE's Proposed Changes to Its Earnings Sharing Mechanism If the Commission Were to Adopt PSE's Proposed Attrition Adjustments").
[44] Doyle, Exh. DAD-7Tr at 22, Table 1.
[45] Colstrip Outage Order at 12, ¶ 42.
[46] *Id*. at 12–13, ¶ 43.
[47] *Id*. at 16–17, ¶ 53.
[48] *Id*.

determine the reasonableness of a regulated company's actions at the time of a decision is through contemporary documentation."[49]

25 The Commission's review of this issue involves no hindsight. Rather, for the reasons stated in Staff's initial brief, the Commission should determine that "the lack of contemporary documentation prevents [it] from making a determination of prudence" regarding the costs associated with SmartBurn.[50] Consequently, the Commission should reject the costs associated with SmartBurn because PSE has not demonstrated that such costs were prudent.

B. PSE'S New Forecast Methodology for Hydroelectric Power Costs Results in $6.3 Million More in Costs But no Demonstrable Improvement in Accuracy

26 PSE argues that its new method of calculating hydroelectric power costs yields results that are similar to the results under its standard method,[51] but this is misleading. For its proposition that the results are similar, PSE cites to the testimony of its witness Paul Wetherbee. Mr. Wetherbee includes a table in his testimony comparing the AURORA results of a single run using averaged stream flow data as an input (the new methodology) with the averaged output of 70 or 80 runs (the standard methodology). According to Mr. Wetherbee, the difference between the two approaches, using the data in this general rate case, results in a difference of $6.3 million.[52] That is, PSE's results are $6.3 million higher under the new methodology. The amount of $6.3 million is significant in this case by any measure.

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[49] *Id*. at 19, ¶ 59.
[50] *Id*.
[51] PSE Brief at 37–38, ¶ 80.
[52] Wetherbee, Exh. PKW-1CT at 62, Table 11.

27 Not only are the results from the new method not similar to the standard method, but PSE has not shown how a distortion in the results to the tune of $6.3 million is more accurate. PSE argues the new method is "more realistic" because running AURORA once (with averaged hydro input) avoids violations of maximum hydro capacity constraints.[53] As explained in Staff's initial brief,[54] however, the hydro capacity constraint violations occur in only a small portion of the hours[55] and PSE has not demonstrated that they have any actual effect on the results.[56] Accordingly, avoiding hydro capacity constraint violations does not justify running AURORA only once with averaged hydro data because there is no quantification of its contribution to the difference in the results; nor is there evidence this unquantified element improves the accuracy of the power cost projection.

28 Averaging hydro data as an input distorts the projections of power costs because hydro conditions vary asymmetrically with power costs.[57] The Commission has acknowledged this asymmetrical relationship.[58] The significance of the asymmetrical relationship is that averaging hydro data as an input versus averaging 80 years of power costs as an output does not result in the same power costs. As Staff witness Ms. Liu explains, high hydro conditions and low hydro conditions affect PSE's power costs by different magnitudes.[59] Averaging the hydrologic data effectively excludes these differences and therefore distorts the model output. Because the objective is to produce an accurate estimate of power costs in the rate year, PSE should continue to run the model 80 times

[53] PSE Brief at 37–38, ¶ 80.
[54] Initial Brief of Commission Staff, 42–43, ¶ 93 (Staff Brief).
[55] Liu, Exh. JL-1CTr at 51:9-11; Wetherbee, TR. 409:24.
[56] *See* Liu, Exh. JL-1CTr at 51:6-7; Wetherbee, TR. 410:13-15.
[57] Liu, Exh. JL-1CTr at 49:7-18.
[58] *Wash. Utils.& Transp. Comm'n v. Puget Sound Energy*, Dockets UE-090704 & UG-090705, Order 11, 44, ¶ 115 (April 2, 2010) (2009 PSE GRC Order) ("[W]hile hydrologic data may be normally distributed, these data are strongly correlated with power costs which were not normally distributed.").
[59] Liu, Exh. JL-1CTr at 49:12-18 and 51:15-22.

using all possible hydro assumptions instead of one single average hydro scenario. An increase in power costs of $6.3 million that results from a data distortion is not a good deal for ratepayers and should be rejected.

29 PSE argues that its new approach is more efficient.[60] As discussed in Staff's initial brief, however, PSE manufactures putative inefficiencies in its standard approach by assuming its standard approach would also incorporate the new two-zone model.[61] This assumption leads PSE to argue that it would suddenly need 160 model runs instead of the standard 80 if the Company returned to its standard methodology. In the end, however, PSE's computational efficiency argument is not important. The level of efficiency of a new methodology is irrelevant unless the new methodology can be justified objectively.[62] Because PSE has not demonstrated that its new methodology is worth $6.3 million in terms of accuracy, the Commission should require PSE to return to its standard method of running AURORA for each year of hydro data (currently 80 years/80 times) and averaging the output.

C. The Commission Should Require PSE to Distinguish Between Costs Caused by Regulated Activity and Costs Caused by Unregulated Activity Prior to Including the Costs Associated with the Tacoma LNG Distribution Upgrades into Rates

30 The Commission should require PSE to delineate which costs associated with the Tacoma LNG distribution upgrades 1 and 3 are caused by regulated activity as opposed to unregulated activity, because PSE has agreed to hold its customers harmless for liabilities or losses associated with unregulated activity.

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[60] PSE Brief at 38, ¶¶ 81–82.
[61] Staff Brief at 45, ¶ 97; *see also* PSE Brief at 38, ¶ 81.
[62] 2009 PSE GRC Order at 43–44, ¶ 114.

31 In the Commission approved settlement agreement relating to the Tacoma LNG project, PSE agreed that its customers would be held harmless from all liabilities and financial losses of Puget LNG resulting from any non-regulated activity of the Tacoma LNG Facility.[63] PSE also agreed that "the costs of distribution system upgrades associated with the Tacoma LNG Facility should be allocated in accordance with the principle of cost causation."[64] While Staff acknowledges that PSE has allocated costs among ratepayer classes in accordance with the principle of cost causation, Staff asserts that PSE is also obligated to allocate the costs associated with the distribution upgrades between regulated and unregulated activity in accordance with the principle of cost causation. PSE has testified that the two LNG Plant upgrades were necessary in order to connect the Tacoma LNG Project to the company's natural gas distribution system, suggesting that at least some of the costs associated with the upgrades are attributable to unregulated activity.[65] Therefore, the Commission should reject the costs associated with Tacoma LNG Project upgrades 1 and 3 and order PSE to file a separate accounting petition regarding those upgrades, as described in Staff's initial brief.

D. Outage

32 PSE incurred operations and maintenance and capital expenses associated with the 2018 Colstrip Outage. Since the filing of the initial briefs in the instant docket, the

[63] In re Pet. Of Puget Sound Energy, Inc. for Approval of a Special Contract for Liquified Natural Gas Serv. And a Decl. Order Approving the Methodology for Allocating Costs Between Regulated and Non-regulated Liquified Natural Gas Serv., UG-151663, Order 10, Appendix A, 5, ¶ 11 (Nov. 1, 2016).
[64] *Id*. at 11, ¶ 29.
[65] Henderson, Exh. DAH-1T at 5:5-7.

Commission has issued an order on the prudency of these expenses within Docket UE-190882. Pertaining to these expenses, the Commission in Final Order 05 ordered:

> Puget Sound Energy is authorized to recover from Washington ratepayers $845,602 for operations and maintenance and capital expenses associated with corrective, post-outage actions.[66]

33 In accordance with Final Order 05 in Docket UE-190882, Staff recommends that the Commission allow PSE to recover the referenced $845,602 in expenses associated with the 2018 Colstrip Outage.

VI. THE COMMISSION SHOULD REQUIRE PSE TO CONTINUE TO TRACK EXCESS DEFERRED INCOME TAX (EDIT) ON A SEPARATE SCHEDULE GOING FORWARD BUT "INTERIM" EDIT IS WATER UNDER THE BRIDGE

34 There are three categories of EDIT at issue in this case: (1) unprotected EDIT, which is described in PSE's petition in Dockets UE-171225 and UG-171226 and which was reserved in the 2018 Expedited Rate Filing (ERF) for decision in the next GRC[67]; (2) protected-plus EDIT amortizations for the "interim" period of January 1, 2018, through February 28, 2019, which also was reserved in the 2018 ERF for decision in the next GRC[68]; and (3) protected-plus EDIT amortizations to be returned to ratepayers going forward. Regarding unprotected EDIT, Staff does not oppose the Company's proposed treatment, as discussed in Staff's initial brief (section IX.A.2.).

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[66] Colstrip Outage Order at 27, ¶ 120. With regard to the replacement power costs associated with the 2018 Colstrip Outage, the Commission ordered:

> Puget Sound Energy is not authorized to recover from Washington ratepayers $11.7 million incurred to acquire replacement power costs resulting from the 2018 Colstrip outage because it has failed to show these costs were prudently incurred.

Id. Only the operations and maintenance and capital expenses associated with the 2018 Colstrip Outage are within this current docket. The replacement power costs associated with the 2018 Colstrip Outage are within PSE's Power Cost Adjustment (PCA) mechanism annual filing—Docket UE-190324.

[67] *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Dockets UE-180899 & UG-180900, Order 05, 10–11, ¶ 32 (Feb. 21, 2019) (2019 ERF Order).

[68] 2019 ERF Order at 10, ¶ 31.

35 Regarding interim protected-plus EDIT amortizations, Staff did not provide testimony on this issue but Staff does not object to PSE's position. The test year in this case is the calendar year 2018, and Staff's understanding is that, consistent with the Commission's standard practice of using a modified historical test year for ratemaking purposes, the Company's proposed revenue requirement includes protected-plus EDIT amortizations for the period January 1, 2018, through December 31, 2018, spanning the bulk of the interim period.[69] Public Counsel argues that interim protected-plus EDIT "should be held in a segregated regulatory liability account" and "returned to ratepayers over any period the Commission determines to be appropriate."[70] PSE witness Matthew Marcelia testifies, however, that EDIT amortizations from prior periods have not been deferred and recorded to a regulatory liability account.[71] This means that unless the Commission orders deferred accounting treatment for prior-period EDIT amortizations, there would be no regulatory liability available for the treatment Public Counsel proposes. Public Counsel relies on the Commission's order in Cascade's 2017 GRC for its proposed treatment of the interim protected-plus EDIT.[72] The Cascade order, however, addresses the return of interim "overcollection" of taxes and not interim "EDIT."[73] In other words, the amount that the Commission ordered Cascade to return to ratepayers through a separate tariff schedule over

[69] *See* PSE Brief at 30–31, ¶ 63 ("In this general rate case, PSE likewise built the reversal of EDIT into rates[.]"); Marcelia, Exh. MRM-11T at 47:1-7.
[70] Public Counsel Post-Hearing Opening Brief, 17–18, ¶¶ 43 and 45 (Public Counsel Brief).
[71] Marcelia, Exh. MRM-1T at 30:10-11. Note that PSE's original filing in Dockets UE-171225 and UG-171226 requested a deferral of this EDIT. *In re Petition of Puget Sound Energy for an Order Authorizing Deferred Accounting Associated With Federal Tax Act on Puget Sound Energy's Cost of Service*, Petition of Puget Sound Energy for An Accounting Order, 3–4, ¶ 6 (Dec. 29, 2017). The amended petition is discussed in Staff's initial brief (section IX.A.2).
[72] Public Counsel Brief at 17, ¶ 44.
[73] *See Wash. Utils. & Transp. Comm'n v. Cascade Natural Gas Corp.,* Docket UG-170929, Order 06, 3, ¶ 8 (July 20, 2018) (2018 Cascade Order) (terming "taxes collected at a 35 percent rate between January 1, 2018, and July 31, 2018" as "Interim Period"). Staff's initial brief addresses PSE's interim overcollection of taxes at section IX.A.2.

a 15-month amortization period was not EDIT at all (EDIT did not accumulate after December 31, 2017);[74] rather, the refund was an amount that Cascade had overcollected in its then-existing rates after the tax rate changed but before new rates went into effect in the summer of 2018.

36 Regarding the return of protected-plus EDIT amortizations going forward, Staff maintains, as discussed in its initial brief, that PSE should continue to use Schedule 141X. PSE states in its initial brief that "every dollar of EDIT gets amortized,"[75] but this does not speak to how, or whether, those amortized dollars are returned to ratepayers. And even though PSE estimates in its response to the Commission's Bench Request 5 that customers could receive even more dollars through rates than are amortized, this likewise does not provide clarity on the extent to which EDIT will be returned to ratepayers. It is concerning that the Company is employing a "trust me" approach and continues to fight transparency, which only reinforces the need to continue returning EDIT to customers on a separate schedule.

VII. COLSTRIP UNITS 3 AND 4 D&R COSTS

37 The Commission should reject NWEC's analysis of the decommissioning and remediation (D&R) language in RCW 19.405.030. Although NWEC ultimately agrees with Staff's recommendation regarding D&R cost recovery for Colstrip Units 3 & 4, it states in its initial brief that it believes Staff is "overthinking" the statutory language.[76] NWEC appears confident that CETA's language has no effect on the Commission's standard practice with respect to D&R cost recovery,[77] and encourages the Commission to focus on

[74] *See* 2018 Cascade Order at 3, ¶ 12.
[75] PSE Brief at 30–31, ¶ 63.
[76] Initial Post-Hearing Brief of NW Energy Coalition, 13–16, ¶¶ 19–26 (NWEC Brief).
[77] *Id*. at 15, ¶ 23.

the "primary goals" of the legislation.[78] It is the Commission's responsibility to fully understand the implications and nuances of the statutory language, not merely the legislation's primary goals. The Commission must implement CETA within the parameters the statute prescribes and in a manner consistent with the long-standing policy goals of rate stability and intergenerational equity. Contrary to NWEC's assertions, the legislative intent of RCW 19.405.030 is ambiguous as to those parameters and goals. While these issues may not interest every stakeholder, misinterpreting CETA's statutory language to have no effect on how D&R costs are recovered in rates could have significant consequences for current and future ratepayers. The Commission should reject PSE's suggestion that the Annual Colstrip Report acts as a sufficient tracking mechanism for the same reason.

A. The Commission Should Reject NWEC's Analysis of the Decommissioning and Remediation Language in CETA

38 NWEC fails to recognize the ambiguity of the statutory language because the organization misconstrues the Commission's prudency standard, a regulatory concept fundamental to assessing implications of CETA for the recovery of D&R costs for coal plants. As Staff has made clear,[79] it agrees with NWEC that the phrase "prudently incurred" should not be read to restrict including D&R costs in rates until after they occur. However, that does not mean that the statutory language is unambiguous. NWEC provides no citation to support its assertion that "current practice dictates that even though these costs are being collected in rates, D&R costs are only deemed prudent and allowed to be spent after careful review and consideration by the Commission. Consequently, this practice does allow for prudence review, which is consistent with the language in CETA."[80] NWEC appears to

[78] *Id*. at 14, ¶ 20.
[79] McGuire, Exh. CRM-1T at 33:10-15; *see also* Staff Brief at 57–59, ¶¶ 127–29.
[80] NWEC Brief at 15, ¶ 23.

believe that the Commission performs prudence reviews prior to costs being incurred and then dictates if and when companies are "allowed" to make expenditures for D&R.

39 First, NWEC's description of the Commission's standard practice is incorrect. The Commission does not evaluate prudency or restrict a utility's spending after D&R expenses are already collected through rates. In actuality, the standard practice is that the utility bears the risk that amounts collected over an asset's useful life will be insufficient.[81] That is not the case under RCW 19.405.030, which guarantees the utility recovery of prudently incurred D&R costs through rates, even after those resources no longer serve ratepayers. The statute shifts that risk from the utility to ratepayers but is unclear as to how legislators intended the Commission to counterbalance that shift in risk. NWEC's interpretation assumes that legislators intended no statutory counterbalance. This "business as usual" interpretation renders the phrase "prudently incurred" in RCW 19.405.030(1)(b) functionless, rather than reading the phrase as providing a counterbalance in the form of additional review and oversight. Second, NWEC's statement confuses allowing D&R cost *estimates* in rates with a prudency determination. Those determinations are not equivalent, and the Commission has corrected similar misconceptions about the prudency standard in the past.[82]

40 Lacking an understanding of the Commission's prudency standard, NWEC fails to appreciate how the statutory language of CETA could affect standard practice with respect to D&R cost recovery. If legislators simply intended D&R costs to be collected over the remainder of the resources' useful life per standard practice, CETA would not explicitly

[81] See In re Investigation of Coal-fired Generating Unit Decommissioning and Remediation Costs, Docket UE-151500, Colstrip Investigation Report, 14, ¶ 1 (Feb. 2, 2016) ("These costs are embedded in annual depreciation expense . . . and no further recovery . . . is expected from customers by the end of its life.").
[82] *See Wash. Utils. & Transp. Comm'n v. Puget Sound Power & Light,* Docket UE-920433 (Consolidated) , Eleventh Supplemental Order, 21 (Sept. 21, 1993) ("[A]cceptance of . . . least-cost plan does not represent a finding of prudence.").

authorize collection of D&R costs after 2025, when those resources no longer serve ratepayers.[83] Under standard practice, the accelerated useful lives required by CETA would concentrate the recovery of both depreciation expense and D&R costs on 2020–2025 ratepayers. Reflexively concentrating those costs, as NWEC recommends, would ignore the balance of policy objectives the Commission must strike, and the flexibility CETA provides. CETA invites the Commission to consider extending D&R cost recovery beyond 2025 to ameliorate the burden on 2020–2025 ratepayers. The Commission may ultimately decide not to do so, and conclude that intergenerational equity is best achieved by collecting as much D&R costs as possible prior to 2025. But that decision requires balancing complicated policy objectives in light of new statutory authority, not rote application of standard practice. The Commission should reject NWEC's view that legislators intended to change nothing about the Commission's approach to D&R cost recovery for coal-fired resources, yet included language addressing that very issue.

B. A Tracking and True-up Mechanism is Critical to Fairly Implementing CETA, and the Commission Should Reject PSE's Substitute Proposal to Modify the Annual Colstrip Report

41 The Commission should accept PSE's offer to include actual D&R expenditures in its Annual Colstrip Report, but reject PSE's suggestion that doing so acts as a sufficient tracker of D&R costs. A report is not a substitute for a ratemaking mechanism like a tracking and true-up mechanism. It does not allow for inspection and challenge by other parties, and waiting until PTCs are depleted before initiating a tracking and true-up mechanism creates risk to future ratepayers.

[83] RCW 19.405.030(1)(a).

VIII. THE COMMISSION SHOULD REJECT NWEC'S NATURAL GAS RECOMMENDATIONS

42 NWEC asks the Commission to require PSE to revert to its previous line extension methodology and to create a forum for discussions about line extensions.[84] Staff's initial brief has already explained why PSE's former line extension method was inferior to its current one.[85] Here Staff notes two additional things. First, the Commission can address NWEC's concerns through modification, rather than replacement, of PSE's current method.[86] Second, the Commission need not open a discussion forum as forums to discuss line extensions already exist.[87]

IX. ON-BILL REPAYMENT SHOULD BE STUDIED BUT NOT YET IMPLEMENTED

43 In NWEC's initial brief, it claims that the concerns PSE raised in its testimony are not supported by evidence in the record.[88] NWEC writes that PSE has not provided any support for its contentions that the costs will outweigh the benefits of an on-bill repayment program.[89] Staff's testimony, however, specifically discusses a variety of costs associated with tariffed on-bill repayment programs,[90] testifies further that cost impacts are not yet fully understood,[91] and recommends that PSE be ordered to evaluate the cost effectiveness of such a program.[92]

44 NWEC also criticizes PSE for providing no information, analyses or studies specific to PSE's territory in support of the Company's assertion that there would be low

[84] NWEC Brief at 9–12, ¶¶ 15–18.
[85] Staff Brief at 52, ¶ 116.
[86] Ball, Exh. JLB-28T at 8:24 - 16:13.
[87] Ball, Exh. JLB-28T at 3:18 - 4:3.
[88] NWEC Brief at 7–8, ¶¶ 11–13.
[89] NWEC Brief at 8, ¶ 12.
[90] Woodward, Exh. JTW-1T at 7:12 - 10:5.
[91] *See* Woodward, Exh. JTW-1T at 3:12-14; 11:9-11.
[92] Woodward, Exh. JTW-1T at 3:19-23; 11:16-19.

participation rates.[93] Again, Staff's testimony provides evidence on this subject, presenting a discussion of the nation-wide on-bill repayment landscape and exploring why on-bill repayment programs appear to lack popularity in Washington.[94] The Commission should order PSE to study the issues with select external stakeholders and report its findings to the Commission within three months of the final order in this case.

X. THE COMMISSION SHOULD REQUIRE PSE TO RESUBMIT ITS CONJUNCTIVE DEMAND PILOT

45 As detailed in Staff's initial brief, PSE must undertake pilot programs to gather the information it needs to successfully navigate its changing operating environment. Accordingly, as also detailed in Staff's initial brief, the Commission should in this docket provide guidance about pilots, order PSE to perform certain pilots, and require PSE to refile its conjunctive demand pilot in light of the Commission's guidance,[95] despite PSE's and Kroger's objections to that last requirement.[96]

46 PSE argues that resubmitting the pilot would burden it.[97] With all due respect to PSE, the Company should ponder Staff's legitimate questions about its proposal and tailor the pilot to its answers. For example, is the pilot aimed at measuring the responsiveness of industrial customers to price signals or the electrification of transportation?[98] If it is aimed at the latter of those two very different things, is the pilot the best means to promote that public policy goal?[99] How will PSE evaluate the pilot to determine whether to roll it out more

[93] NWEC Brief at 8, ¶ 13.
[94] Woodward, Exh. JTW-1T at 5:1 - 6:15.
[95] Staff Brief at 64–67, ¶¶ 143–153.
[96] PSE Brief at 64, ¶ 150; Post-Hearing Brief of the Kroger Co., 10 (Kroger Brief).
[97] PSE Brief at 64, ¶ 149.
[98] Piliaris, Exh. JAP-18T at 16:4-9.
[99] *Cf.* Piliaris, Exh. JAP-1T at 32:5-8 (noting the pilot helps transport electrification "[w]ith a sufficient number of locations").

generally?[100] These are critical questions. PSE should consider Staff's criteria, apply the relevant ones in light of guidance issued by the Commission, and resubmit the pilot.[101] This will ensure the Company obtains value for the pilot to balance out its costs.[102]

47 Kroger contends that PSE should not have to resubmit the pilot because it involves a technical change to the measurement of demand rather than a "fundamental[] change [to] the existing pricing structure."[103] That is a distinction without a difference because this pilot, like others, is a "learning exercise"[104] and not a "permanent"[105] change to PSE's pricing structure. The Commission should require PSE to think about what it hopes to learn,[106] how it will determine whether it has done so, and then refile the pilot to show that reflection.

XI. CONCLUSION

48 For the reasons discussed above and in the Initial Brief of Commission Staff, the Commission should adopt Staff's recommendations regarding the components of the revenue requirement and the additional issues in this case.

Respectfully submitted,

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[100] *Cf.* Ball, Exh. JLB-1T at 56:11 - 59:4.
[101] Ball, Exh. JLB-1T at 60:1-2, 60:17 - 61:7.
[102] Piliaris, TR. 274:3 - 276:4.
[103] Kroger Brief at 10.
[104] Piliaris, TR. 269:1-2.
[105] Piliaris, TR. 267:19-21.
[106] Piliaris, TR. 269:1-11.