

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKET UG-230968

ORDER 02

PREHEARING CONFERENCE
ORDER; NOTICE OF HEARING
**(Evidentiary Hearing set for October
9, 2024, at 9 a.m.)**

- 1 **BACKGROUND.** On November 22, 2023, Puget Sound Energy (PSE or Company) filed proposed revision to its Tariff WN U-2 rates under natural gas tariff Schedule 111. Specifically, PSE seeks to incorporate allowance costs and auction proceeds from the Climate Commitment Act (CCA) into Schedule 111 rates by (1) incorporating new language to the tariff that would enable the Company to fund decarbonization projects by setting aside \$23 million of the Company's projected no cost allowances revenue and (2) update rates pertaining to the amount deferred from January 2023 through September 2023.
- 2 On December 19, 2023, PSE filed revised tariff sheets. Commission staff (Staff) reviewed PSE's tariff filing and requested that the Commission suspend the tariff sheets but allow the proposed rates to become effective January 1, 2024, on an interim basis, subject to refund, pending the Commission's determination in this docket.
- 3 On December 21, 2023, the Commission issued Order 01 Complaint and Order Suspending Tariff Revisions; Allowing Rates Subject to Later Review and Refund.
- 4 On January 8, 2024, the Commission issued a Notice of Prehearing Conference, setting a prehearing conference proceeding for January 30, 2024.
- 5 **CONFERENCE.** The Commission convened a prehearing conference at Lacey, Washington on January 30, 2024, before Administrative Law Judge Michael Howard.

6 **APPEARANCES.** Donna Barnett, Senior Attorney, represents Puget Sound Energy. Nash Callaghan, Assistant Attorney General, Lacey, Washington, represents Staff.¹ Tad O'Neill, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Unit of the Attorney General's Office (Public Counsel). Tyler C. Pepple, and Sommer J. Moser, of Davison Van Cleve, P.C., Portland, Oregon, represent the Alliance of Western Energy Consumers (AWEC). Jan Hasselman and Noelia Gravotta, of Earthjustice, represent the Joint Environmental Advocates (JEA), which are comprised of the Northwest Energy Coalition (NVEC), Climate Solutions, and Washington Conservation Action. Contact information for the representatives of those granted party status is attached as Appendix A to this Order.

7 **PETITIONS TO INTERVENE.** AWEC and JEA (comprised of NVEC, Climate Solutions, and Washington Conservation Action) timely filed petitions to intervene.

8 Absent objections to the petitions to intervene filed by AWEC and JEA, the Commission finds that these petitioners have established a substantial interest in this proceeding and that their participation will be in the public interest. Accordingly, the Commission grants those petitions.

9 **PROTECTIVE ORDER.** The Commission will enter a protective order as Order 03 in this docket with protections for confidential information.

10 **DISCOVERY.** Discovery will be conducted under the Commission's discovery rules, WAC 480-07-400-425. The Commission urges the parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution. Response times to data requests will be adjusted as set forth in Appendix B.

11 The parties agree to certain discovery practices that will facilitate the sharing of all data requests and responses with all Parties as well as the tracking and organizing of those data requests and responses.

12 First, the parties agree to identify each data request by subject (1) above each data request, (2) in the cover letter, and (3) in the distribution email. Data requests propounded in a single set will be grouped by subject in the cover letter and distribution email. The

¹ In formal proceedings such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

parties will cooperate to develop a uniform list of subjects to facilitate discovery tracking. These discovery tracking processes are not intended to limit or restrict discovery in any way.

13 Second, response times to data requests will be adjusted as set forth in Appendix B.

14 Third, the Commission believes it will aid discovery in this case if all responses to data requests are shared with all parties. No party objected to the Commission making the exchange of data request responses with all parties a requirement for discovery in this case. Accordingly, the Commission requires each party to share its data request responses with all other parties, subject to any confidentiality limitations contained in Commission rule and the protective order issued in this docket. To be clear, parties must not share data requests and responses with the Commissioners, the presiding administrative law judge, or Commission policy advisors, unless those responses are offered as exhibits to be admitted into the record.

15 **PROCEDURAL SCHEDULE.** The parties proposed an agreed procedural schedule to the presiding administrative law judge at the prehearing conference.

16 After considering all of the circumstances and the parties' comments, we adopt the parties' proposed procedural schedule. We therefore find that it is appropriate to hold the evidentiary hearing on October 9, 2024. We adopt the parties' proposed schedule, which is attached to this Order as Appendix B.

17 The Commission also includes a settlement conference in the procedural schedule, at a date to-be-determined. The parties are free to set a date for this settlement conference prior to the evidentiary hearing amongst themselves, preferably prior to the filing of rebuttal and cross-answering testimony.

18 At the prehearing conference, PSE submitted that this proceeding would not be subject to a statutory suspension deadline, because Order 01 allowed the Company's proposed rates to take effect subject to later review and possible refund. Pursuant to RCW 80.04.130(1), the Commission "may suspend the operation of such rate, charge, rental, or toll for a period not exceeding ten months from the time the same would otherwise go into effect." After consideration of this issue, the Commission agrees that this proceeding is not subject to a statutory suspension deadline for the reasons stated by PSE.

19 **ISSUES IN THIS PROCEEDING.** At the prehearing conference, PSE requested clarification on whether the scope of this proceeding was limited to the issue of a possible risk-sharing mechanism for costs incurred as a result of the Climate Commitment Act

(CCA). No party objected to limiting the scope of the proceeding to this issue, and the Commission accordingly limits the scope of the adjudication to this single issue.

20 **INTERVENOR FUNDING.** On February 9, 2023, the Commission entered Order 02, in Docket U-210595, Approving Agreement with Modifications, implementing an extended interim participatory funding agreement (Agreement) to enhance public participation in the Commission's regulatory processes pursuant to RCW 80.28.430. No party requested modification of the deadlines for intervenor funding submissions set forth in the Agreement. No party in this proceeding has filed a Request for Case Certification or Notice of Intent to Seek Funding by the time of the prehearing conference, either.

21 If any party wishes to seek participatory funding in this proceeding, it should request leave of the Commission and establish good cause for its inability to submit its Request for Case Certification and Notice of Intent to Seek Funding by the time of the prehearing conference, as required by the Agreement.

22 **DOCUMENT FILING AND SERVICE REQUIREMENTS.** Parties must file and serve all pleadings, motions, briefs, and other pre-filed materials in compliance with all of the following requirements:

- (a) Parties must submit electronic copies of all documents by 5 p.m. on the filing deadline established in the procedural schedule (or other deadline as applicable) unless the Commission orders otherwise. Parties must comply with WAC 480-07-140(6) in formatting, organizing, and identifying electronic files.
- (b) The Commission accepts only electronic versions of documents for formal filing. Parties must submit documents electronically through the Commission's web portal (www.utc.wa.gov/e-filing). If a party is unable to use the web portal to submit documents for filing, the Commission will accept a submission via email to records@utc.wa.gov, provided that the email:
 - (1) explains the reason the documents are not being submitted via the web portal, and
 - (2) complies with the requirements in WAC 480-07-140(5)(b).
- (c) The Commission is suspending requirements for paper filings in this case for all submissions dating after the Company's initial testimony.
- (d) Documents filed with the Commission must conform to the formatting and other requirements in WAC 480-07-395 and WAC 480-07-460, and must comply with the requirements in WAC 480-07-160 and the Protective Order

in this docket for documents that include information designated as confidential.

- (e) Parties must electronically serve the other parties and provide courtesy electronic copies of filings to the presiding administrative law judge (michael.howard@utc.wa.gov) by 5 p.m. on the filing deadline unless the Commission orders otherwise. Pursuant to WAC 480-07-365(2)(c), all electronic documents submitted to the Commission must also be delivered to all parties and the presiding administrative law judge “at the same time” that the documents are submitted to the Commission or shortly thereafter. Please note as well that failing to provide a courtesy copy to the presiding administrative law judge may result in a delayed ruling on a motion or other filing. If parties are unable to email copies, they may furnish electronic copies by delivering them on a flash drive only.
- (f) Attorneys, non-attorney representatives, and witnesses are welcome to include their pronouns in filings or oral testimony if they so choose. The Commission does not assume any person’s pronouns and will use they/them/theirs for witnesses and representatives who do not provide their pronouns.

23 **EXHIBITS FOR CROSS-EXAMINATION.** Parties are required to file with the Commission and serve all proposed cross-examination exhibits by **5 p.m. on October 2, 2024**. The Commission requires electronic copies in searchable PDF (Adobe Acrobat or comparable software). If any of the exhibits contain information designated as confidential, parties must file an electronic copy of the redacted version in searchable PDF (Adobe Acrobat or comparable software) of each such exhibit. The exhibits must be grouped according to the witness the party intends to cross examine with the exhibits.

24 **EXHIBIT LISTS.** With each submission of pre-filed testimony and exhibits, the party making the submission must include a preliminary exhibit list that identifies each submitted exhibit in the format the Commission uses for exhibit lists it prepares for evidentiary hearings. The Company will prepare and file its preliminary exhibit list for its direct testimony in this docket. Each party must file and serve a final list of all exhibits the party intends to introduce into the evidentiary record, including all pre-filed testimony and exhibits, as well as cross-examination exhibits by **5 p.m., October 2, 2024**.

25 **CROSS-EXAMINATION TIME ESTIMATES.** Each party must provide a list of witnesses the party intends to cross-examine at the evidentiary hearing and an estimate of the time that party anticipates the cross-examination of that witness will take. Parties should not file witness lists or cross-examination time estimates but must provide them to

the administrative law judge (michael.howard@utc.wa.gov) and the other parties by **5 p.m., October 2, 2024.**

- 26 **PUBLIC COMMENT HEARING.** Consistent with the procedural schedule adopted as Appendix B to this Order, the Commission will hold a public comment hearing in this docket on October 8, 2024, prior to the hearing on the final disposition of this case. The Commission finds that conducting a virtual public comment hearing is in the public interest and will therefore convene a public comment hearing. PSE customers will receive notice of the date, time, and address of each public comment hearing, as well as other information required under WAC 480-90-197 and WAC 480-100-197, at least 30 days prior to the date of the public comment hearing.
- 27 **NOTICE OF EVIDENTIARY HEARING.** The Commission will hold a hybrid evidentiary hearing in these dockets on **October 9, 2024, at 9 a.m.**, with the option of either in-person or online participation for the parties. The hearing will convene in the Commission's Hearing Room, First Floor, Commission Headquarters, 621 Woodland Square Loop S.E., Lacey, Washington. To participate by phone, call (253) 215 8782 and enter the Conference ID: 873 9701 9845# and use passcode 840862#. To participate via Zoom, use the following link: [Click here to join the meeting.](#)²
- 28 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. The Commission has limited ability to provide dispute resolution services. Any party that wishes to explore those services should contact Michael Howard, Director, Administrative Law Division (360-664-1139).
- 29 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of this Order, in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this docket, subject to Commission review.**

Dated at Lacey, Washington, and effective February 12, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

² <https://utc-wa-gov.zoom.us/j/87397019845?pwd=6G9WC1rja7AaYRMkFWATHSp1XoJJkZ.1>

/s/ Michael S. Howard
MICHAEL S. HOWARD
Administrative Law Judge

**APPENDIX A
PARTIES' REPRESENTATIVES
DOCKETS UG-230968**

PARTY	REPRESENTATIVE	PHONE	E-MAIL
Puget Sound Energy	Donna L. Barnett Perkins Coie LLP 10885 NE Fourth Street, Suite 700 Bellevue, WA 98004-5579	(425) 635-1400	dbarnett@perkinscoie.com
	Service email		psedrs@perkinscoie.com
	Jon Piliaris P.O. Box 97304 EST-07W Bellevue, WA 98009	(425) 456-2142	jon.piliaris@pse.com
Commission Staff	Nash Callaghan Assistant Attorney General Office of the Attorney General P.O. Box 40128 Olympia, WA 98504	(360) 664-1186	nash.callaghan@utc.wa.gov
Public Counsel	Tad O'Neill Assistant Attorney General Washington Attorney General's Office Public Counsel Unit 800 Fifth Avenue, Suite 2000 Seattle, WA 98104-3188	(206) 254-0570	tad.oneill@atg.wa.gov
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Alliance of Western Energy Consumers	Sommer J. Moser Davison Van Cleve, P.C. 107 SE Washington St., Suite 430 Portland, OR 97214	(503) 241-7242	sjm@dvclaw.com
	Tyler C. Pepple		tcp@dvclaw.com
	Jesse Gorsuch		jog@dvclaw.com
Joint Environmental Advocates (NWECA, Climate Solutions, and WA Conservation Action)	Noelia Gravotta Earthjustice 810 Third Ave., Suite 610 Seattle, WA 98201	(206) 641-9240	ngravotta@earthjustice.org
	Jan Hasselman	(206) 629-8752	jhasselman@earthjustice.org
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	Megan Larkin		megan.larkin@climatesolutions.org
	Caitlin Krenn		caitlin@waconservationaction.org

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKETS UG-230968**

EVENT	DATE
Prehearing Conference	January 30, 2024
Direct Testimony	April 25, 2024
Settlement Conference	TBD¹
Response Testimony	July 18, 2024²
PSE Rebuttal Testimony; Staff, Public Counsel, and Intervenor Cross-Answering Testimony	September 12, 2024³
Discovery Deadline - Last Day to Issue Data Requests	September 25, 2024
Exhibit List, Cross-Examination Exhibits, Witness Lists, Time Estimates, Exhibits, Errata	October 2, 2024
Public Comment Hearing	October 8, 2024
Evidentiary Hearing	October 9, 2024
Initial Post-hearing Briefs	November 7, 2024
Reply Briefs	November 21, 2024

¹ Pursuant to WAC 480-07-700(5)(a), “[t]he commission will include in the procedural schedule for each adjudicative proceeding the date for at least one settlement conference.” The Commission has included the settlement conference in this schedule as a date to-be-determined (TBD), but prior to evidentiary hearing.

² Response time will be five business days as of this date.

³ Data requests will be three business days as of this date.