

**BEFORE THE WASHINGTON  
UTILITIES & TRANSPORTATION COMMISSION**

In the Matter of the Petition of

PUGET SOUND ENERGY

For Penalty Mitigation Associated with Associated with Service Quality Index No. 11-Electric  
Safety Response Time Annual Performance for Period Ending December 31, 2021

---

DOCKET UE-220216

**RESPONSE TESTIMONY OF COREY J. DAHL**

**ON BEHALF OF THE  
WASHINGTON STATE OFFICE OF THE ATTORNEY GENERAL  
PUBLIC COUNSEL UNIT**

---

**EXHIBIT CJD-1T**

**December 2, 2022**

**RESPONSE TESTIMONY OF COREY J. DAHL  
EXHIBIT CJD-1T  
DOCKET UE-220216**

**TABLE OF CONTENTS**

I.	INTRODUCTION .....	1
II.	SUMMARY OF THE PROCEEDING.....	4
III.	RESPONSE TO PSE’S PETITION FOR MITIGATION .....	10
IV.	FACTORS FOR ENFORCEMENT ACTION .....	28
V.	CONCLUSION.....	41

**TABLES & FIGURES**

Figure 1. Number of PSE Electric First Responders Employed from January 2014 through November 2022.....	21
Table 1. Cumulative Average Response Times by Month, 2017–21 .....	24
Table 2. Average 2021 Emergency Response Times in Named Communities .....	36

**RESPONSE TESTIMONY OF COREY J. DAHL  
EXHIBIT CJD-1T  
DOCKET UE-220216**

**EXHIBIT LIST**

Exhibit CJD-2	List of Prior Proceedings and Testimony before the UTC for Witness Corey J. Dahl
Exhibit CJD-3	PSE Response to Public Counsel Data Request No. 4
Exhibit CJD-4	PSE Response to Staff Data Request No. 2
Exhibit CJD-5	PSE Response to Public Counsel Data Request No. 10
Exhibit CJD-6	PSE Response to Public Counsel Data Request No. 7, with Attachment A
Exhibit CJD-7	2021 Seattle Times Report on Traffic Volumes
Exhibit CJD-8	PSE Response to Public Counsel Data Request No. 2
Exhibit CJD-9	PSE Response to Public Counsel Data Request No. 6
Exhibit CJD-10	PSE Response to Public Counsel Data Request No. 8
Exhibit CJD-11	PSE Response to Public Counsel Data Request No. 11

## I. INTRODUCTION

1 **Q. Please state your names, employer, and business address.**

2 A. My name is Corey Dahl. I serve as Regulatory Analyst for the Public Counsel Unit of the  
3 Washington State Office of the Attorney General (Public Counsel). My business address  
4 is 800 5th Ave., Suite 2000, Seattle, Washington 98104.

5 **Q. On whose behalf are you testifying?**

6 A. I am testifying on behalf of the Public Counsel Unit of the Washington State Office of the  
7 Attorney General.

8 **Q. How would you like to be referred to during this proceeding?**

9 A. I would like to be referred to as Corey or Witness Dahl. My pronouns are he/him/his.

10 **Q. Please describe your professional qualifications.**

11 A. I earned a B.A. in Economics and a B.A. in English from the University of St. Thomas in  
12 St. Paul, Minnesota in 2011. In 2016, I earned a Master of Public Administration degree  
13 from the Daniel J. Evans School of Public Policy and Governance at the University of  
14 Washington in Seattle. While completing my graduate studies, I worked on low-income  
15 and housing policy for a non-profit advocacy organization and worked as a legislative  
16 assistant for the Seattle City Council. Additionally, I completed Michigan State  
17 University and the National Association of Regulatory Utility Commissioners' Utility  
18 Rate School in May 2017.

19 My current employment with Public Counsel began in October 2016. Since  
20 joining the Attorney General's Office, I have worked on a variety of energy, water,  
21 transportation, and telecommunications matters. My experience includes commenting at

1 Open Meetings before the Washington Utilities and Transportation Commission (UTC or  
2 Commission), testifying at settlement and adjudicated hearings, serving as an expert on  
3 litigated and non-litigated matters, and working on rulemakings and policy dockets  
4 before the Commission. Please see Exhibit CJD-2 for a list of matters I have participated  
5 in before the Commission.

6 **Q. Are you sponsoring any exhibits to your Response Testimony?**

7 A. Yes, I am sponsoring the following exhibits:

- 8 • Exhibit CJD-2: List of Proceedings before the UTC for Witness Dahl
- 9 • Exhibit CJD-3: PSE Response to Public Counsel Data Request No. 4
- 10 • Exhibit CJD-4: PSE Response to Staff Data Request No. 2
- 11 • Exhibit CJD-5: PSE Response to Public Counsel Data Request No. 10
- 12 • Exhibit CJD-6: PSE Response to Staff Data Request No. 7, with Attachment A
- 13 • Exhibit CJD-7: 2021 Seattle Times Report on Traffic Volumes
- 14 • Exhibit CJD-8: PSE Response to Public Counsel Data Request No. 2
- 15 • Exhibit CJD-9: PSE Response to Public Counsel Data Request No. 6
- 16 • Exhibit CJD-10: PSE Response to Public Counsel Data Request No. 8
- 17 • Exhibit CJD-11: PSE Response to Public Counsel Data Request No. 11

18 **Q. What is the purpose of Public Counsel's testimony in this proceeding?**

19 A. My testimony addresses Puget Sound Energy's (PSE or Company) Petition for Penalty  
20 Mitigation (Petition) for failure to meet Service Quality Index Number 11 (SQI 11) in  
21 2021. SQI 11 requires the Company to respond to electric service emergencies within an

1 annual average of 55 minutes.<sup>1</sup> In 2021, the Company achieved an average emergency  
2 response time of 65 minutes and faces a maximum \$613,636 penalty for failure to meet  
3 the service benchmark by 10 minutes.<sup>2</sup> The Company seeks a full waiver of the penalty.<sup>3</sup>  
4 My testimony responds to PSE Witness Patrick R. Murphy's Testimony (Exhibit PRM-  
5 1T) and details Public Counsel's recommendation to the Commission.

6 **Q. Who are the other parties to this proceeding?**

7 A. The Company, Commission Staff (Staff), and Public Counsel are Parties to this  
8 proceeding.

9 **Q. Please summarize Public Counsel's recommendations.**

10 A. Public Counsel recommends that the Commission deny PSE's Petition and enforce the  
11 full \$613,636 penalty with no amount suspended. The evidence demonstrates that PSE  
12 did not take adequate or reasonable steps to achieve a 55 minute or less average  
13 emergency response time in 2021.

14 **Q. Please outline your Response Testimony.**

15 A. My testimony is organized as follows:

- 16 • Summary of Proceeding: My testimony reviews the foundations for PSE's SQI  
17 program and the Company's rationale for a penalty waiver.

---

<sup>1</sup> Petition for Penalty Mitigation, ¶ 1 (filed in this Docket on March 29, 2022) (hereinafter 'Petition').

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

- 1           • Response to PSE’s Petition for Mitigation: My testimony responds to the  
2           Company’s arguments for a full waiver of the penalty and explains why the full  
3           penalty is appropriate.
- 4           • Factors for Enforcement Action: My testimony assesses the Commission’s 11  
5           factors for consideration in enforcement action and other factors that demonstrate  
6           the necessity of the full penalty.
- 7           • Final Recommendations and Conclusion.

## II. SUMMARY OF THE PROCEEDING

8   **Q. Please describe the history of PSE’s SQI program.**

9   A. When Puget Sound Power & Light merged with Washington Natural Gas Company in  
10   1997 to form Puget Sound Energy, parties to the Commission proceeding supported a  
11   service quality program. Parties were concerned that cost control pressures resulting from  
12   purported merger-related efficiencies would impact service quality and safety.<sup>4</sup> Public  
13   Counsel proposed and Commission Staff supported an SQI incentive program to insure  
14   against service quality and safety deterioration.<sup>5</sup> Failure to meet SQI benchmarks would  
15   result in financial penalties to the Company.

---

<sup>4</sup> *In re the Application of Puget Sound Power & Light Co. and Wash. Nat. Gas Co. for an Order Authorizing the Merger of Wash. Energy Co. and Wash. Nat. Gas Co. into Puget Sound Power & Light Co.*, Dockets UE-951270 and UE-960195, Fourteenth Supplemental Order Accepting Stipulation; Approving Merger, at 8 (Feb. 5, 1997).

<sup>5</sup> *Id.*

1           The original set of service quality benchmarks did not include SQI 11. Parties to  
2           PSE’s 2001 General Rate Case proposed adding SQI 11 to the existing set of indices<sup>6</sup> to  
3           measure the “average number of minutes from a customer call to the arrival of an electric  
4           first responder.”<sup>7</sup> The current SQI 11 mechanics and measurement were established in  
5           2003.<sup>8</sup> Initially, SQI 11 excluded only “Major Event Days” from calculating the average  
6           emergency response time from dispatch to arrival on site. Major Event Days are when  
7           more than five percent of all PSE’s electric customers are without service,<sup>9</sup> such as  
8           during a wind or ice storm. The Company sought to exempt localized emergency events,  
9           in addition to Major Event Days, from calculating the average response time. The  
10          Company indicated that localized emergencies resulting in fewer than five percent of  
11          electric customers without service would still impact the Company’s ability to respond in  
12          a timely fashion.<sup>10</sup> PSE defines Localized Emergency Event Days as instances when all  
13          available responders in the affected area are responding to a local electric emergency and  
14          a non-local responder would have to be dispatched to respond to an unrelated incident.<sup>11</sup>  
15          The Commission granted this amendment to SQI 11, and this design remains effective.  
16          PSE is obligated to maintain an average annual response time equal to or less than 55  
17          minutes to electric service emergencies, but system-wide and localized emergencies that

---

<sup>6</sup> Direct Test. of Patrick R. Murphy, Exh. PRM-1T at 3:9–12.

<sup>7</sup> *Id.* at 3:7–9.

<sup>8</sup> *Id.* at 3:15–16.

<sup>9</sup> *In re Puget Sound Energy, Inc. for Approval of Amendment to Serv. Quality Index Reporting Methodology: Elec. Safety Response Time*, Docket UE-031946, Order 01 Granting Application; Approving Agreement Regarding SQI-11 Amendment with Modifications, ¶ 9 (May 11, 2004).

<sup>10</sup> *Id.* ¶ 10.

<sup>11</sup> Murphy, Exh. PRM-1T at 5:12–14.



1 would divert availability of responders are exempted from the SQI 11 requirements and  
2 response times for those events are excluded from the calculation of the average response  
3 time.

4 **Q. How is average response time to electric emergencies calculated?**

5 A. The average response time is determined through a simple calculation of the mean, as  
6 such:<sup>12</sup>

7 
$$\text{Average Annual Electric Response Time} = \frac{\text{Sum of all Electric Emergency Response Times}}{\text{Annual Number of Electric Safety Incidents}}$$

8 Whereas the sum of all electric emergency response times is based on the time to  
9 dispatch an available responder and arrive on site.<sup>13</sup> As mentioned, above, Major Event  
10 Days and Localized Event Days are exempted from SQI 11, so response times and  
11 incidents during those periods are excluded from the calculation.<sup>14</sup>

12 **Q. How are penalties calculated for failure to meet SQI 11?**

13 A. Failing to meet SQI 11 results in financial penalties that will be returned to PSE's electric  
14 customers. Penalties are calculated based on a point system outlined in the Company's  
15 2001 General Rate Case and subsequent updates to the SQI program.<sup>15</sup> For SQI 11, PSE  
16 will pay a \$337,500 penalty per point<sup>16</sup> with the total penalty not to exceed \$1.5 million

---

<sup>12</sup> *Id.* at 4:16–17.

<sup>13</sup> *Id.* at 8:7–11.

<sup>14</sup> Murphy, Exh. PRM-4 at 17.

<sup>15</sup> *Id.* at 6.

<sup>16</sup> *Id.*

1 per service quality measure.<sup>17</sup> The total penalty for failure to meet the SQI 11 benchmark  
2 is calculated as follows:

$$3 \quad \text{Penalty} = \frac{\text{Average Response Time} - \text{Benchmark}}{\text{Benchmark}} \times 10 \times \text{Penalty Per Point}$$

4 **Q. Please calculate the penalty at issue in this proceeding.**

5 A. The total penalty for failing to meet the 55 minute benchmark is calculated below:

$$6 \quad \text{Penalty} = \frac{65 - 55}{55} \times 10 \times \$337,500 = \$613,636$$

7 **Q. When the Commission assesses penalties for missing the SQI 11 benchmark, where**  
8 **are those funds directed?**

9 A. In the event that PSE is ordered to pay a penalty for missing this SQI, shareholder dollars  
10 will be directed to benefit customers. When the total penalty assessed is “less than the  
11 equivalent of \$12 per customer,” then funds are directed to PSE’s low-income energy  
12 assistance program, the Home Energy Lifeline Program (HELP).<sup>18</sup> If penalties exceed  
13 \$12 per customer, then the total penalty is returned to electric customers as a bill credit.<sup>19</sup>

14 **Q. How has PSE responded to missing the SQI 11 benchmark for 2021?**

15 A. PSE filed a Petition for Penalty Mitigation on March 29, 2022, requesting a full waiver of  
16 the penalty. The proceeding was set for adjudication and a pre-hearing conference was  
17 held on June 21, 2022. On August 19, 2022, PSE Witness Murphy filed testimony in

---

<sup>17</sup> *Id.* at 5.

<sup>18</sup> *Id.* at 18.

<sup>19</sup> *Id.*

1 support of the Company's request for a full waiver of the \$613,636 penalty. PSE  
2 indicates that 2021 was an extraordinary year and, based on a variety of factors, the  
3 Company was unable to meet the 55 minute SQI 11 penalty benchmark. The Company  
4 claims that unusual weather, hiring and retention challenges, heavy traffic patterns, and  
5 an overextended work force factored into the failure to meet the penalty benchmark.

6 **Q. What is at issue in this proceeding? Please explain.**

7 A. PSE does not dispute that they exceeded the 55 minute SQI 11 benchmark for annual  
8 average emergency response times. As a result of the Company's Petition, the primary  
9 issue in this proceeding is to determine whether or not it is appropriate for the  
10 Commission to grant a full waiver of penalties based on the evidence available.

11 **Q. What does the Commission consider when determining to mitigate or waive  
12 penalties for failure to meet SQI benchmarks?**

13 A. The merger order that initially established the SQI program provides that PSE's annual  
14 service quality report can include a mitigation petition for any index that was missed  
15 during the reporting year.<sup>20</sup> The standard for mitigation (Mitigation Standard) is that the  
16 "penalty is due to unusual or exceptional circumstances for which PSE's level of  
17 preparedness and response was reasonable" and mitigation must be requested in good  
18 faith.<sup>21</sup> Following a proceeding set by the Commission, the Commission will issue an  
19 order issuing penalties or resolve the petition through mitigation.<sup>22</sup>

---

<sup>20</sup> Murphy, Exh. PRM-3 at 64:9-10.

<sup>21</sup> *Id.* at 64:10-13.

<sup>22</sup> *Id.* at 64:13-15.

1 **Q. Is partial mitigation or full waiver of SQI-related penalties guaranteed to PSE?**

2 A. No. As established in the Mitigation Standard, the Company must demonstrate that its  
3 level of preparedness and response was reasonable in the face of unusual or exceptional  
4 circumstances. The Company has the burden of proving that it met this standard.

5 **Q. What reasoning has PSE provided in their request to waive penalties for failure to  
6 meet the SQI 11 target in 2021?**

7 A. The Company's Petition and Testimony outlines four circumstances that the Company  
8 claims prevented achievement of 55 minute response benchmark. These circumstances  
9 include:

- 10 • Unusual and exceptional weather events;<sup>23</sup>
- 11 • Continuing challenges from the COVID-19 pandemic;<sup>24</sup>
- 12 • Hiring and retention challenges;<sup>25</sup> and
- 13 • Ongoing first responder workload strains.<sup>26</sup>

14 The Company cites heavy traffic in the Puget Sound area as an additional factor for slow  
15 emergency response times. Witness Murphy's testimony also states PSE responded  
16 reasonably to these challenges and meeting the penalty was outside the Company's  
17 control.<sup>27</sup>

---

<sup>23</sup> Murphy, Exh. PRM-1T at 10:1.

<sup>24</sup> *Id.* at 14:1.

<sup>25</sup> *Id.* at 15:3.

<sup>26</sup> *Id.* at 17:4.

<sup>27</sup> *Id.* at 24:17–21.

### III. RESPONSE TO PSE'S PETITION FOR MITIGATION

1 **Q. What is Public Counsel's overall assessment of the Company's Petition?**

2 A. Public Counsel does not believe that the Company has met its burden of proof to justify  
3 the Commission's approval of their Petition. My testimony will respond to each of the  
4 several circumstances, listed above, that PSE cites as evidence to support the Petition.  
5 Public Counsel believes that the Company's preparation for and response to each of these  
6 issues was not reasonable and that it was within the Company's control to meet the  
7 benchmark.

8 **Q. How does PSE describe the unusual and exceptional weather events in 2021?**

9 A. The Company states that particularly severe weather events affecting its service territory  
10 ultimately prevented timely response to electric emergency incidents. PSE identifies five  
11 "significant weather events," including:

- 12 • January's "significant" wind and rainstorm;
- 13 • Heavy snow in February;
- 14 • June's record-breaking heat wave;
- 15 • The wettest Fall on record; and
- 16 • November–December atmospheric rivers.<sup>28</sup>

---

<sup>28</sup> *Id.* at 10:10–15.

1           These exceptional weather events in 2021 resulted in high levels of customer outages,  
2           particularly during the January windstorms.<sup>29</sup>

3   **Q.    Is it reasonable for PSE to cite exceptional and unusual weather events as grounds**  
4   **for penalty mitigation? Please explain.**

5   A.    No. By PSE’s own admission, these exceptional weather events in 2021 “were excluded  
6           from PSE’s SQI-11 performance calculation because they were Major Events.”<sup>30</sup> The  
7           calculation of SQI 11 accounts for the impacts of severe and exceptional weather, such  
8           that PSE’s average emergency response time would not be inflated by weather events  
9           truly outside the Company’s control. Relying on the *direct* impacts to argue in favor of  
10          penalty mitigation of extreme weather events is misleading. The Commission should not  
11          consider this a direct mitigating factor.

12 **Q.    How does PSE account for these Major Events in their Petition and testimony?**

13 A.    The Company claims that the significant number of weather-related Major Events in  
14          2021 and the outage events included in the SQI 11 average response time calculation  
15          strained their first responder staff and created significant fatigue.<sup>31</sup> In other words, the  
16          extreme weather events were not directly responsible for long response times, but  
17          staffing-related issues resulting from the Event Days increased average response times.

---

<sup>29</sup> *Id.* at 10:21–22.

<sup>30</sup> Murphy, Exh. PRM-1T at 12:5–7.

<sup>31</sup> *Id.* at 12:10–16.

1 **Q. Is PSE's inclusion of 2021's significant extreme weather events a reasonable**  
2 **justification for exceeding the SQI 11 response time benchmark?**

3 A. No. Ultimately, this is an adaptive and staff management issue that PSE should have  
4 responded to during 2021 and in prior years. My testimony, below, will provide further  
5 detail on this issue.

6 **Q. Should PSE have reasonably expected extreme weather events at a higher**  
7 **frequency?**

8 A. Yes. As the realities of global climate change set in, the frequency and intensity of severe  
9 weather events is something utilities should be planning for in order to maintain resilient  
10 infrastructure and operations. Research also corroborates that weather-related electric  
11 power outages are on the rise and have been for many years. In a September 2022 report,  
12 Climate Central indicates that weather events caused approximately 83 percent of major  
13 outages between 2000 and 2021.<sup>32</sup> Furthermore, the annual number of weather-induced  
14 power outages increased by 78 percent between 2011 and 2021 compared to the previous  
15 decade.<sup>33</sup> In other words, this is a pattern that all utilities, including PSE, should have  
16 been continually preparing for. Aside from improvements to the grid, having a workforce  
17 ready to respond to weather- and climate-related challenges is essential. Failure to  
18 appropriately maintain a staff to deal with this documented reality is unreasonable.

---

<sup>32</sup> Climate Central, *Surging Weather-related Power Outages* (Sept. 13, 2022),  
<https://www.climatecentral.org/climate-matters/surging-weather-related-power-outages>.

<sup>33</sup> *Id.*

1 **Q. What mitigating factors does PSE present regarding the COVID-19 pandemic?**

2 A. PSE indicates that the ongoing COVID-19 pandemic impacted the ability to timely  
3 respond to customers' emergency calls. Specifically, the workforce "spent an increased  
4 amount of time away from work due to illness, COVID-19 exposures, the implementation  
5 of new COVID-19 prevention policies, and new field safety procedures and protocols."<sup>34</sup>  
6 Once again, the Company points to fatigue and other staffing level issues, as a result of  
7 COVID-19, as a factor in missing the SQI 11 benchmark.<sup>35</sup>

8 **Q. How does Public Counsel respond to COVID-19 related staffing concerns?**

9 A. Workforces throughout the country were forced to adapt to an ever-changing  
10 environment when COVID-19 was declared a global pandemic in early 2020. Despite the  
11 necessity for immediate change, very high levels of uncertainty, and a relatively small set  
12 of tools to fight COVID, PSE met the SQI 11 benchmark in 2020 with four minutes to  
13 spare.<sup>36</sup> In fact, PSE's 2020 average annual response time of 51 minutes was the lowest  
14 average achieved since 2012, when PSE achieved the same average response time.<sup>37</sup>  
15 Through all of that uncertainty, PSE achieved this service quality benchmark when  
16 electric reliability was a critical tool in fighting the pandemic.<sup>38</sup> On the other hand, PSE  
17 does not mention the 2020 achievement when pointing the difficulties caused by COVID-

---

<sup>34</sup> Murphy, Exh. PRM-1T at 14:5–8.

<sup>35</sup> *Id.* at 14:8–12.

<sup>36</sup> *Id.* at 9:10 (Table 2).

<sup>37</sup> *Id.*

<sup>38</sup> Am. Proclamation No. 20-23.2, Governor Jay Inslee, *Ratepayer Assistance & Preservation of Essential Services (2020)*, <https://www.governor.wa.gov/sites/default/files/proclamations/20-23.2%20-%20COVID-19%20Ratepayer%20Assistance.pdf>.



1 19 in 2020. Managing the threat of COVID-19 in 2021 was also fundamentally different  
2 than in 2020. Not only was there more scientific knowledge gained about the spread,  
3 prevention, and treatment of COVID by that point in time, but vaccines also became  
4 widely available by April 2021.

5 Furthermore, the Company had time to make adjustments to staffing,  
6 compensation, benefits, and other critical factors affected by COVID-19 between 2020  
7 and 2021. If PSE was not adaptively managing their first responder workforce to better  
8 adjust to COVID-19, then it should have been doing so.

9 **Q. Has the Commission weighed in on the impacts of COVID-19 and utility staffing**  
10 **concerns? Please explain.**

11 A. Yes. The Commission issued a penalty against CenturyLink on June 1, 2022, for failing  
12 to provide notice of residential rate changes. CenturyLink sought penalty mitigation  
13 arguing that COVID-19 “personnel reductions” contributed to the Company’s failure to  
14 provide required notice.<sup>39</sup> The Commission issued an Order denying mitigation and  
15 enforcing the full \$226,600 penalty.<sup>40</sup> CenturyLink subsequently petitioned for  
16 Commission review.<sup>41</sup> On November 17, 2022, the Commission denied CenturyLink’s

---

<sup>39</sup> CenturyLink Appl. for Mitigation, ¶ 3, *In re Penalty Assessment against CenturyLink Companies*, Docket UT-220397 (filed June 8, 2022).

<sup>40</sup> *In re Penalty Assessment against CenturyLink*, Docket UT-220397, Order 01: Denying Mitigation (Sept. 30, 2022).

<sup>41</sup> CenturyLink Pet. for Comm’n Review of Delegate Decision, *In re Penalty Assessment against CenturyLink*, Docket UT-220397 (filed Oct. 10, 2022).

1 Petition for Review, rejecting the Company’s arguments for mitigation and affirming the  
2 \$226,000 penalty.<sup>42</sup>

3 The Commission’s Order 02 states that CenturyLink’s “personnel shortages due  
4 to COVID-19 pandemic did not relieve the Companies of their obligation to comply”  
5 with the order enforcing their Alternative Form of Regulation.<sup>43</sup> Similarly, in this  
6 proceeding, COVID-19 staffing shortages or difficulties do not relieve PSE of its  
7 obligation to comply with the Commission orders enforcing the SQI program. Just as the  
8 Commission rejected CenturyLink’s argument about staffing issues caused by COVID,  
9 the Commission should reject PSE’s argument in this proceeding.

10 **Q. What hiring and retention challenges does PSE present as justification to waive the**  
11 **penalty?**

12 A. PSE simply states that the Company experienced difficulties hiring and retaining  
13 qualified staff and claim that inflation is another factor impacting operations.<sup>44</sup> The  
14 Company points to higher-than-average “consumer price inflation” in the Seattle area<sup>45</sup>  
15 and higher cost of living in Washington, particularly in King County, as an impediment  
16 to retain and hire qualified first responders.<sup>46</sup> PSE requires first responders to reside

---

<sup>42</sup> *In re Penalty Assessment against CenturyLink*, Docket UT-220397, Order 02: Denying Petition for Review (Nov. 17, 2022).

<sup>43</sup> *Id.* ¶ 10.

<sup>44</sup> Murphy, Exh. PRM-1T at 15:5.

<sup>45</sup> *Id.* at 15:7–9.

<sup>46</sup> *Id.* at 15:14–16.

1 locally to maintain fast emergency response,<sup>47</sup> but is experiencing difficulty keeping first  
2 responders in King County. PSE Witness Murphy testifies that it is common for first  
3 responders to “relocate outside of King County” when positions open up outside of the  
4 county<sup>48</sup> due to the increased cost of living and demanding workload.<sup>49</sup> Witness Murphy  
5 indicates that King County average response times were 73 minutes in 2021, 13 minutes  
6 higher than the other counties in PSE’s service territory.<sup>50</sup> PSE’s average response time  
7 outside of King County, 60 minutes, still exceeds the SQI 11 response time benchmark.

8 **Q. Are these hiring and retention challenges reasonable justification for penalty**  
9 **mitigation?**

10 A. No. The primary driver for hiring and retention challenges are higher cost of living and  
11 demanding workload. Both of these factors are within PSE’s control. It is within PSE’s  
12 control to increase wages and other benefits for King County first responders to attract  
13 and retain qualified first responders in PSE’s most populous county and ensure that  
14 workers are compensated adequately to meet cost of living demands. By attracting and  
15 retaining additional first responders, PSE can better control the workload for individual  
16 employees.

---

<sup>47</sup> *Id.* at 16:1–2.

<sup>48</sup> *Id.* at 16:6–9.

<sup>49</sup> *Id.* at 16:4–6.

<sup>50</sup> *Id.* at 16:14–17.

1 **Q. Did PSE take any steps to improve compensation for employees to improve**  
2 **retention?**

3 A. Yes, but not until late 2021. PSE indicated that attrition among their emergency  
4 responders has been higher than the national average in recent years, and recognized high  
5 attrition risk factors in early 2021.<sup>51</sup> However, the Company did not increase emergency  
6 first responder wages until December 2021.<sup>52</sup> Not only has cost of living in PSE's service  
7 territory been notably increasing for many years, but the Company's attrition of first  
8 responders has also been higher for multiple years. The Company should have recognized  
9 these trends earlier and taken action to increase wages earlier than December 2021.

10 **Q. What first responder workload strains does PSE argue necessitate penalty**  
11 **mitigation?**

12 A. PSE Witness Murphy states that planned work projects are stretching the first responder  
13 workforce, in addition to emergency responses.<sup>53</sup> Planned work projects are not included  
14 in emergency response times for SQI 11 response time calculations, but the Company  
15 claims that this is contributing to "overall workload and fatigue."<sup>54</sup> Witness Murphy also  
16 stated that demanding workloads are another reason for first responders exiting King

---

<sup>51</sup> Dahl, Exh. CJD-3 (PSE Response to Public Counsel Data Request No. 4).

<sup>52</sup> *Id.*

<sup>53</sup> Murphy, Exh. PRM-1T at 17:7-9.

<sup>54</sup> *Id.* at 17:15-18.

1 County when other internal opportunities arise.<sup>55</sup> Responding to electric emergencies and  
2 completing planned work projects require a similar set of skills. PSE indicates that  
3 “Electric First Responders are the only Puget Sound Energy Staff that have the  
4 qualification” to perform these types of work in accordance with WAC 296-45-325.<sup>56</sup>

5 **Q. Is it reasonable to cite workload strains in 2021 as a justification for penalty**  
6 **mitigation?**

7 A. No. While it is required to have qualified employees working “on or with exposed  
8 energized lines or parts of equipment,”<sup>57</sup> which is part of both emergency and planned  
9 work, overall workload has been increasing steadily for several years. Figure 1 of  
10 Witness Murphy’s testimony illustrates a steady, upward trend of planned work from  
11 2014 to 2021.<sup>58</sup> PSE’s planned work has increased approximately 33 percent during that  
12 period.<sup>59</sup> Furthermore, electric outages have also increased steadily between 2014 and  
13 2021, as illustrated in Figure 2.<sup>60</sup> PSE only points out the increase in electric outages  
14 between 2020 and 2021,<sup>61</sup> yet fails to recognize the overall trend. Between 2014 and  
15 2021, electric outages increased by approximately 30 percent<sup>62</sup> with variation in the  
16 intervening years. The reality is that planned and emergency work has increased at a

---

<sup>55</sup> *Id.* at 16:4–6.

<sup>56</sup> Dahl, Exh. CJD-4 (PSE Response to Staff Data Request No. 2).

<sup>57</sup> WAC 296-45-325(1).

<sup>58</sup> Murphy, Exh. PRM-1T at 18:12.

<sup>59</sup>  $(38,800-29,100) / 29,100 = 0.333$  (extrapolated from Exh. PRM-1T, Figure 1)

<sup>60</sup> *Id.* at 19:7.

<sup>61</sup> *Id.* at 19:2–3.

<sup>62</sup>  $(19,400-14,900) / 14,900 = 0.302$  (extrapolated from Exh. PRM-1T, Figure 2)

1 similar rate between 2014 and 2021. Increasing workload demands for PSE’s electric first  
2 responders is neither a new issue nor one that emerged in 2021. In other words, PSE  
3 should have recognized these trends, and adjusted and managed its first responder staff  
4 accordingly. Failure to do so is both illogical and irresponsible.

5 **Q. Are there other reasonable steps PSE could have taken to manage its emergency**  
6 **first responder workforce?**

7 A. Yes. PSE could have taken steps to better manage the planned and emergency workload  
8 for its staff. One way to do that would be to maintain employees primarily responsible for  
9 emergency work and others primarily responsible for planned work. This would address  
10 the fatigue issue Witness Murphy describes and would also address the emergency and  
11 planned workloads that have grown steadily since 2014. When asked whether such a  
12 strategy has been considered, PSE responded that the Company is only now “actively  
13 evaluating customer-requested work processes that reduce workload from Electrical First  
14 Responders.”<sup>63</sup> This includes current exploration of adding a job classification to “focus  
15 solely on customer-requested projects.”<sup>64</sup> Furthermore, the Company now says it may be  
16 able to hire and use different employees to conduct “simple disconnects,”<sup>65</sup> rather than  
17 stating that only first responders are qualified to complete all customer-requested,  
18 planned work. While these ongoing evaluations are reasonable and present opportunities  
19 to better manage staff and reduce fatigue, the growing and changing need for qualified

---

<sup>63</sup> Dahl, Exh. CJD-5 (PSE Response to Public Counsel Data Request No. 10).

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

1 staff is not new or exclusive to the time elapsed since January 2021. These are steps the  
2 Company should have taken prior to exceeding the SQI benchmark by 10 minutes.

3 Another reasonable action would have been to hire additional first responder staff  
4 to correspond with increasing workload. Witness Murphy indicates that “PSE’s electrical  
5 first responder workforce had an organization count of 77 full-time employee positions,  
6 which is a number consistent with prior years.”<sup>66</sup> Based on this, PSE has not hired new  
7 staff commensurate with workload. Figure 1, below, further illustrates first responder  
8 staffing trends since 2014.<sup>67</sup> The number of electric first responders PSE employed  
9 stayed stable from the beginning of 2014 and there was not a noticeable upward trend  
10 until 2022. Again, hiring did not occur in a manner commensurate with increasing  
11 workloads and only increased noticeably after 2021.

12 //

13 //

14 //

15 //

16 //

17 //

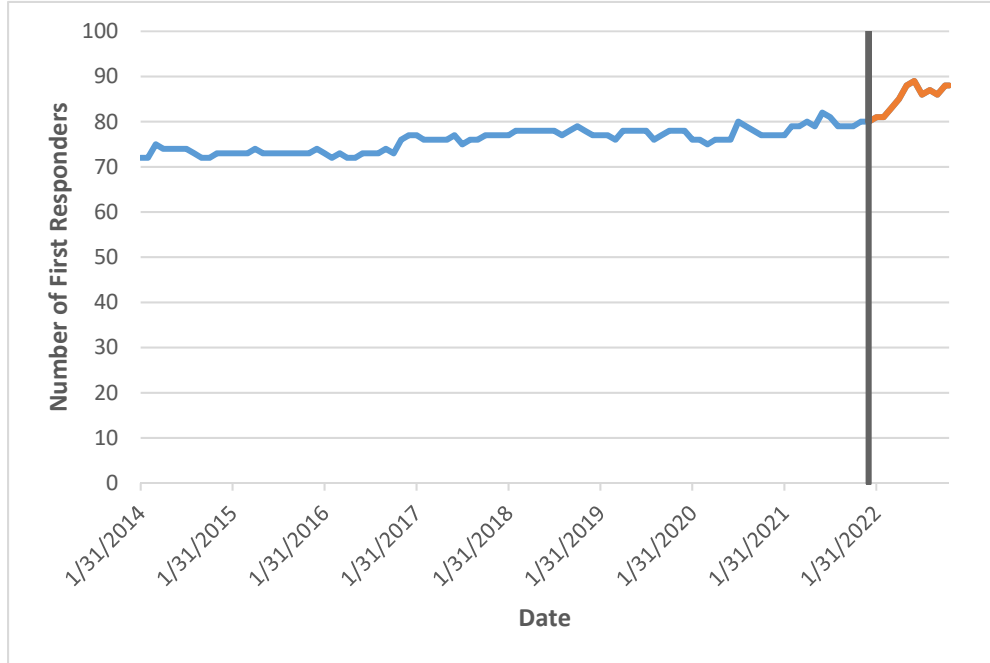
---

<sup>66</sup> Murphy, Exh. PRM-1T at 23:6–8.

<sup>67</sup> Dahl, Exh. CJD-6 (PSE Response to Staff Data Request No. 7, with Attachment A).

1  
2

**Figure 1. Number of PSE Electric First Responders Employed from January 2014 through November 2022<sup>68</sup>**



3

4 **Q. Does PSE claim additional circumstances impacted the Company's ability to**  
5 **respond to emergency events in a timely manner?**

6 A. Yes, PSE Witness Murphy states that traffic conditions are a reason the long response  
7 times are outside their control. The Company states that average travel time of 46  
8 minutes in 2021 was 15 percent, or six minutes, higher than the average travel time from  
9 2014 to 2020.<sup>69</sup> The Company also claims, without support, that without extreme traffic

---

<sup>68</sup> *Id.*

<sup>69</sup> Murphy, Exh. PRM-1T at 27:2-4.



1 events in 2021, the average travel time would be reduced by six minutes and would, thus,  
2 bring the Company below the 55 minute benchmark with other reductions in dispatch  
3 time.<sup>70</sup>

4 While traffic events are outside the Company's control, heavy traffic is not new in  
5 the Puget Sound region. Traffic congestion has been a growing problem in the Seattle  
6 area. Analysis shows that Seattle drivers wasted an average of 37 hours in traffic in  
7 2013<sup>71</sup> and 66 hours in 2015.<sup>72</sup> In 2019, Seattle drivers lost 74 hours to congestion.<sup>73</sup>  
8 Traffic congestion is not new to the region, has been a growing problem, and is  
9 something PSE should have incorporated into planning for in emergency response times.  
10 Additionally, Witness Murphy claims, without support, that "traffic volumes have  
11 increased back to pre-COVID-19 pandemic levels."<sup>74</sup> PSE discusses the number of major  
12 traffic accidents and traffic congestion on Washington roads,<sup>75</sup> but provides no analysis  
13 of local traffic volumes or average traffic volumes. The Seattle Times reports that traffic  
14 congestion in the Seattle indeed increased from 2020 to 2021, but remained 60 percent  
15 below congestion levels in 2019.<sup>76</sup> Although PSE's analysis demonstrates that there were

---

<sup>70</sup> *Id.* at 27:5–11.

<sup>71</sup> Press Release, INRIX, *INRIX Traffic Scorecard Reports U.S. Congestion Grew at Three Times the Rate of U.S. GDP* (Mar. 4, 2014), <https://inrix.com/press-releases/inrix-traffic-scorecard-us-congestion-grew-three-times/>.

<sup>72</sup> Press Release, INRIX, *INRIX 2015 Sets Benchmark for U.S. Cities as Federal Government Accelerates Smart City Spending* (Mar. 15, 2016), <https://inrix.com/press-releases/scorecard-us/>.

<sup>73</sup> Dahl, Exh. CJD-7 (David Kroman, *Seattle-area traffic increasing, but still below pre-pandemic levels*, Dec. 6, 2021, The Seattle Times, <https://www.seattletimes.com/seattle-news/transportation/seattle-area-traffic-increasing-but-still-below-pre-pandemic-levels/>).

<sup>74</sup> Murphy, Exh. PRM-1T at 28:6–8.

<sup>75</sup> *Id.* at 28:9–29:4.

<sup>76</sup> Dahl, Exh. CJD-7.

1 significant numbers of serious accidents on Washington roads in 2021, it does not point  
2 to average congestion levels relative to PSE’s service territory, which are more  
3 illustrative of the average traffic conditions PSE’s first responders faced in 2021.

4 **Q. What are your observations about PSE’s emergency response times throughout**  
5 **2021? Please explain.**

6 A. Throughout 2021, PSE maintained cumulative average response times greater than 50  
7 minutes, eventually reaching the 55-minute threshold in July.<sup>77</sup> At this point, the  
8 Company should have known that meeting the SQI 11 benchmark was in jeopardy. Any  
9 attempts to improve response time during 2021, such as increasing first responder wages  
10 in December, proved to be too late or ineffective as the cumulative average ballooned  
11 after July. Table 1, below, includes the cumulative average emergency response time by  
12 month from 2017–2021.

13 //

14 //

15 //

16 //

17 //

---

<sup>77</sup> Dahl, Exh. CJD-8 (PSE Response to Public Counsel Data Request No. 2).

1

**Table 1. Cumulative Average Response Times by Month, 2017–21<sup>78</sup>**

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2017	51	55	53	53	54	54	54	54	55	55	55	55
2018	53	51	50	50	50	50	51	51	51	51	51	52
2019	52	54	53	52	52	52	52	53	53	54	54	54
2020	51	51	51	49	48	48	49	49	50	50	50	51
2021	52	53	51	51	52	52	55	56	57	59	62	65

2

3 **Q. Are there any concerning major trends in PSE’s emergency response times? Please**  
4 **explain.**

5 A. Yes. Simply put, PSE has been hovering very close to the 55 minute benchmark since at  
6 least 2013.<sup>79</sup> Since 2013, PSE’s average response time has been 53 minutes or higher in  
7 every year but two.<sup>80</sup> During that timeframe, 2020 was the lowest average response time,  
8 but the impacts of the pandemic render that year an aberration. Since SQI 11 was tracked  
9 in 2003, PSE’s average response time was below 50 minutes only three times and the  
10 Company has been at the 55 minute average three times.<sup>81</sup> The point is that PSE has been

---

<sup>78</sup> *Id.*

<sup>79</sup> Murphy, Exh. PRM-1T at 9:10 (Table 1).

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

1 very close to the benchmark for many years, which leaves little room for unexpected  
2 events. This is a long-term trend that PSE should have managed better. A more proactive  
3 approach would be to reduce the response time as much as possible, providing more  
4 cushion to absorb exceptional years that increase response times.

5 Table 1, above, further illustrates this issue. Even within each year, PSE regularly  
6 hovers very close to the 55 minute benchmark. For example, PSE maintained a 55 minute  
7 average response time from September through December in 2017. This leaves the  
8 Company with little ability to make adjustments within a year to help reduce average  
9 response times as it becomes clearer that compliance is in jeopardy.

10 **Q. Were any circumstances PSE cites as reasons for missing the SQI 11 benchmark**  
11 **predictable?**

12 A. Yes. Most of the issues related to staff fatigue could have been predicted or better  
13 managed. Weather-related outages have been on the rise nationwide, and this is a trend  
14 PSE should have recognized. PSE has known their emergency response and customer-  
15 requested project workloads have been increasing steadily since 2014. Steps could have  
16 been taken to better manage and allocate qualified employees to complete these jobs well  
17 before 2021. Cost of living in Washington, and specifically in King County, has been on  
18 the rise for many years, and attrition could have been counteracted with more attractive  
19 compensation and benefits packages several years prior to 2021. Increasing traffic  
20 congestion has been a well-known problem in the Seattle for many years and PSE could  
21 have developed strategies to dispatch first responders more strategically. The Company

1 did not take proactive steps to adaptively manage their first responder workforce and  
2 response strategies. Ultimately, PSE could have taken steps to improve emergency  
3 response time well before 2021 and unpredictable factors could have been absorbed,  
4 allowing PSE to meet the 55 minute benchmark.

5 **Q. Does PSE describe any steps taken during and since 2021 to meet the SQI**  
6 **compliance target?**

7 A. PSE Witness Murphy describes two actions the Company took in 2021: conducting a  
8 market compensation analysis and increasing the number of emergency first responder  
9 positions from 77 to 89.<sup>82</sup> However, the Company was not able to fill all 89 positions in  
10 2021.<sup>83</sup> While these actions are reasonable given the conditions the Company faced, these  
11 actions were not enough to reduce average response time and, as explained above, would  
12 have been more appropriate in the years prior to address obvious and growing workforce  
13 and response time challenges.

14 //

15 //

16 //

17 //

---

<sup>82</sup> *Id.* at 23:13–18.

<sup>83</sup> *Id.* at 23:18–19.

1 **Q. How did other Washington electric utilities perform in emergency response times in**  
2 **2021?**

3 A. Avista is the other Washington electric utility with a service quality index program,  
4 implemented as a result of Dockets UE-140188 and UG-140189. Avista's annual average  
5 electric emergency response time benchmark for its Service Quality Measures program is  
6 80 minutes.<sup>84</sup> This benchmark was developed according to the characteristics of Avista's  
7 service territory, such as the geographic size and rural, diffusely populated areas.<sup>85</sup> These  
8 characteristics differ from PSE's service territory, so it is appropriate that the two utilities  
9 have independently developed average emergency response time benchmarks.

10 In 2021, Avista responded to electric emergencies with an average response time  
11 of 53 minutes.<sup>86</sup> Avista met their compliance obligations with plenty of margin between  
12 the achieved annual average and the benchmark. Compared to previous years, Avista's  
13 average response time increased in 2021. The average response times in 2019 and 2020  
14 were 44.3 minutes and 46 minutes, respectively. However, because Avista maintains an  
15 average response time well below the benchmark, it had sufficient cushion to absorb the  
16 unique challenges of 2021. Indeed, Avista was subject to many of the same conditions as  
17 PSE, including weather, the ongoing COVID-19 pandemic, inflation, and an evolving

---

<sup>84</sup> Avista Utils., *2021 Washington Service Quality Measures Program Report* at 15 (filed in Dockets UE-220296 and UG-220297 on April 27, 2022).

<sup>85</sup> *Id.* at 14.

<sup>86</sup> *Id.* at 15.

1 employment market. Despite these factors, Avista easily met its compliance obligations  
2 in 2021.

#### IV. FACTORS FOR ENFORCEMENT ACTION

3 **Q. What considerations did Public Counsel make in reaching its recommendation in**  
4 **this proceeding?**

5 A. Public Counsel reviewed the Company's Petition and Witness Murphy's testimony and  
6 exhibits. Additionally, Public Counsel reviewed the responses to Staff's and our data  
7 requests. Analysis of PSE's testimony in the previous section reveals that proactive  
8 measures could have been taken prior to 2021 to address the obstacles PSE presents in  
9 Testimony and, thus, reduce PSE's emergency response time.

10 In addition to the analysis conducted above, Public Counsel considered the  
11 evidence on record and 11 non-exclusive factors established in Docket A-120061, the  
12 Enforcement Policy of the Washington Utilities and Transportation Commission (Policy  
13 Statement).

14 **Q. What are the 11 factors outlined in the Commission's Policy Statement?**

15 A. If the Commission finds that a "company has violated an applicable statute, rule, order, or  
16 tariff, the Commission will consider whether an enforcement action, beyond technical  
17 assistance, is appropriate and, if so, which action to take."<sup>87</sup> In this case, PSE is in  
18 violation of successive Commission Orders that established the SQI program. This

---

<sup>87</sup> *In re Enf't Pol'y of the Wash. Utils. & Transp. Comm'n*, Docket A-120061, Enforcement Policy of WUTC, ¶ 15 (Jan. 7, 2013).

1 applies to the type of enforcement action or the adequate penalty to issue. In determining  
2 an enforcement action or penalty, the Commission considers the following nonexclusive  
3 factors:

- 4 1. How serious or harmful the violation is to the public;
- 5 2. Whether the violation is intentional;
- 6 3. Whether the company self-reported the violation;
- 7 4. Whether the company was cooperative and responsive;
- 8 5. Whether the company promptly corrected the violations and remedied the  
9 impacts;
- 10 6. The number of violations;
- 11 7. The number of customers affected;
- 12 8. The likelihood of recurrence;
- 13 9. The company's past performance regarding compliance, violations, and penalties;
- 14 10. The company's existing compliance program; and
- 15 11. The size of the company.<sup>88</sup>

16 I will assess each of these factors in relation to the Company's violations and potential  
17 penalty in my testimony below.

18 **Q. Factor 1: How serious or harmful were the Company's violations to the public?**

19 A. The Company's failure to meet SQI 11 exposed the public to potential harm. SQI 11  
20 exists to ensure that qualified electrical professionals respond swiftly to a situation in

---

<sup>88</sup> *Id.*



1 which electrified power lines or other equipment poses a threat to the public. Failure to  
2 meet the established benchmark results in emergencies remaining unresolved longer than  
3 they should be. In this instance, PSE did not narrowly miss the benchmark; rather, the  
4 Company missed the benchmark by 10 minutes.

5 The Policy Statement states, “The more serious or harmful a violation, the more  
6 appropriate penalties or other sanctions may be.”<sup>89</sup> The public safety principles  
7 underpinning the creation of SQI 11 and the magnitude by which PSE missed the  
8 benchmark support a strong penalty.

9 **Q. Factor 2: Were PSE’s violations intentional?**

10 A. No. PSE did not intentionally violate SQI 11, but the evidence reveals a troubling pattern  
11 of behavior. As indicated previously, the Company could have taken steps to reduce  
12 average emergency response times and continuously reported average response times  
13 very close to the 55 minute benchmark. PSE demonstrates a pattern of failing to improve  
14 response times and adaptively managing emergency response efforts, both of which could  
15 have prevented this violation. Certainly, some factors presented in Witness Murphy’s  
16 testimony were outside the Company’s control, but more proactive measures described  
17 above could have prepared PSE to better handle these conditions.

18 **Q. Factor 3: Did PSE self-report the violations?**

19 A. Yes, the Company is required to make annual SQI compliance filings. In that respect, the  
20 65 minute average response time was apparent through this process. However, there is no

---

<sup>89</sup> *Id.* ¶ 15, subpart 1.

1 evidence that PSE approached Commission Staff in the waning months of 2021 to report  
2 that compliance with SQI 11 was unlikely.

3 According to the Policy Statement, the “Commission may be more lenient with a  
4 company that self-reports ... a violation that occurred.”<sup>90</sup> Considering this factor and  
5 PSE’s annual compliance, this factor may not weigh heavily in the Commission’s  
6 decision. However, the Commission may wish to consider that the Company did not  
7 report increasingly high averages in the last quarter of 2021 as a courtesy to Commission  
8 Staff.

9 **Q. Factor 4: Was the Company cooperative and responsive?**

10 A. Yes, the Company has provided timely responses to data requests in the adjudicated  
11 portion of the proceeding. Additionally, PSE provided responses to Public Counsel’s  
12 informal data requests prior to the adjudicated status of this Docket. The Policy Statement  
13 simply states, “The Commission may consider the company’s cooperation and  
14 responsiveness during an investigation when it considers enforcement action ...”<sup>91</sup>  
15 Accordingly, this factor may not weigh heavily in the Commission’s decision.

16 **Q. Factor 5: Did the Company promptly correct the violations or remedy the impacts?**

17 A. Not necessarily. As previously testified, it is Public Counsel’s belief that PSE should  
18 have been doing more prior to 2021 to better and more quickly respond to electric

---

<sup>90</sup> *Id.* ¶ 15, subpart 3.

<sup>91</sup> *Id.* ¶ 15, subpart 4.

1 emergency incidents. Those proactive steps could have prevented PSE’s violation of SQI  
2 11.

3 The Company has taken some steps in 2022 to address the issues that caused  
4 excessive emergency response times. PSE Witness Murphy indicates the following steps  
5 have been taken:

- 6 • New Integrated Work Management System: PSE fully implemented a new  
7 work management system that provides “greater accuracy in capturing the  
8 exact time when the electrical first responder arrived on site.” This could  
9 reduce inaccuracies in recording response time.<sup>92</sup>
- 10 • New Callout Tool for Dispatch: PSE will complete implementation of a new  
11 tool to potentially improve first responder dispatch by fourth quarter 2022.<sup>93</sup>
- 12 • Market-Driven Wages: PSE implemented market-driven wages at the end of  
13 2021. As of August 2, 2022, PSE has hired 26 new first responders.<sup>94</sup>
- 14 • Grid Automation Impacts: The Company is assessing the impact of  
15 automated reclosers and distribution equipment in automatically resolving  
16 electrical safety issues before a first responder arrives.<sup>95</sup>
- 17 • Advanced Metering Infrastructure: PSE believes the implementation of  
18 “smart meters” could improve response time to events, such as outages.<sup>96</sup>

---

<sup>92</sup> Murphy, Exh. PRM-1T at 29:14–30:2.

<sup>93</sup> *Id.* at 30:3–9.

<sup>94</sup> *Id.* at 30:10–16.

<sup>95</sup> *Id.* at 30:17–31:3.

<sup>96</sup> *Id.* at 31:4–11.

1           While it is encouraging to see that PSE has taken multiple actions since failing to  
2 meet SQI 11 in 2021, many of these actions were taken too late to correct the violation in  
3 question and do not yet demonstrate definite benefits. Hiring additional first responders is  
4 a positive step and demonstrates promise in being able to respond to emergency incidents  
5 more quickly. In addition to the two software system rollouts, hiring new responders is  
6 something that PSE could have explored prior to exceeding the 55 minute benchmark  
7 based on trends that pre-existed 2021. Finally, grid automation and advanced metering  
8 infrastructure may provide some benefits, but it is unclear how either of these steps  
9 would improve emergency response time.

10           The Policy Statement states that the “Commission may be more lenient when a  
11 company promptly corrects a violation ...”<sup>97</sup> PSE did not implement corrective actions  
12 until late 2021 and some of the specified corrective actions taken in 2022 may not  
13 produce improved response time. Taken together, PSE did not take prompt corrective  
14 action. In considering this factor, the Commission should not extend leniency, but rather  
15 weigh this factor toward imposing the maximum penalty.

16 **Q. Factor 6: How many violations were committed?**

17 A. This proceeding consists of one violation of a Commission order. According to the Policy  
18 Statement, an enforcement action is more likely the larger the number of violations  
19 committed.<sup>98</sup> In this instance, the enforcement action for the violation is pre-determined.

---

<sup>97</sup> *In re Enf't Pol'y of the Wash. Utils. & Transp. Comm'n*, Docket A-120061, Enforcement Policy, ¶ 15, subpart 5 (Jan. 7, 2013).

<sup>98</sup> *Id.* ¶ 15, subpart 6.

1 The penalty amount is calculated through an agreed-upon methodology. Given the  
2 circumstances surrounding SQI violations, this factor may not weigh heavily into the  
3 Commission's decision.

4 **Q. Factor 7: How many customers did PSE's violations impact?**

5 A. Emergency response is a critical component of PSE's provision of safe and reliable  
6 electrical service to *all* customers. Lengthy response times affect any customer who  
7 reports an emergency incident. According to the Policy Statement, "The more customers  
8 affected by a violation, the more likely the Commission will take enforcement action."<sup>99</sup>  
9 Given that emergency response times affect all customers, this factor weighs in favor of a  
10 strong penalty.

11 **Q. Factor 8: What is the likelihood of recurrence?**

12 A. Based on the evidence, recurrence seems likely. As previously noted, PSE is  
13 continuously maintaining average response times close to the 55 minute benchmark. As a  
14 result of this practice, similar circumstances in future years could likely result in non-  
15 compliance. The steps the Company has taken in 2022 may improve emergency response  
16 times, but the effect of those actions is not yet realized. The Policy Statement states, "If  
17 the company has not changed its practices, or if the violations are repeat violations made  
18 known to the company in the course of an earlier inspection or investigation, the  
19 Commission will be more likely to take an enforcement action."<sup>100</sup> Until the impacts of

---

<sup>99</sup> *Id.* ¶ 15, subpart 7.

<sup>100</sup> *Id.* ¶ 15, subpart 8.

1 PSE’s corrective actions are known, it is not clear that PSE’s response times will  
2 improve. Furthermore, the Company’s continued pattern of maintaining average response  
3 times proximate to 55 minutes puts compliance at risk as long as this practice continues.

4 Furthermore, recurrence is likely to disproportionately burden named  
5 communities.<sup>101</sup> In 2021, named communities experienced average response time in  
6 excess of 55 minutes throughout PSE’s service territory.<sup>102</sup> As the Commission pursues  
7 equitable and anti-racist policies, it is critical to ensure that named communities are not  
8 disproportionately saddled with the public safety and reliability issues associated with  
9 slow emergency response times. The Commission has committed to acting with an equity  
10 lens,<sup>103</sup> so it is vital to examine equity issues in this proceeding and pursue enforcement  
11 actions to rectify these observed inequities. Table 2, below, illustrates the instances in  
12 which named communities experienced long average emergency response times in 2021.

13 //

14 //

15 //

16 //

17 //

---

<sup>101</sup> “Named communities” is a term to collectively refer to “highly impacted communities,” as defined in RCW 19.405.020(23), and “vulnerable populations,” as defined in RCW 19.405.020(40).

<sup>102</sup> Dahl, Exh. CJD-9 (PSE Response to Public Counsel Data Request No. 6).

<sup>103</sup> *Pro-Equity Anti-Racism (PEAR)*, Wash. Utils. & Transp. Comm’n, <https://www.utc.wa.gov/PEAR> (last visited Dec. 1, 2022).

1 **Table 2. Average 2021 Emergency Response Times in Named Communities<sup>104</sup>**

PSE Service Territory Region	Average Response Times	
	Highly Impact Communities	Vulnerable Populations
Northern	52	49
South King	57	54
Southern	60	63
Western	66	56
North King (including Kittitas)	58	67

2

3 **Q. Factor 9: What is PSE’s past performance regarding compliance, violations, and**  
4 **penalties?**

5 A. Since the SQI program’s inception, PSE has missed an SQI target 10 times including this  
6 proceeding.<sup>105</sup> PSE has been ordered to pay penalties totaling \$3.3 million for seven of  
7 the violations.<sup>106</sup> The Commission partially mitigated the penalty for only three of the  
8 violations.<sup>107</sup> Of the 10 SQI violations, PSE repeatedly failed to meet targets for SQI 3  
9 (System Average Interruption Duration Index), SQI 5 (Call Center Service Performance),  
10 and SQI 6 (Customer Service Satisfaction).<sup>108</sup> Specific to this proceeding, PSE has not  
11 missed the SQI 11 target until 2021. It is clear that PSE has a history of missing SQI  
12 targets and the Commission has routinely issued penalties as enforcement actions.

---

<sup>104</sup> Dahl, Exh. CJD-9 (PSE Response to Public Counsel Data Request No. 6).

<sup>105</sup> Dahl, Exh. CJD-10 (PSE Response to Public Counsel Data Request No. 8).

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

1 **Q. What does the Commission’s Policy Statement recommend in terms of compliance,**  
2 **violations, and penalties?**

3 A. The Policy Statement states, “The Commission will deal more harshly with companies  
4 that have a history of non-compliance, repeated violations of the same or other  
5 regulations, and previous penalties.”<sup>109</sup> As stated above, this is the first instance of  
6 noncompliance with SQI 11, though PSE has a history of SQI violations and previous  
7 penalties. Unlike other factors considered in the Policy Statement, the statement says the  
8 Commission *will* deal more harshly with Companies with repeat violations and previous  
9 penalties, rather than indicating that the Commission *may* offer more lenient or harsh  
10 penalties. For this reason, the Commission should issue the \$613,636 penalty.

11 **Q. Factor 10: Does the Company have an existing compliance program?**

12 A. PSE states that they do “not have a separate, additional service quality compliance  
13 program for the electric first responder response time other than” SQI 11.<sup>110</sup> PSE presents  
14 no evidence of a compliance program outside of the SQI mechanism itself. The Policy  
15 Statement indicates that:

16 In order to facilitate compliance, the Commission expects companies to  
17 have a compliance program in place. A compliance program should include  
18 personnel whose state job responsibilities include understanding and  
19 implementing Commission statutory and regulatory requirements. The  
20 program should designate personnel responsible for interacting with the  
21 Commission on enforcement matters and should also include systems and

---

<sup>109</sup> *In re Enf’t Pol’y of the Wash. Utils. & Transp. Comm’n*, Docket A-120061, Enforcement Policy, ¶ 15, subpart 9 (Jan. 7, 2013).

<sup>110</sup> Dahl, Exh. CJD-11 (PSE Response to Public Counsel Data Request No. 11).



1 programs to detect and correct violations and to report those violations to  
2 company management.<sup>111</sup>

3  
4 PSE has not met the Commission's expectation.

5 In terms of determining an appropriate enforcement action, the "Commission is  
6 more likely to take enforcement action if the company does not have an active and  
7 adequate compliance program in place ..." <sup>112</sup> PSE does not have an apparent compliance  
8 program that meets the Commission's expectations. The Commission should also  
9 consider the margin by which PSE missed SQI 11 in 2021 and apparent lack of  
10 improvement to response time in the years leading up to 2021. In light of these  
11 considerations, the Commission should enforce the full \$613,636 penalty.

12 **Q. Factor 11: How does the size of the Company factor into enforcement actions?**

13 A. PSE is Washington's largest investor-owned utility. In 2021, PSE's electric service  
14 revenues totaled \$2,764,186,180.<sup>113</sup> Including 2021 gas service revenues, PSE's  
15 combined annual revenue was \$3,831,603,991.<sup>114</sup> A \$613,636 penalty represents 0.022  
16 percent of PSE's 2021 electric service revenues and 0.016 percent of 2021 combined  
17 service revenues. The Policy Statement says, "The Commission will consider the size of

---

<sup>111</sup> *In re Enf't Pol'y of the Wash. Utils. & Transp. Comm'n*, Docket A-120061, Enforcement Policy, ¶ 8 (Jan. 7, 2013).

<sup>112</sup> *Id.* ¶ 15, subpart 10.

<sup>113</sup> 2021 PSE Electric Supplemental Annual Report (2022), <https://www.utc.wa.gov/sites/default/files/2022-06/03-PSE-2021-WUTC-Supplemental-Pages-Electric-%2804-29-2022%29.pdf>.

<sup>114</sup> 2021 PSE Gas Supplemental Annual Report (2022), available at <https://www.utc.wa.gov/sites/default/files/2022-06/05-PSE-2021-WUTC-Supplemental-Pages-Gas-%284-29-2022%29.pdf>.

1 the company in taking enforcement actions. It is not the Commission's intention to take  
2 enforcement actions disproportionate to companies of similar size with similar penalties,  
3 or to take enforcement actions disproportionate to a company's revenues."<sup>115</sup> Essentially,  
4 this penalty is small in comparison to PSE's annual revenues. As such, this recommended  
5 penalty is not disproportionate to the Company's size and PSE agreed to the penalty  
6 calculation methodology.

7 **Q. Are there additional factors that the Commission should consider in setting an**  
8 **appropriate penalty?**

9 A. Penalties provide a strong incentive for utilities to maintain high quality and reliable  
10 service in the context of service quality. The issues presented in this proceeding  
11 underscore the importance of incentivizing swift emergency response times and  
12 continuous efforts to improve response time. Based on the evidence provided in this  
13 proceeding, PSE regularly maintained an average emergency response time so close to  
14 the 55 minute benchmark that there was no room for unexpected circumstances. Waiving  
15 the penalty would remove the incentive for PSE to continue to re-evaluate their  
16 emergency response program and drive the average response time comfortably below the  
17 benchmark. Penalties are an essential part of the SQI program and issuing the penalty in  
18 this case is critical to maintaining the strength and purpose of the program, in addition to  
19 improving the integrity of PSE's emergency response efforts.

---

<sup>115</sup> *In re Enfr't Pol'y of the Wash. Utils. & Transp. Comm'n*, Docket A-120061, Enforcement Policy, ¶ 15, subpart 11 (Jan. 7, 2013).

1 **Q. Considering all of the factors you have discussed in your testimony, what is Public**  
2 **Counsel's recommendation?**

3 A. Public Counsel recommends that the Commission deny PSE's Petition for Mitigation and  
4 impose the maximum \$613,636 penalty with no amount suspended.

5 Public Counsel's recommendation is based on my analysis detailed in this section.  
6 While all of the factors weigh in favor of imposing the maximum penalty, certain factors  
7 are particularly impactful. Specifically, the following factors strongly support Public  
8 Counsel's maximum penalty recommendation:

- 9 • Factor 1: Failure to maintain swift emergency response times to electric  
10 emergencies presents harm to the general public, and particularly to named  
11 communities. Penalties incentivize the critical public safety function of PSE's  
12 electric first responders.
- 13 • Factor 8: Recurrence of SQI 11 violations seems likely given the Company's  
14 failure to make critical improvements to the emergency response program until  
15 late 2021. Furthermore, high average response times year after year put the  
16 Company at regular risk of exceeding the benchmark.
- 17 • Factor 9: PSE's past violations of SQI benchmarks provides evidence for a strong  
18 penalty. The Policy Statement's clear direction that repeated violations *will* result  
19 in strong enforcement actions is noteworthy.

- 1           • Factor 10: PSE does not have an active and adequate compliance program for SQI  
2           11. As a result, the Company fails to meet the expectations set out in the Policy  
3           Statement.

## V. CONCLUSION

4 **Q. Please summarize your testimony.**

5 A. In 2021, PSE achieved an average electrical emergency response time of 65 minutes,  
6 exceeding the SQI 11 benchmark by 10 minutes. The Company seeks a full waiver of the  
7 \$613,636 claiming a host of unavoidable factors prevented achievement of the  
8 benchmark response time. Public Counsel's testimony provides evidence and analysis  
9 that numerous circumstances PSE cites were predictable and avoidable and, thus, the  
10 Company should have been making continuous improvements to their emergency  
11 response program in years prior 2021. Furthermore, PSE's high annual averages year  
12 after year provided the Company little room to absorb truly uncontrollable factors that  
13 increase average response time.

14 **Q. What is your final recommendation?**

15 A. Public Counsel recommends that the Commission issue the full \$613,636 penalty with no  
16 amount suspended. The record supports this recommendation.

17 **Q. Does this conclude your testimony?**

18 A. Yes, it does.