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January 7, 2022

Filed via Web Portal

Amanda Maxwell
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

Re: Docket U-210542: Comments of Joint Applicants

Dear Ms. Maxwell:

Puget Sound Energy (“PSE”), Ontario Teachers’ Pension Plan Board and Macquarie Washington Clean Energy Investment, L.P. (“Joint Applicants”) respectfully submit these comments in response to the Washington Utilities and Transportation Commission’s (“Commission”) December 3, 2021 Notice of Opportunity to File Written Comments in the above-captioned docket.

The Joint Applicants filed detailed documents describing the sale of Canada Pension Plan Investment Board’s 31.57 percent interest in PSE’s parent company, Puget Holdings LLC (“Proposed Transactions”) to two buyers, Ontario Teachers’ Pension Plan and Macquarie Clean Energy Investment L.P. (“Purchasers”). To avoid overburdening the record, the Joint Applicants will not repeat, in these comments, the detailed evidence and legal authority set forth in the initial filing on August 13, 2021. These comments are intended to primarily address the informal proceedings that have taken place since the August 13, 2021 filing and specifically to note that all the interested stakeholders—Commission Staff, Public Counsel, The Energy Project, and AWEC (“Stakeholders”)—have had a full opportunity to undertake discovery and have engaged with the Joint Applicants in settlement discussions, which resulted in revised commitments being filed with the Commission on January 7, 2022. These discussions and the resulting revised commitments bolster the public interest and demonstrate that there will be no harm as a result of the Proposed Transactions.

Background

The materials filed by the Joint Applicants in August 2021 demonstrate that the Purchasers are well-equipped to serve as upstream, indirect owners of PSE. They are well-funded, diversified asset managers and pension fund administrators, with long-term investment horizons that match up well with the relatively secure and stable cash flows of regulated utilities such as PSE.¹ Additionally, the Purchasers have investment experience in the energy sector and with regulated utilities in the U.S. and abroad.² The Application and supporting documentation filed in this case are extensive, totaling more than 400 pages, with four pieces of supporting testimony and numerous exhibits from the Joint Applicants. The Application sets out the legal standard for this case, which is the “no harm” standard that the Commission has previously determined applies to upstream, minority, non-controlling interests such as the Proposed Transactions in this case.³ The Application and supporting testimony demonstrate that the Proposed Transactions will not harm the public interest. The initial filing generally maintained the comprehensive commitments from the 2019 and 2009 transactions that include: (i) governance and operations commitments; (ii) regulatory commitments; (iii) ring-fencing and financial commitments; (iv) community and low-income commitments; (v) environmental commitments; (vi) energy efficiency commitments; (vii) Colstrip commitments; (viii) liquefied natural gas (LNG) commitments; and (ix) miscellaneous commitments.⁴

Opportunity For Review of the Proposed Transactions

In the nearly five months since the Application was filed on August 13, 2021, the Stakeholders have had the opportunity to engage in a robust review of the Proposed Transactions. The Joint Applicants responded to 62 data requests and made available a data room with more than 4,500 pages of documents related to the Proposed Transactions. All Stakeholders had access to confidential information in the data room through the use of non-disclosure agreements where needed.

Settlement Discussions Were Held and Resulted in Revised Commitments

The Joint Applicants and the Stakeholders engaged in settlement discussions on several occasions, including on November 15, 22, 30, and January 5, in addition to follow-up email correspondence. Through the course of these discussions, the Stakeholders and the Joint Applicants have refined the Commitment list. These settlement discussions resulted in additional modifications to 12 Commitments, beyond the proposed Commitments set forth in the

¹ See Application at 9-13; Prefiled Direct Testimony and Exhibits of Christopher Parker; Prefiled Direct Testimony and Exhibits of Aaron Rubin.

² See Application at 9-13; Prefiled Direct Testimony and Exhibits of Christopher Parker; Prefiled Direct Testimony and Exhibits of Aaron Rubin.

³ *In the Matter of the Joint Application of Puget Sound Energy, Alberta Investment Management Corporation, British Columbia Investment Management Corporation, OMERS Administration Corporation, and PGGM Vermogensbeheer B.V.*, Docket U-180680, Final Order 01 ¶ 17 (Nov. 9, 2018).

⁴ Prefiled Direct Testimony of Adrian J. Rodriguez, Exh. AJR-1T at 12-13.

Application. The updated Commitment list that the parties negotiated is being filed with the Commission on January 7, 2022.

As the Commitment list demonstrates, there is no harm as a result of the Proposed Transactions. The Commitments are largely unchanged from the commitments in the transaction that occurred three years ago. Notably, one change is that the Joint Applicants have agreed to contribute an additional \$1.5 million in shareholder funding to low-income weatherization and renewable energy projects and to provide more flexibility as to the use of the existing \$2 million that was committed to low-income weatherization in Docket U-180680 much of which has not yet been spent by customers. This is found in Commitment 46.

It is worth noting that the sole Commitment on which there is disagreement among some of the parties is Commitment 43(a). The dispute is one of interpretation of the 2019 commitment in Docket U-180680. It is not necessary for the Commission to resolve this issue at this time, since it is undisputed that the 2019 commitment continues through 2022. Any dispute about the interpretation of Commitment 43 can be addressed if and when the dispute becomes ripe.⁵ However, for purposes of this case and demonstration of no harm to the public interest, the Joint Applicants have committed an additional \$1.5 million towards low-income weatherization and renewable projects, in addition to \$2 million that was contributed just three years ago,⁶ and in addition to the undisputed ongoing commitment for an annual \$300,000 shareholder contribution for low-income weatherization that was made as part of the Conservation Settlement Agreements in 2002 and 2010.⁷

In summary, there is no harm from the Proposed Transactions, and the Joint Applicants respectfully request that the Commission approve the Proposed Transactions at the Open Meeting on January 27, 2022.

⁵ The dispute centers over whether \$100,000 of the \$400,000 in shareholder contribution for Low-Income Weatherization funding that was committed to in 2019 ends in 2022 or should continue in perpetuity. The \$100,000 was initially committed to as part of The Energy Project's agreement to join into a settlement agreement in Docket UE-121697 et al. (K-factor rate plan/ERF) and was to continue through 2016. However, the Commission rejected that multiparty settlement and expressly stated in Order 07 n. 245 "We cannot order PSE's investors to follow through on their offer in the Multiparty Settlement to provide an additional \$100,000 per year for energy efficiency funding. Additional funding at this level, or more, remains an option for PSE to consider as a gesture of goodwill, not just to the low-income customers, but to the ongoing energy efficiency goals of the State of Washington." As a gesture of goodwill, PSE's shareholders did fund the additional \$100,000 per year through the duration of the K-factor rate plan. In the Multiparty Settlement Stipulation in PSE's 2017 general rate case (UE-170033 et al) paragraph No. 110, parties agreed that the additional \$100,000 shareholder funding would continue until the next PSE general rate case. In Docket U-180680 (Macquarie sale), the parties agreed to extend the additional shareholder funding through 2022 as shown in Commitment 43. Specifically, the commitment provides for minimum of \$4.43 million in low-income weatherization funding through 2022, which included \$400,000 in shareholder funds. The \$400,000 is made up of \$300,000 through the conservation settlement and the additional \$100,000 discussed above. While there is a previous commitment that \$300,000 of these funds will continue without an end date, there is and has never been a specific commitment that the \$100,000 will extend beyond 2022. In summary, the additional \$100,000 has always been tied to specific dates and the shareholders have never agreed to fund this in perpetuity.

⁶ Commitment No. 46.

⁷ See Dockets UE-011570 et al. (Settlement Agreement); Docket UE-100177 (Settlement Agreement). This constitutes \$300,000 of the \$400,000 shareholder contributions set forth in Commitment 43(a).

Ms. Amanda Maxwell
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Sincerely,



Steve Secrist
Senior Vice President, General Counsel
And Chief Ethics & Compliance Officer

cc: Lisa Gafken, Public Counsel
Sheree Strom Carson, Perkins Coie