

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

PUGET SOUND ENERGY

Clean Energy Implementation Plan
Pursuant to WAC 480-100-640

UE-210795

**POST-HEARING BRIEF
OF THE ENERGY PROJECT**

February 22, 2023

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I. INTRODUCTION

1. The Energy Project (TEP) respectfully submits this final Post-Hearing Brief in support of its recommended conditions for approval of the Puget Sound Energy (PSE) Clean Energy Implementation Plan (CEIP or Plan). In common with the other Washington electric utilities, PSE is required by Washington's Clean Energy Transformation Act (CETA)¹ to make this filing as the first in a series of quadrennial plans to achieve the state's clean energy goals. This is, therefore, a significant proceeding, establishing the first CEIP for Washington's largest investor-owned utility (IOU). Because this is a fully litigated adjudication, with no settled issues, it will also be the first CEIP docket in which the Commission has been called upon to resolve a range of policy and legal issues about CETA. The Plan will be a road map for PSE and other utilities to meet the ambitious goals of Washington's landmark CETA legislation.
2. Clean Energy Transformation Act implementation by PSE under the CEIP will have a major impact on hundreds of thousands of the Company's low-income customers, vulnerable populations and highly impacted communities. That is why a central goal of CETA, in addition to planning for clean resources, is to ensure an equitable transition to clean energy that benefits all customers. Related to the equity goals of CETA are the important statutory elements which the CEIP must address, including Energy Security, Cost Reduction, and Reduction of Energy Burden.
3. The Energy Project has been actively involved in the CEIP dockets for all three electric IOUs. Our focus has been on the development of specific Customer Benefit Indicators (CBIs)

¹ Chapter 19.405 RCW.

and metrics that are tied to the equity goals and the statutory elements of CETA. The CEIP is the template for ensuring that CETA implementation actually benefits customers. In order to do that, the CEIP must contain CBIs and metrics that reflect and measure the customer experience. Our recommended CBIs, covering arrearages and disconnections for example, are designed to measure the tangible reality of the customer household experience during the transition to a clean energy environment, and to track whether customers are experiencing benefits from that transition. The testimony of Lorena Shah for TEP lists the specific CBIs and metrics we recommend, and provides detailed supporting discussion to explain the basis for the proposals.

4. The Energy Project’s recommendations are based on a set of proposed CBIs first presented to PSE in July 2021 by PSE advisory group members Public Counsel, TEP, Northwest Energy Coalition (NVEC), and Front and Centered (the “Joint Advocates”). Since then, these recommendations have been brought forward by multiple stakeholders in several subsequent rounds of comments and testimony. Few changes were made to the Draft CEIP in response, and Puget Sound Energy has not been open to adopting any conditions or modifications to the Final CEIP. Puget Sound Energy now simply requests approval of the original plan “as-filed”, notwithstanding that the CEIP does not have the support of any stakeholder or of the Commission Staff in its current form.

5. Time is a critical element for the Commission to consider in this case. Clean Energy Transformation Act was enacted in 2019, nearly three and a half years ago, and there is now real urgency to begin putting its provisions into effect. Puget Sound Energy’s Final CEIP was filed over one year ago, and since then no progress has been made on incorporating the reasonable

recommendations of stakeholders or Commission Staff.² Puget Sound Energy now argues that it is too late to incorporate new ideas into the current CEIP and that action on any new CBIs will have to wait until the 2025 CEIP, two years from now. That is not satisfactory.

6. The 2025 CEIP cycle represents the final CEIP before the 2030 deadline. While all parties understand that there is an iterative aspect to this process, that is not a justification for failure to act now to accomplish as much as possible under the current CEIP, where reasonable and feasible CBIs, metrics, and data are available. It is important to make this CEIP the best possible initial plan for the Company and its customers, rather than to adopt a cautious and minimalist approach. The Energy Project respectfully requests that the Commission condition approval of the PSE 2021 CEIP upon adoption of The Energy Project's recommendation for CBIs and metrics presented on the record of this case. The Energy Project also supports adoption of the reasonable conditions proposed by Public Counsel, NWECA, and Front and Centered.

II. LEGAL AND POLICY REQUIREMENTS

A. Equity Considerations Are Central To CETA

7. As a context for reviewing the issues in this case, it is important to begin with the requirements of CETA, and in particular the equity provisions of the statute. The very first provision of CETA reflects the legislative intent to incorporate equity as an integral component

² PSE's Final CEIP was filed on December 17, 2021. A Corrected Final CEIP was filed on February 1, 2022.

of the transition to clean energy by stating:

(1) The legislature finds that Washington must address the impacts of climate change by leading the transition to a clean energy economy. One way in which Washington must lead this transition is by transforming its energy supply, modernizing its electricity system, *and ensuring that the benefits of this transition are broadly shared throughout the state.*³

The opening provisions go on to state the Legislature’s intent that “in implementing this chapter [CETA], the state must...seek to ensure that all customers are benefitting from the transition to a clean energy economy.”⁴ Expanding on this, the Legislature addresses equity in more detail and establishes the statutory elements which ultimately provide the framework for reviewing utility CEIPs:

(6) The legislature recognizes and finds that the public interest includes, but is not limited to: The equitable distribution of energy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health, economic, and environmental benefits and the reduction of costs and risks; and energy security and resiliency.

These equity principles are incorporated in the requirements of RCW 19.405.040(8) and in the Commission’s rules in WAC 480-100-610(4)(c). As the Commission’s rules reflect, the equitable transition requirements are interrelated with the resource-related goals that energy be coal-free by 2025, carbon-neutral by 2030, and provided from 100 percent non-emitting sources by 2045. The Commission Order adopting the CETA rules made clear that RCW 19.405.040(8) is to be interpreted as an “affirmative mandate” that the “utility *must ... ensure* that all customers are benefitting.”⁵

³ RCW 19.405.010(1) (emphasis added).

⁴ RCW 19.405.010(2).

⁵*In the Matter of Adopting Rules Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act; In the Matter of Amending or Adopting Rules relating to WAC 480-100-236,*

8. In its recent decision in the 2021 Cascade Natural Gas General Rate Case, the Commission explained how it envisioned an equitable outcome in a regulatory proceeding, defining and discussed equity in order to clarify the Commission’s definitions and expectations.⁶ To advance its goal of achieving equity in Washington energy regulation, the Commission applies the concept of energy justice, which is “focused on: (1) ensuring that individuals have access to energy that is affordable, safe, sustainable, and affords them the ability to sustain a decent lifestyle; and (2) providing an opportunity to participate in and have meaningful impact on decision-making process.”⁷ The core tenets of energy justice are distributional, procedural, recognition, and restorative justice.⁸ The Commission announced its intention “to apply an equity lens to all public interest considerations going forward.”⁹ The Commission also stated its expectation that companies should inquire whether proposed modifications to rates, practices, or operations correct or perpetuate inequities.¹⁰ These considerations will all come into play in the review of PSE’s CEIP in this case.

9. The Commission can get a sense of the scale of the challenge of ensuring energy justice by looking at demographic information about PSE’s service territory presented in the Company’s CEIP.¹¹ The Company’s analysis reveals that over 310,000 customers (27 percent) are in highly

Relating to Integrated Resource Planning, Dockets UE-191023, UE-190698, General Order 601, ¶ 44 (General Order 601).

⁶ *Washington Utilities & Transportation Commission v. Cascade Natural Gas Corporation*, Docket UG-210755, Order 09, ¶¶ 52-60 (Cascade GRC Order 09).

⁷ *Id.*, ¶ 56.

⁸ *Id.*, ¶ 56.

⁹ *Id.*, ¶ 58.

¹⁰ *Id.*

¹¹ PSE 2021 Corrected Clean Energy Implementation Plan (CEIP), Ch. 3, pp. 62-63, Table 3-5, Figures 3-6, 3-7.

impacted communities. Regarding vulnerable populations, PSE reviewed sensitivity factors to divide its service territory into areas of high, medium, and low vulnerability. Only 333,000 customers (29 percent) of its customers fell into the low vulnerability category. The remaining 721,000 customers (71 percent) were classed in either the medium or the high vulnerability category, with over 426,000 customers (37 percent of total customers) rated as highly vulnerable. Using other available metrics, PSE’s recent Low-Income Needs Assessment (LINA) estimated that approximately 290,000 households within PSE territory have income at or below 200 percent of Federal Poverty Level (FPL), and approximately 200,000 households are at or below 150 percent FPL.¹² These data reflect that a substantial portion of PSE’s customer base is particularly susceptible to experiencing harmful impacts from the clean energy transition unless the CEIP is properly designed.

B. CEIP Requirements Address Both Clean Energy and Equitable Transition

10. The Commission’s rules incorporate the “clean energy transformation” standards of CETA. These standards include the clean energy requirements of coal-free power by 2025, carbon-neutral power by 2030, and 100 percent renewable and non-emitting power by 2045.¹³ Additionally, the rules provide that in meeting these goals, the utility must ensure that the transition is equitable and that all customers benefit.¹⁴ The Commission’s rules establishing the required content for a CEIP then state that “[t]he CEIP describes the utility’s plan for making progress toward meeting the clean energy transformation standards” which as noted incorporate

¹² PSE Low-Income Household Needs Assessment (LINA), Final Report, October 2020, Exh. GA-4 at 17.

¹³WAC 480-100-610(1)-(3).

¹⁴WAC 480-100-610(4).

the equitable transition requirements.

11. Two important required components in the CEIP are listed in the rules under the heading of “customer benefit data” in WAC 480-100-640(4). First, the Plan must adopt CBIs. The CBIs must include “at a minimum, one or more customer benefit indicators associated with energy benefits, nonenergy benefits, reduction of burdens, public health, environment, reduction in cost, energy security and resiliency.”¹⁵ In addition, the CEIP must include the identification of highly impacted communities and vulnerable populations.¹⁶
12. Each CEIP must also include the Specific Actions the utility will take over the implementation period. The Specific Actions must be consistent with the “clean energy transformation standards” described above, which include the equitable transition standards under WAC 480-100-610(4)(c). Along with the Specific Actions, PSE must provide a narrative description of how the Specific Actions are consistent with WAC 480-100-610(4), and the projected impact of the Specific Actions on the distribution of benefits and burdens during the implementation period. Again, the equitable transition requirements are an integral part of the CEIP and woven into the compliance process.
13. The CEIP rules also address the important role of stakeholder advisory groups, both new and existing, in the CEIP process. Customer benefit indicators must be developed in accordance with the advisory group process and public participation plan described in Commission rules.¹⁷ The specific role of PSE’s advisory groups is laid out in detail in WAC 480-100-655. In addition

¹⁵ WAC 480-100-640(4)(c).

¹⁶ WAC 480-100-640(4)(a) and (b).

¹⁷ WAC 480-100-655(1) and (2).

to requiring engagement with existing advisory groups, the rules require the creation of an equity advisory group (EAG),¹⁸ and also specify procedural requirements for working with all the Company’s advisory groups. The utility “must involve *all* advisory groups in the development of its CEIP and its biennial update, including the equity advisory group[.]”¹⁹

14. The Commission’s General Order adopting the CEIP rules devotes substantial discussion to advisory group participation, observing *inter alia*, that the “[b]enefits of advisory groups include opportunities for deeper conversations with a variety of interested stakeholders on important topics. This provides opportunities to address potential issues and concerns with a plan prior to the utility submitting it to the Commission, potentially reducing the need for adjudication.”²⁰ The General Order expresses “the Commission’s strong preference that utilities engage the public in the plan development process...[and] that plans will demonstrate that a utility took appropriate actions to sufficiently solicit, document, and consider public input. To a large extent, we view advisory groups as an appropriate venue for early resolution of issues that later come before the Commission in adjudicated proceedings.”²¹

C. The Commission Has The Authority To Impose Additional Requirements As Conditions On PSE’s Final CEIP

15. The Clean Energy Transformation Act provides that “[t]he Commission, after a hearing, must by order approve, reject, *or approve with conditions* an investor-owned utility’s clean energy implementation plan and interim targets.”²² In its rules regarding the process for CEIP

¹⁸ WAC 480-100-655(1)(b).

¹⁹ WAC 480-100-655(1)(a)(emphasis added).

²⁰ General Order 601, ¶ 137.

²¹ General Order 601, ¶ 144.

²² RCW 19.405.060(1)(c)(emphasis added); WAC 480-100-645(1) and (2).

review, the Commission provides that following the filing of a utility’s final CEIP, interested persons may file comments with the Commission, the filing may be set for an open public meeting, or the filing may be set for adjudication, upon request. In this case, after an initial round of comments, PSE’s CEIP was set for an adjudication, which, under Commission rules, included the filing of testimony by intervenors representing significant stakeholders, as well as Commission Staff, and Public Counsel.

16. By requiring a hearing, providing the opportunity for stakeholder comment and testimony, and the potential for conditions upon approval, the plain language of the statute and the Commission’s rules make clear that the final approved CEIP may include, through conditions, new terms and elements which modify or go beyond the utility’s initially filed proposal. These modifications may be based upon recommendations made by intervenors in the adjudicative proceeding. The underlying statute, and the Commission’s implementing rules thus give the Commission authority, in its discretion and based on the record, to modify the “as-filed” final CEIP by imposing conditions on approval which were not part of the original filing.

III. RECOMMENDED CONDITIONS FOR CEIP APPROVAL

A. The Energy Project Recommended Customer Benefit Indicators

17. The Energy Project’s recommendations are based upon key elements of the proposals originally presented to PSE and Washington’s other investor-owned utilities by the Joint Advocates on July 30, 2021.²³ The recommended CBIs and metrics are organized by the

²³ Exh. KKD-47X, Joint Comments on Customer Benefit Indicators on Behalf of The Energy Project, Front and Centered, NW Energy Coalition and the Washington State Office of The Attorney General, Public Counsel Unit, July 30, 2021. Filed July 30, 2021, in PSE CEIP Public Participation Docket UE-210297. Filed in this docket on November 5, 2021. (Joint Advocate comments).

statutory elements of CETA, with the intent of having at least one distinct CBI for each statutory element.²⁴ In its comments and testimony in the adjudicative phase of this docket, The Energy Project focuses on six statutory elements of particular importance to low-income customers and vulnerable populations:²⁵

- Reduction in Burdens
- Reduction in Cost
- Energy Security
- Reduction in Risk
- Resilience
- Energy Benefits

18. The Energy Project respectfully recommends that the Commission condition approval of the PSE CEIP on adoption of the additional CBIs and metrics discussed below which address these elements. The Energy Project also supports the recommendations of NWEC, Front & Centered, and Public Counsel in this docket.

19. In contrast to the approach of TEP and the other Joint Advocates, PSE's recommended CBIs tend to be more generalized, less extensive and less detailed. Puget Sound Energy's organizational framework is confusing, with CBIs and metrics linked to multiple statutory elements, making it somewhat difficult to track the relationship between the two.²⁶ This does not give adequate weight to each statutory element and complies tenuously at best with the

²⁴ Shah, Exh. LAS-2, Tables 1 and 2.

²⁵ Shah, Exh. LAS-1T at 5:16-6:18.

²⁶ PSE CEIP, Chapter 3, Table 3-6.

requirement in WAC 480-100-640(4)(c) that the utility must establish one CBI, at a minimum, for each statutory element.²⁷

20. **Reduction in Burdens - TEP Recommendation**

CBI: Reduction in number of customers suffering from high energy burden.

Metrics: (1) Track energy burden for customers in vulnerable populations and highly impacted communities, and participants in bill assistance programs; (2) Expand translation services.

Puget Sound Energy lists three CBIs for this statutory element: (1) “improved affordability”; (2) “improved participation in clean energy programs”; and (3) “improved cultural and linguistic outreach.”

21. As Ms. Shah’s testimony explains, each PSE proposal for this statutory element has major flaws.²⁸ Regarding “improved affordability,” The Energy Project’s CBI and metric are more explicitly tied to energy burden. The problems with PSE’s metric for affordability, median bill as percentage of income, have been identified by Staff²⁹ and NWEF/FAC³⁰ as discussed below. It is also not clear whether PSE fully commits to calculate the metric for vulnerable populations and highly impacted communities.³¹ The Energy Project’s proposal includes in its metric those populations, as well as known low-income customers participating in bill assistance programs.

22. Regarding “improved participation in clean energy programs”, Ms. Shah explains that

²⁷ Shah, Exh. LAS-2, ¶ 7.

²⁸ Shah, Exh. LAS-2, ¶¶ 10-13.

²⁹ Snyder, Exh. JES-1T at 40:10-43:15.

³⁰ Colton, Exh. RDC-1T at 22:17:23:7.

³¹ Shah, Exh. LAS-2, ¶ 11.

this is better addressed under the Energy Benefits statutory element, with additional metrics to better track improved access to renewables and non-emitting distributed generation, and improved efficiency of housing stock.³²

23. Puget Sound Energy’s CBI to “increase culturally and linguistically accessible program communications for named communities” is conceptually reasonable, but in practice seems to rely almost exclusively on electronic availability of outreach material. PSE’s metric should include other types of outreach activity besides electronic distribution. The Energy Project proposes an additional metric for tracking translation services.³³

24. **Reduction in Cost - TEP recommendation**

CBI: Reduction in number and amount of arrearages

Metric: Reduction in number and percentage of residential customers with arrearages of 90 days or more, with breakouts by zip code/census tract, renters, vulnerable populations and highly impacted communities, known low-income and BIPOC communities.

CBI: Expand bill assistance and energy efficiency program resources

Metrics: (1) increase participation and penetration rates, including in vulnerable populations and highly impacted communities; (2) increase annual program budgets and utilization rates.

25. Inclusion of a CBI for arrearage reduction is directly linked to the affordability and equity goals of CETA. The rationale for including a CBI for reduction of arrearages is discussed in more detail below in Section IV of the brief, along with a response to PSE’s objection that this and related CBIs are not related to resource planning.³⁴ This CBI is supported by Commission

³² Shah, Exh. LAS-2, ¶¶ 34-35.

³³ Shah, Exh. LAS-1T at 5:17-20, Exh. LAS-2, ¶ 12.

³⁴ See also, Shah, LAS-2, ¶¶ 15-26.

Staff, Public Counsel, NWECA and Front and Centered.³⁵ Public Counsel recommends its inclusion in a combined CBI that incorporates tracking both arrearages and disconnections, consistent with the approach in the Avista CEIP.³⁶ The Energy Project is comfortable with this combined CBI approach.

26. Puget Sound Energy blurs the distinction between Cost Reduction and Reduction of Burden by using “improved affordability” as a CBI for both statutory elements. If PSE’s CBI is used for Reduction of Burden only, PSE is left with no CBI for the Cost Reduction Element, which would not comply with WAC 480-100-640(4)(c).³⁷

27. The Energy Project also proposes a CBI to track expansion of bill assistance and weatherization programs, with metrics to track increased penetration rates overall and within vulnerable populations and highly impacted communities.³⁸ Puget Sound Energy does not appear to explicitly propose tracking this information. Expansion of these programs is directly linked to affordability and the reduction of cost for low-income customers.

28. **Energy Security - TEP Recommendation**

CBI: Reduced residential disconnections

Metrics: (1) Reduced number and percentage of residential disconnections; (2) Reduced disconnections measured by location and demographic information (zip code/census tract), renter, know low-income, vulnerable populations and highly impacted communities).

³⁵ Snyder, JES-1T at 43:4-15; Dahl/Tam, Exh. CDAT-3, p. 4, Condition 23b.; Colton, Exh. RDC-1T at 22:10-26:6; McCloy, Exh. LCM-8, p. 4 (Additional CBIs and Metrics).

³⁶ Dahl/Tam, Exh. CDAT-3, p. 4, Condition 23b; *Washington Utilities & Transportation Commission v. Avista Corporation*, Docket UE-210628, Order 01, Condition 22 (Avista CEIP).

³⁷ Shah, Exh. LAS-2, ¶ 14.

³⁸ Shah, Exh. LAS-2, ¶ 17, ¶ 79.

CBI: Improved access to clean energy (same as PSE CBI)

Metric: Increased number of low-income, vulnerable populations and highly impacted communities with storage, back-up, and/or locally powered centers for emergencies.

29. Connection to essential electric service is the most fundamental measure of energy security.³⁹ Including a CBI for a reduction in residential disconnections, as with the arrearage CBI, is also supported by Public Counsel, NWECA and Front and Centered.⁴⁰ As noted, Public Counsel recommends adopting the combined arrearages/disconnection CBI that was approved in the Avista CEIP. Similarly, to the arrearage CBI, PSE objects to this CBI as not being resource-planning related. This argument is addressed below in Section IV.

30. Puget Sound Energy's proposed CBI for "improved access to clean energy" overlaps the TEP CBI but there is a significant difference in the proposed metrics. Puget Sound Energy's metric appears to rely primarily on its proposed battery storage leasing and solar leasing program concepts for individual customers which are not in place and which have significant problems.⁴¹ The Energy Project's proposed metric focuses directly on actual storage or backup resources available to Named Communities.⁴²

31. **Reduction in Risk - TEP Recommendation**

CBI: Reduction in number of customers with low utility credit scores, reduced number of customers sent to collection

Metrics: (1) reduction in number and percentage of customers in the two lowest tiers of the utility credit scoring system; (2) utility assessment and review of credit code scoring

³⁹ Shah, Exh. LAS -2, ¶ 27.

⁴⁰ Dahl/Tam, Exh. CDAT-3, p. 4, Condition 23b.; McCloy, Exh. LCM-8, p. 4 (Additional CBIs and Metrics). *See also*, Snyder, JES-1T at 43:4-15 (disconnections are within the purview of CEIPs).

⁴¹ Shah, Exh. LAS-2, ¶¶ 36-69 (also discussed in Section IV of the brief).

⁴² Shah, Exh. LAS-2, ¶¶ 18-20. "Named Communities" refers to vulnerable populations and highly impacted communities as defined in CETA.

system; (3) reduction in number and percentage of customers sent to collection, with tracking of low-income, vulnerable populations and highly impacted communities.

32. Analysis of utility arrearage data by zip code has shown a strong correlation between arrearages and vulnerable populations and highly impacted communities, which is in turn tied to customers' involvement in the credit and collection system.⁴³ The Energy Project recommends adding this "credit-scoring" CBI as a specific measurement that is directly related to whether PSE utility customers are treated equitably with regard to credit and collection. Reduced numbers of low utility credit scores and referrals for collection will directly reflect reduction of household level financial risk for customers. Inclusion of this CBI and its metrics is also in alignment with the Commission's goal of applying an equity lens to regulatory decisions.

33. By contrast, PSE's recommended CBIs for this statutory element -- "Reduction in climate change impacts" and "improved access to clean energy" -- are more tangentially related to household-level financial risk. Puget Sound Energy's CBI for "improved access to clean energy" is also listed under Energy Security. Again, PSE metrics for this CBI tie back to the problematic battery and solar leasing proposals.⁴⁴ The Plan can and should do better on this element.

34. **Resilience - TEP Recommendation**

CBI: Reduced frequency and duration of blackouts or brownouts in targeted communities

Metric: Reduction in SAIDI and SAIFI for low-income, vulnerable populations and highly impacted communities, and communities with a history of long loss of service, analyzing geographically targeted data (e.g., at the census tract level).

⁴³ Shah, Exh. LAS-2, ¶¶ 22-26.

⁴⁴ Shah, Exh. LAS-2, ¶¶ 25-26.

35. While PSE includes a CBI regarding decreased outages that overlaps the TEP proposal, the PSE metrics do not appear to adequately provide for tracking at a more granular level data for vulnerable populations and highly impacted communities with a history of outages. Ms. Shah’s testimony explains this concern in detail.⁴⁵

36. **Energy Benefits - TEP Recommendations**

CBI: Improved energy efficiency for low-income housing stock.

Metrics: (1) conversion to energy efficient appliances, and (2) expanded energy efficiency in rental residential housing stock.

CBI: Access to an increased number of renewable or non-emitting distributed generation (DG) resources.

Metrics: Increase in the number of DG and renewable energy projects for low-income, vulnerable populations and highly impacted communities.

37. Puget Sound Energy’s proposed CBI for Energy Benefits is “improved participation in clean energy programs from highly impacted communities and vulnerable populations.”⁴⁶ While there is overlap here with TEP’s proposal, Ms. Shah’s testimony explains that TEP recommends additional metrics to better track improved access to renewables and non-emitting distributed generation, and a separate CBI for improved efficiency of housing stock.⁴⁷

B. Specific Actions Are Not Sufficiently Identified

38. The Energy Project also respectfully requests that PSE be required to improve the linkage between its identified Specific Actions and its Customer Benefit Indicators. The CEIP rules require a narrative description of current benefits and burdens on customers and the projected

⁴⁵ Shah, Exh. LAS-2, ¶¶ 28-29.

⁴⁶ This CBI is also assigned to cover Non-Energy Benefits and Burden Reduction.

⁴⁷ Shah, Exh. LAS-2, ¶¶ 34-35.

impact of Specific Actions on the distribution of customer benefits and burdens during the implementation period. Puget Sound Energy acknowledges that the CEIP falls short in this regard and may not be able to meet the requirement in the future.⁴⁸ Ms. Shah’s testimony about this concern, particularly in connection with PSE’s Distributed Energy Resource (DER) proposals, is discussed in more detail in Section IV. Commission Staff, NWECA, and Public Counsel also devote significant attention to this concern.⁴⁹ The Energy Project concurs with and supports their recommendations.

IV. RESPONSES TO PSE ARGUMENTS

A. Customer Benefit Indicators Are Not Restricted To Resource Planning Matters

39. Puget Sound Energy’s final CEIP does not include any of the TEP recommendations for CBIs directly related to immediate financial impacts of the cost of clean energy transition, including bill assistance programs, arrearage tracking, disconnection tracking, and credit scoring. Puget Sound Energy witness Ms. Kara Durbin states in her testimony that PSE believes these matters “do not belong in a clean energy implementation plan” and are not appropriate for CBIs or metrics because they are not related to resource planning.⁵⁰

40. In response to discovery, PSE was asked to identify any Commission order, regulation or statute that precluded the Commission from considering disconnections, credit and collection activities, or arrearages in the PSE CEIP. Puget Sound Energy was unable to cite any legal authority for its position.⁵¹ On cross-examination at the hearing, PSE witness Durbin confirmed

⁴⁸ Durbin, Exh. KKD-6T at 34:14-36:2, and at 36:12-37:6.

⁴⁹ Snyder, Exh. JES-1T at 25-29; Dahl/Tam, Exh. CDAT-1T at 13-18; McCloy, Exh. LCM-1T at 6-8.

⁵⁰ Durbin, Exh. KKD-1T at 34:16, Durbin Rebuttal, Exh. KKD-6T at 22:8-23:6.

⁵¹ Exhibits RDC-11 and RCD-12 (PSE Responses to NWECA Data Request Nos. 108 and 109).

again that no such prohibition existed⁵². The Avista CEIP, approved by the Commission, includes a CBI and metrics for arrearages and disconnections.⁵³ PacifiCorp’s final CEIP as filed, still under review, proposes a CBI and metrics for disconnections.⁵⁴

41. The Energy Project does not agree with the Company’s position on this issue. It is widely understood that the transition to clean energy is likely to have the effect of increasing energy costs for many customers and that result will fall most heavily and disproportionately upon low-income customers, vulnerable populations and highly impacted communities. The PSE CEIP itself states: “Overall, CETA is expected to increase customers’ bills over time.”⁵⁵ For this reason, CETA was intentionally designed to not only accelerate the transition toward renewable and non-emitting clean energy, but also to ensure that the transition is equitable. In enacting CETA, the Legislature expressly incorporated as policy goals the “reduction of costs”⁵⁶ and the provision of “stable and affordable rates” for electricity rates.”⁵⁷

42. While the CEIP is certainly about resource planning, it is also about taking customer impact into account in a new way. This is clearly reflected in the statutory elements which must be addressed in the development of the CEIP, including CBIs which include indicators for “cost reduction,” by definition a financial measure relating to affordability.

43. Customer Benefit Indicators are just that – measures of *customer* benefit. The Energy

⁵² Durbin, Tr. 187:20-25.

⁵³ Avista CEIP Order, Condition 22.

⁵⁴ PacifiCorp Clean Energy Implementation Plan (CEIP), December 30, 2021, Docket UE-210829, Chapter 2, pp. 34-36, Table 2.3 (CBI, Benefit Categories and Metrics).

⁵⁵ PSE CEIP, Appendix H, p. 4.

⁵⁶ RCW 19.405.010(6).

⁵⁷ RCW 19.405.010(4).

Project’s recommended CBIs are intended to measure the financial impacts of the clean energy transition as experienced directly by customers. In TEP’s view, if customer households are experiencing increased rates of disconnection, or growing arrearages, or declining levels of bill assistance, or increasingly poor utility credit scores, it is hard to conclude that those customers are experiencing benefits from the clean energy transition.

44. Notably, PSE itself includes “affordability” of clean energy as a CBI relevant for both Cost Reduction and Reduction of Burden, and proposes to measure affordability by tracking reductions in median electric bills as a percentage of income.⁵⁸ Puget Sound Energy cannot reasonably argue at the same time that the affordability-related indicators proposed by TEP and the other parties are beyond the scope of the CEIP. Affordability is also directly reflected in arrearage levels, disconnection rates, bill assistance participation, and utility credit scores. On cross-examination at the hearing, PSE witness Ms. Kara Durbin conceded that arrearages and disconnections are also a reflection of affordability.⁵⁹

45. Indeed, in Table 3-1 of the CEIP, PSE lists “arrearages/disconnections”, defined as “percentage of customers in arrearage/disconnected per block group,” as one “primary factor” used to help identify vulnerable populations. In Table 3-2, PSE lists the data sources for the arrearage/disconnection factor as the “PSE Customer Information System”, which is available at the customer level. Customers “in arrears” is included in the statistical ranking in Table 3-3. In

⁵⁸ PSE CEIP, Table 3-6, p. 68.

⁵⁹ Durbin, Tr. 188:20-189:6 (arrearages are an “input for consideration” on affordability; disconnections are “one element ... of influence”).

Table 3-4, arrearages/disconnections are a factor included for comparison between the PSE service area and statewide populations.⁶⁰

46. Puget Sound Energy's proposed metric for tracking affordability, based on the median bill, is problematic for the reasons described by Staff witness Ms. Jennifer Snyder⁶¹ and NWEAC/FAC witness Roger Colton.⁶² As Ms. Snyder indicates, use of a median does not necessarily ensure an equitable outcome because it is not directly targeted. In addition, she points out that PSE has limited accountability for the metrics as proposed. Mr. Colton concludes that the PSE metric does not do a good job of reflecting affordability and also masks arrearages. The Energy Project agrees with Staff's recommendation to replace PSE's affordability CBI and metrics with the recommendations of TEP, Public Counsel and NWEAC relating to energy assistance indicators, including arrearages and disconnections.

B. Data Availability and Existing Reporting Are Not Barriers to New CBIs

47. Puget Sound Energy responds to parties' general concerns about the Company's CBIs by stating that "[i]n proposing CBIs and associated metrics, PSE sought metrics that it could reasonably track given the data available."⁶³ Puget Sound Energy creates the implication that the non-company parties have proposed metrics for which there is not data available. With regard to the energy assistance related CBIs proposed, however, data is in fact readily available. For example, participation in bill assistance programs is currently reported in the HELP annual reports as well as in COVID-19 reporting. As PSE conceded at the hearing, detailed information

⁶⁰ PSE CEIP, Chapter 3, pp. 52-58.

⁶¹ Snyder, Exh. JES-1T at 40:16-43:15.

⁶² Colton, Exh. RDC-1T at 22:17-23:7.

⁶³ Durbin Rebuttal, Exh. KKD-6T at 20:1-3.

about arrearages and disconnections is currently collected and reported to the Commission and lack of available data is not a basis for declining to adopt these proposed CBIs.⁶⁴

48. PSE also argues that because energy assistance matters, including arrearage and disconnections are being addressed and data reported in other dockets, it is inappropriate to include them as CBIs and metrics in the CEIP.⁶⁵ PSE is not consistent on this point. Elsewhere, PSE recommends using SAIDI and SAIFI metrics for its resiliency CBI, data which is already collected and reported outside the CEIP context.⁶⁶ Similarly, PSE recommends incorporating information from the Biennial Conservation Plan process, another separate and pre-existing process, into the CEIP.⁶⁷ Ultimately, PSE acknowledged at the hearing that the Company does not take the position that data reported in another docket, proceeding or other context cannot be used for CEIP metric purposes.⁶⁸

49. Puget Sound Energy also argues that energy assistance matters such as arrearage and disconnection are already being addressed in the COVID-19 docket, the Biennial Low-income Assessment filings at Commerce, and the new performance metrics adopted for the PSE two-year rate plan in the 2022 General Rate Case (MYRP). The argument is not persuasive. As noted, the mere fact that data is already being collected and provided to the Commission does not make it unavailable for incorporation into the CEIP. It is actually more efficient for the Company (and other stakeholders) to be able to reference existing reported data. Moreover, PSE

⁶⁴ Durbin, Tr. 189:16-190:3.

⁶⁵ Durbin Rebuttal, Exh. KKD-6T at 22:8-23:6.

⁶⁶ PSE CEIP, Chapter 3, Table 3-6, p. 69.

⁶⁷ Archuleta, Exh. GA-1T at 27:6-8, Tr. 224:3-225:8.

⁶⁸ Durbin, Tr. 190:4-16.

does not mention that the COVID-19 reporting is currently scheduled to end 30 days after the conclusion of the credit and collection rulemaking in Docket U-210800. Similarly, it is not clear whether the performance metric reporting under PSE’s MYRP will extend beyond the term of the two-year rate plan. Inclusion of energy assistance CBIs and metrics, such as the arrearage and disconnection CBIs, will help ensure that these metrics are available for the full term of the CEIP.

50. With regard to the Biennial Low-income Assessment filed with Commerce, the statutory reporting requirements are broad in nature and do not include specific data regarding arrearages and disconnections, or reporting with geographic granularity such as census blocks or zip codes.⁶⁹ The Biennial Assessment reporting template developed by Commerce and used by the IOUs does not request disconnection or general arrearage data.⁷⁰ The Biennial Assessment is not a substitute for CBIs and metrics within the framework of a CEIP.

C. Low-Income Energy Efficiency CBIs Are Compatible With The BCP Process.

51. Mr. Archuleta acknowledged at the hearing that energy efficiency, including low-income energy efficiency, is a resource and is appropriately subject to the resource planning process under CETA.⁷¹ His testimony provides a good description of PSE’s well-developed Low-Income Weatherization Program, funding, and delivery mechanism, and its reliance on relationships with

⁶⁹ RCW 19.405.120(4).

⁷⁰ See, *In the Matter of Energy Assistance in the Clean Energy Transformation Act*, Docket UE-200629, PSE Biennial Energy Assistance Program Report, (March 30, 2022) (originally filed with the Department of Commerce on February 1, 2022) The filing uses the template established by Commerce. The template asks for information about participation in the utility’s “arrears management program” but does not call for data about the overall level of arrearages, their vintage, or demographic detail.

⁷¹ Archuleta, Tr. 222:24-223:15.

Commerce and the network of agencies to leverage their access to state and Federal funding in addition to PSE funding (ratepayers and shareholders).⁷² However, Mr. Archuleta argues that the existence of the Biennial Conservation Plan (BCP) process under the Energy Independence Act (EIA) makes it inappropriate to include low-income energy efficiency and weatherization related CBIs and metrics in the CEIP.⁷³ The problem with this argument is that the EIA and CETA are different statutes, with different obligations and processes, as Mr. Archuleta agrees.⁷⁴ In particular, the EIA does not include any requirement for the development or adoption of CBIs or metrics with regard to low-income energy efficiency.⁷⁵ Accordingly, The Energy Project has proposed a CBI to “expand energy efficiency program resources”⁷⁶ related to Reduction in Cost, and a CBI for “improved energy efficiency for low-income housing stock” related to Energy Benefits.⁷⁷ The Energy Project does not see these proposals as inconsistent or incompatible with the BCP process.

D. PSE’s DER Proposals Are Flawed

52. The testimony of TEP witness Ms. Lorena Shah identifies “general concerns” with two DER programs identified in the PSE CEIP: battery storage leasing and solar leasing.⁷⁸ In responding to discovery about its DER proposals, PSE inaccurately characterizes Ms. Shah’s

⁷² Archuleta, Exh. GA-1T at 8:16-11:4.

⁷³ Archuleta, Exh. GA-1T at 14:12-17.

⁷⁴ Archuleta, Tr. 227:12-13.

⁷⁵ Archuleta, Tr. 227:21-228:11.

⁷⁶ Shah, Exh. LAS-2 at 38. The proposed metrics are (1) increased participation and penetration rates, including in vulnerable populations and highly impacted communities; and (2) increased annual program budgets and utilization rates.

⁷⁷ Shah, Exh. LAS-2 at 39. The proposed metrics are (1) conversion to energy efficient appliances; and (2) expanded energy efficiency in rental housing stock.

⁷⁸ Shah at 7:1-17, n.4.

testimony as “‘general concerns’ without any substantiating evidence in support of those general concerns.”⁷⁹ This is a surprising statement given that in the same section of testimony, Ms. Shah specifically identifies TEP’s four major areas of concern: (1) whether household level programs are the best option; (2) the lack of detail presented; (3) whether the programs could actually increase energy burden; and (4) the lack of clarity regarding Specific Actions to be taken. She then goes on to cite the 14 pages of detailed discussion expanding on these points included later in her testimony. Issues covered there include: (1) the problem of charges to residential and low-income customers; (2) disparate treatment of residential customers (who would be charged) vs. commercial customers (who would not be); (3) inadequacy of the Specific Actions narrative; (4) questionable CBI scoring; and (5) the cost of distributed battery storage.

53. Not only does PSE’s casual dismissal mischaracterize Ms. Shah’s testimony, the data response in fact concedes many of the concerns she raised. Puget Sound Energy acknowledges that it “has not conducted an analysis on whether PSE’s residential battery leasing product would increase energy burden for named communities and/or energy burdened customers.”⁸⁰ It acknowledged that fees would be charged to residential and low-income customers, which may or may not be reduced or eliminated for low-income customers.⁸¹ Puget Sound Energy also conceded that it “expects to offer a space leasing payment to participating commercial customers.”⁸²

⁷⁹ Einstein, Exh. WTE-8X (PSE Response to NWECC Data Request No. 226).

⁸⁰ Einstein, Exh. WTE-8X, (PSE Response to NWECC Data Request No. 226 b).

⁸¹ Einstein, Exh. WTE-8X, (PSE Response to NWECC Data Request No. 226 c).

⁸² Einstein, Exh. WTE-8X, (PSE Response to NWECC Data Request No. 226 d).

54. The Energy Project, as a general proposition, is strongly supportive of expansion of utility distributed energy resources for low-income customers. The Energy Project’s concerns in this case are with the specific program proposals as just described. In addition, the presentation of these programs in the CEIP does not meet the Specific Actions requirements of CETA. As Ms. Shah explains, because of the tentative nature of the Specific Actions, the Commission and stakeholders cannot adequately evaluate whether the Plan meets CETA requirements.⁸³ As noted, Puget Sound Energy itself concedes that the CEIP falls short of meeting the Specific Actions requirement.

E. There Are Concerns With The Advisory Group Consultation Process

55. Puget Sound Energy witness Ms. Kara Durbin states in testimony that “the CBIs in the CEIP are the result of months of work and engagement with advisory and customer groups.”⁸⁴ Puget Sound Energy echoed this in its opening statement at the January 31 hearing.⁸⁵ The Energy Project’s experience and observation was that, while some process occurred, there was little if any detailed and meaningful engagement with advisory group members about the extensive and well-developed proposals presented beginning in July 2021 and subsequently in the draft CEIP process. Even during the draft CEIP phase, PSE was taking the position that energy assistance related CBIs (arrearages, disconnections, bills, collections, and credit) were categorically “out of scope for the CEIP itself”.⁸⁶

⁸³ Shah, Exh. LAS-2, ¶ 40.

⁸⁴ Durbin, Exh. KKD-6T at 19:17-18.

⁸⁵ Barnett, Tr. 122:16-18 (a “whole new level of engagement, collaboration, and dialogue”).

⁸⁶ PSE CEIP, Appendix C-2, Response to Comments on PSE’s Draft CEIP, p. 15.

56. The Commission’s CEIP rules require significant consultation by the Company with its advisory groups in the development of the CEIP, which would include PSE’s Energy Efficiency (CRAG) and Low-Income Advisory Groups.⁸⁷ Consistent with the rule, TEP had hoped that the recommendations which the advisory group members have submitted, including the Joint Advocate CBI recommendations, would receive further in-depth discussion in the advisory groups and serious consideration for inclusion in the final CEIP. That was not TEP’s experience.

57. Notably, three PSE witnesses at the hearing made comments that in different ways corroborate stakeholder concerns about the adequacy of advisory group consultation. When asked on cross-examination if PSE worked “with its CRAG on the CEIP process, including CBIs and metrics,” Mr. Archuleta⁸⁸ stated: “I don’t believe that is true...I would need you to point to where you would see that is required in the CEIP. We have an Equity Advisory Group that--that supports the CEIP process. But I—I don’t know where you might be referring to as it refers to the CRAG.” He went on to say: “I don’t know that there’s any expectation in the CEIP that we’re working with the CRAG.... I’m unaware of a requirement for that.”⁸⁹

58. In response to cross-examination by Staff counsel, PSE witness Mr. Einstein explained at some length PSE’s concerns that a Staff proposal for advisory group consultation was unnecessarily aggressive and unworkable.⁹⁰ Upon questioning from Commissioner Doumit, Mr.

⁸⁷ WAC 480-100-655(1).

⁸⁸ Mr. Gilbert Archuleta is the Director of Customer Energy Management, leading the team focused on energy efficiency and demand response programs. Exh. GA-1T at 14-16.

⁸⁹ Archuleta, Tr. 225:14-226:21. On redirect questioning from PSE counsel, Mr. Archuleta then made the general statement that PSE engages across its advisory groups, including the CRAG, in the CEIP process. Tr. 228:19-229:5.

⁹⁰ Einstein, Tr. 244:8-249:14.

Einstein provided a somewhat unclear explanation of the process for stakeholder input in the CEIP process.⁹¹ Commissioner Rendahl and Chair Danner questioned PSE witness Austin Phillips regarding PSE’s ongoing analytic work on equity analysis to identify vulnerable populations. While stating that PSE was open to further guidance from the Equity Advisory Group and other stakeholders, Mr. Phillips indicated the analysis had not yet been shared with the EAG and although he expected it to be shared, he was not aware when that would occur.⁹² He did not mention sharing with the Low-income Advisory Group or other stakeholders. This testimony underlines the concerns raised by various stakeholders about the lack of meaningful engagement during 2021 CEIP development and the need for better consultation going forward.

59. After months of limited engagement with major stakeholders, PSE’s rebuttal testimony takes the position that while some stakeholder recommendations may have merit, it is now too late to adopt them for the current CEIP because they need to go through the advisory group process.⁹³ This form of “catch-22” is not an appropriate or productive approach to stakeholder participation in CEIP development.

60. It bears remembering that PSE’s requested relief in this proceeding is that the Commission approve its CEIP “as-filed” with no changes. Puget Sound Energy urges that any additional CBIs approved by the Commission should not be incorporated until the 2025 CEIP. Puget Sound Energy argues, in effect, that the best course is for the Commission to simply accept the Company’s assurances about its consultation process and the Company’s judgment about

⁹¹ Einstein, Tr. 262-267.

⁹² Phillips, Tr. 271:18-27, 275:25-277:9.

⁹³ *Id.*, at 24.

whether to adopt any specific stakeholder recommendation in the 2021 CEIP. While not expressly making the argument, PSE is implicitly suggesting that, once the final CEIP is filed, the Commission should not entertain further changes recommended by parties who were involved prior to the final CEIP filing. The Clean Energy Transformation Act and the Commission CEIP review process, however, expressly allow for parties to make recommendations to the Commission after the final CEIP is filed, and, when an adjudication is held, to present testimony and conduct discovery in aid of those recommendations. The Commission is permitted by statute to impose conditions in its approval of the CEIP “after hearing.” The statutory hearing requirement would be rendered meaningless if parties were precluded from proposing alternatives to the “as-filed” final CEIP, or if the Commission were not given the authority to modify the plan through conditions based on those recommendations.

V. CONCLUSION

61. For the foregoing reasons, TEP respectfully recommends that the Commission adopt the CBIs and metrics recommended in the testimony of TEP witness Lorena Shah, in the form of conditions for approval of the PSE Clean Energy Implementation Plan. The Energy Project also supports the recommended conditions proposed by Public Counsel, NWECA, and Front and Centered.

DATED this 22nd day of February, 2023.

Simon J. ffitch
/s/ Simon J. ffitch

Attorney at Law
for The Energy Project