

# Puget Sound Energy - Energize Eastside Conditional Use Permit

## Description of Proposal – South Bellevue Segment

Puget Sound Energy, Inc. (PSE) proposes the construction of a new substation in Bellevue (the “Richards Creek substation”) and the upgrade of 18 miles of two existing 115 kV transmission lines with 230 kV lines (collectively the “Energize Eastside Project” or the “Project”). The new substation and upgraded lines are needed to address electrical system deficiencies identified during federally-required planning studies. Combined with aggressive conservation, the Project significantly improves reliability for Eastside communities, including the City of Bellevue (City), and will supply the additional electrical capacity needed for current and anticipated growth.

The existing system is not robust enough to maintain reliable service if the entire facility is taken out of service at one time. Therefore, the Energize Eastside Project will be constructed in two phases. This will allow PSE to keep the existing 115 kV facilities partially in service during construction, which will allow PSE to maintain reliable service to all customers during construction. This approach best ensures that PSE continues to deliver reliable electricity to all of PSE’s customers during construction. The first phase (the “South Bellevue Segment”) is the focus of this application and includes the following components:

- Construction of the Richards Creek substation, a new 230 kV to 115 kV substation in Bellevue. The Richards Creek substation will be constructed directly south of PSE’s existing Lakeside Switching Station. Situated on parcel 1024059083, the 8.46 acre substation site is currently used as a PSE pole storage yard.
- Upgrading 3.3 miles (Bellevue Portion) of existing 115 kV lines with 230 kV lines between the Lakeside and Talbot Hill substations. This requires replacing existing wood H-frame poles with steel monopoles. After deliberate review and extensive stakeholder input, PSE proposes to undertake this work in the existing transmission line corridor rather than siting a new corridor through Eastside communities. Within the existing utility corridor, the proposed pole locations for the rebuilt lines will generally be in the same locations as the existing poles. Selective tree removal will also be required within the managed corridor to meet federal vegetation management requirements and PSE standards. Use of the existing corridor (which has housed transmission lines since the 1920s and 30s) minimizes environmental impacts and impacts to adjacent uses to the fullest extent feasible.

The following section demonstrates PSE’s compliance with the City of Bellevue’s Conditional Use Decision Criteria (LUC 20.30B.140):

*A. The conditional use is consistent with the Comprehensive Plan; and*

**Response:** The proposed transmission line replacement and substation construction are consistent with the City’s Comprehensive Plan. As stated in the introduction to the Land Use Element of the Comprehensive Plan:

*One of the fundamental roles of the Comprehensive Plan is to anticipate, guide, and plan for a growth in a way that helps the city achieve its vision. The plan is a tool to look ahead to the likely growth and ensure that the city’s plans for land uses, infrastructure, and services are aligned.*

PSE has a statutory duty to provide safe and reliable power at a reasonable cost. See RCW 80.28.010(2). The Energize Eastside project is a key electrical infrastructure project needed to bring a 230 kV power source to the Eastside region, including the City of Bellevue, the region’s largest city and job center. As required by the state Growth Management Act, one of the elements that must be addressed in the City’s Comprehensive Plan is Utilities.

As stated in the Utilities Element, the City must plan for adequate provision of utilities consistent with the goals and objectives of the Comprehensive Plan, *taking into consideration the public service obligation of the utility involved.*

The expansion of the PSE Sammamish to Talbot Hill transmission corridor is shown in the Comprehensive Plan’s Map UT-7. PSE is proposing to replace two existing 115 kV transmission lines with two 230 kV transmission lines within the existing corridor. In addition, expansion of the Lakeside substation is also included on the UT-7 map.

The goals outlined in the Utilities Element are:

- *To develop and maintain all utilities at the appropriate levels of service to accommodate the city’s projected growth.*
- *To ensure reliable utility service is provided in a way that balances public concerns about infrastructure safety and health impacts, consumer interest in paying a fair and reasonable price for service, potential impacts on the natural environment, and aesthetic compatibility with surrounding land uses.*
- *Utility facilities are permitted and approved by the city in a fair and timely manner and in accord with development regulations, to encourage predictability.*
- *New technology to improve utility services and reliability is balanced with health and safety, economic, aesthetics, and environmental factors.*

As explained in detail below, the following policies support these goals and are applicable to the proposed Energize Eastside transmission line upgrade and substation project:

<b>General Utility System</b>	
<p><b>UT-3:</b> Use design and construction standards that are environmentally sensitive, safe, cost-effective, and appropriate.</p> <p><b>UT-8:</b> Design, construct, and maintain facilities to minimize their impact on surrounding neighborhoods.</p>	<p><b>Response:</b> The proposed transmission line replacement will have temporary construction impacts on surrounding neighbors as many of the transmission poles are within easements in residential backyards. Construction impacts will be minimized to the greatest extent feasible through use of</p>

	<p>existing or historic access routes that were used for initial pole installation and/or maintenance activities. As required by state law, utility locates will be performed prior to ground disturbing activities to avoid any potential conflicts. Appropriate temporary erosion control measures will be used during work activities. A safe work area will be established around each pole removal and installation location, providing space for placing equipment, vehicles, and materials. PSE also complies with all City codes relating to hours of construction and noise.</p> <p>PSE will work with individual property owners to restore areas impacted during construction to its previous or an improved state. PSE will mitigate in-kind as required by applicable regulations when restoration is not possible. All applicable codes and standards will be followed during design and construction, including electrical, stormwater and erosion control, tree protection, and noise.</p> <p>PSE’s proposed use of the existing utility corridor minimizes impacts on surrounding neighborhoods by preventing new impacts. The properties adjacent to the proposed transmission line upgrade already house transmission lines. By locating new poles in proximity to existing pole locations, PSE’s proposed line minimizes impacts to surrounding neighborhoods.</p> <p>The Richards Creek Substation has been sited in a Light Industrial zoning district on a parcel that is substantially larger than the substation footprint. This location provides a high level of screening and compatibility with the surrounding land uses.</p>
<p><b>Utility Coordination</b></p>	
<p><b>UT-18:</b> Coordinate with other jurisdictions and governmental entities in the planning and implementation of multi-jurisdictional utility facility additions and improvements.</p>	<p><b>Response:</b> The proposed transmission line upgrade is a linear utility project that crosses through multiple jurisdictions (including the cities of Redmond, Bellevue, Renton and Newcastle; collectively “Partner Cities”). In addition, because some of the early route alternatives crossed through the City of Kirkland, it also participated in the EIS process. The south segment of this project</p>

	<p>will traverse the cities of Bellevue, Renton and Newcastle, while the north half traverses Bellevue and Redmond. Significant outreach and coordination efforts have occurred to inform potentially affected entities about the proposed project, a process reflected in the Phase 1 and Phase 2 Draft Environmental Impact Statements, which were developed co-operatively by the Partner Cities. King County was invited to participate in the EIS process with the Partner Cities, but declined.</p>
<p><b>General Non City-Managed Utilities</b></p>	
<p><b>UT-45:</b> Coordinate with non-city utility providers to ensure planning for system growth consistent with the city’s Comprehensive Plan and growth forecasts.</p> <p><b>UT-47:</b> Defer to the serving utility the implementation sequence of utility plan components.</p> <p><b>UT-48:</b> Coordinate with the appropriate jurisdictions and governmental entities in the planning and implementation of multi-jurisdictional utility facility additions and improvements. <b>(same as UT-18)</b></p>	<p><b>Response:</b> PSE meets with the City of Bellevue on an annual basis to share information and understand the City’s projected growth and key development projects. Forecasts for capacity needs are based upon anticipated growth. In 2012, the City of Bellevue published an Electrical Reliability Study, which was performed by their third party consultant, Exponent, to ensure that PSE was planning for and providing a reliable power supply to the City. The Exponent study determined that short-term and long-range planning efforts were on target to provide a reliable power supply. Long-term planning at that time forecasted the need to upgrade the existing transmission line. Based upon the findings of the study, the City and PSE conduct an annual electrical reliability workshop to discuss electric system reliability (system performance and metrics) and planned reliability projects.</p> <p>Project construction will be done in two sequential phases to ensure continuous power supply at all times.</p> <p>In 2015, the City of Bellevue commissioned an independent technical analysis of the need for the proposed Energize Eastside transmission line project. The City’s consultant, Utility Systems Efficiencies (USE) confirmed that: the project is needed to address the reliability of the electric grid on the Eastside. Consistent with this conclusion, PSE has determined that it must proceed with the permitting and construction of the Energize Eastside Project as soon as</p>

	<p>is feasible.</p> <p>In preparation for the construction of the Energize Eastside Project, PSE has been in close communication with Olympic Pipeline Company to ensure coordination during construction and operation of the Energize Eastside Project. PSE has also coordinated with other utilities, such as the various telecommunications companies, Seattle Public Utilities, and Sound Transit.</p>
<p><b>UT-60:</b> Work with Puget Sound Energy, telecom providers, state regulatory agencies, and other responsible parties to develop funding tools to enable full mitigation of the neighborhood impacts of deploying electrical and telecommunications infrastructure.</p>	<p>If requested by third party tenant utilities (typically communications), the existing facilities will be transferred to the new poles. Approvals for such changes would be obtained by the cellular operators from the jurisdiction agency.</p> <p>With respect to the Energize Eastside Project, PSE will complete all mitigation required under the City’s land use code and applicable law. Alternative funding sources are not needed in this instance.</p>
<p><b>UT-64:</b> Require the reasonable screening and/or architectural compatible integration of all new utility and telecommunications facilities.</p>	<p><b>Response:</b> The Land Use Code addresses substation screening in LUC 20.20.255.F. Transmission lines are exempt from screening requirements. Richards Creek substation will be substantially screened from surrounding land uses by native vegetation from adjoining properties. The site is surrounded to the north by PSE’s existing Lakeside Switch Substation parcel, to the south by King County’s Factoria Transfer Station Facility and to the west by a water and wastewater supply company with outdoor storage. There is significant vegetation screening between each of the properties due to the presence of stream and wetland critical areas.</p> <p>The property to the east of the site is upslope and contains a fenced stormwater detention facility that receives stormwater from a multifamily development complex east of the site across 139<sup>th</sup> Avenue SE. Between the stormwater pond tract and 139<sup>th</sup> Avenue SE, there are two parcels of heavily forested park land owned by the City of Bellevue. In addition to this permanent screening, PSE is proposing to augment tree removal on the slope between the new substation and the</p>

	<p>eastern property boundary with tree and shrub screening vegetation compliant with the Land Use Code.</p> <p>Transmission poles do not naturally blend in with the surrounding environment. PSE is proposing to offset the aesthetic impacts through pole design and finish selection based on neighborhood context, replacing poles as close to existing pole locations as possible, consolidating two lines on one pole where feasible, reducing the overall number of poles, and designing poles to the minimum height necessary based on topography, site context, and electrical design standards.</p> <p>Different types of finish are available for the replacement steel poles include naturally weathering (Corten), galvanized, or powder coated.</p> <p>Corten is long-lasting and low maintenance. When the steel is exposed to moisture and air, a rust patina forms. As the structure rusts it becomes brown in appearance, and over time the patina darkens in color. Once the patina forms on weathering steel, a natural protective layer prevents corrosion. The use of Corten steel poles is very suitable, and often preferred, within forested areas because of their rust brown finish.</p> <p>Galvanized steel is a common choice for transmission poles because of its durability and low maintenance characteristics. The pole is coated with a layer of zinc that prevents the steel from rusting. Initially, the steel can have a shiny finish, but as the zinc weathers it becomes dull in appearance. Galvanizing provides decades of protection for steel from corrosion. It is gray in color and is better suited for areas with minimal backdrop as to better blend in with the skyline.</p> <p>Powder Coated steel is used less often. It provides an even and durable low maintenance finish, but the process of powder coating steel is labor intensive and expensive. It is usually reserved for specific areas or for design district mitigation</p>
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	<p>purposes.</p> <p>Pole finish will be determined based upon accessibility to the pole, characteristics of the surrounding environment, community preference, and/or environmental restrictions.</p>
<p><b>UT-68:</b> Encourage the use of utility corridors as non-motorized trails. The city and utility company should coordinate the acquisition, use, and enhancement of utility corridors for pedestrian, bicycle, and equestrian trails and for wildlife corridors and habitat.</p>	<p><b>Response:</b> The proposed transmission line upgrade is located within an existing corridor that was established in the late 1920s and early 1930s and is mostly composed of easements on private property. Residential and commercial development has occurred around the easement areas, limiting public access. Additionally, much of the corridor is within private backyards and is fenced off, preventing connectivity between properties. There are existing areas along the corridor where informal trails have been established on larger parcels. These include south of the Lake Hills Connector behind the Sunset Hills Memorial Park near Kelsey Creek Park and City of Bellevue Utilities and Parks (including Coal Creek Park) parcels in the south Somerset neighborhood. There is an established regional trail in south Bellevue and Newcastle along the SPU waterline corridor adjacent to the PSE transmission corridor. PSE’s proposed project will not cause long-term impacts to access to these existing trails.</p>
<p><b>UT-69:</b> Avoid, when reasonably possible, locating overhead lines in greenbelt and open spaces as identified in the Parks and Open Space System Plan.</p>	<p><b>Response:</b> The existing corridor crosses over City of Bellevue Parks property in some locations. PSE’s transmission corridor was established prior to the establishment of the City and prior to the designation of property for public park use. In areas such as Coal Creek Park, the corridor has provided the opportunity for the establishment of an informal trail. By locating the upgraded transmission facilities in the existing corridor, PSE is avoiding any new impacts to parks and open space.</p>
<p><b>UT-72:</b> Encourage cooperation with other jurisdictions in the planning and implementation of multi-jurisdictional utility facility additions and improvements. Decisions made regarding utility facilities shall be made in a manner consistent with, and complementary to, regional demand and resources, and shall reinforce an interconnected regional distribution network.</p>	<p><b>Response:</b> The proposed transmission line upgrade is a linear utility project that crosses through multiple jurisdictions (including the cities of Redmond, Bellevue, Renton and Newcastle; collectively “Partner Cities”). In addition, because some of the early route alternatives crossed through the City of Kirkland, it also participated in the EIS process. The south segment of this project</p>

	<p>will traverse the cities of Bellevue, Renton and Newcastle. Significant outreach and coordination efforts have occurred to inform potentially affected entities about the proposed project, a process reflected in the Phase 1 and Phase 2 Environmental Impact Statements which were developed co-operatively by the Partner Cities. King County was invited to participate in the EIS process with the Partner Cities, but declined.</p> <p>The purpose of the Energize Eastside project is to bring a new 230 kV power source to the Eastside region to meet capacity and reliability needs as determined through PSE planning studies. The 230 kV power brought into Richards Creek substation will supply existing and future 115 kV transmission lines providing power to the entire Eastside region. All of the Partner Cities, including those directly impacted by construction of the south segment, will experience increased reliability and the transmission system will be better able to meet forecasted increases in electricity demands.</p>
<p><b>UT-75:</b> Prior to seeking city approval for facilities, encourage utility service providers to solicit community input on siting of proposed facilities which may have a significant adverse impact on the surrounding community.</p>	<p><b>Response:</b> The PSE Energize Eastside team has engaged in public outreach since the project launched in December 2013. In 2014, PSE led a public route discussion process, shared information about the project with the public, and solicited and obtained considerable public input. PSE continues to inform the public about the project and connect with property owners regarding fieldwork efforts through mailers, emails, PSE’s website, public testimony to decision-makers, and public meetings.</p> <p>Throughout 2014, PSE worked with a Community Advisory Group (CAG) to identify and consider the values held by the community in evaluating different transmission line route options and potential substation locations. CAG members represented various interests, including potentially affected neighborhood organizations, cities, schools, social service organizations, major commercial users, and economic development groups. The CAG looked at factors used to develop different route options, narrowed the route options</p>

	<p>based on values and constraints, and prepared route option recommendations for PSE’s consideration. Throughout the CAG process, PSE held public open houses to inform the public of the CAG’s work and hosted additional community meetings and events to share information, respond to questions, and learn more about community values and interests.</p> <p>PSE has also provided numerous presentations and briefings to individual property owners, neighborhood groups, organizations, and other interested stakeholders. PSE regularly informs the public about the project and its development process through mailings, email updates, and a project website. To date, public outreach, and involvement has included:</p> <ul style="list-style-type: none"> <li>• 22 Community Advisory Group-related meetings, including</li> <li>• 6 public open houses, 2 question and answer sessions, and 2 online open houses at key project milestones</li> <li>• 500+ briefings with individuals, neighborhoods, cities and other stakeholder groups</li> <li>• More than 2,900 comments and questions received</li> <li>• 30+ email updates to more than 1,500 subscribers</li> <li>• 8 project newsletters to 55,000+ households</li> <li>• Ongoing outreach to 500+ property owners, including door-to-door and individual meetings</li> <li>• Participation in 16 EIS-related public meetings</li> </ul>
<p><b>UT-77:</b> Require all utility equipment support facilities to be aesthetically compatible with the area in which they are placed by using landscape screening and/or architecturally compatible details and integration.</p>	<p>The use of the existing utility corridor is the most effective method of ensuring area compatibility, as the proposed route replaces existing equipment rather than creating new corridors. In addition, the replacement of H-frame poles with fewer steel poles helps to reduce visual interference and is arguably an improvement from existing conditions. Pole finishes can also enhance integration with various settings. PSE is working closely with the City to identify City preferences on variables that may further increase</p>

	<p>compatibility with surrounding areas (e.g., pole color and pole height).</p>
<p><b>Non City-Managed Utilities – Additional Electrical Facilities Policies</b></p>	
<p><b>UT-91:</b> Encourage the public to conserve electrical energy through public education.</p>	<p>PSE has led all northwest utilities in energy conservation since 1979. Its energy-efficiency programs have helped PSE customers conserve nearly 5 billion kilowatt-hours of electricity. PSE continues to develop and undertake aggressive conservation programs.</p> <p>More information can be found in PSE's <a href="#">2014-2015 Biennial Conservation Report, Electric Programs</a> and at: <a href="https://pse.com/savingsandenergycenter/About/Pages/default.aspx">https://pse.com/savingsandenergycenter/About/Pages/default.aspx</a></p>
<p><b>UT-94:</b> Require in the planning, siting, and construction of all electrical facilities, systems, lines, and substations that the electrical utility strike a balance between potential health effects and the cost and impacts of mitigating those effects by taking reasonable cost-effective steps.</p>	<p><b>Response:</b> PSE has conducted studies on potential health effects of the proposed transmission line upgrade, which have been peer reviewed by City of Bellevue consultants through the State Environmental Policy Act (SEPA) review and drafting of an Environmental Impact Statement (EIS) for this project. In particular, the EIS looked at electric and magnetic fields (EMF) and pipeline safety.</p> <p>As outlined in the <i>Phase 2 Draft Environmental Impact Statement</i> no unavoidable significant adverse impacts were identified that could result from the Energize Eastside project related to health effects.</p>
<p><b>UT-95:</b> Work with Puget Sound Energy to implement the electrical service system serving Bellevue in such a manner that new and expanded transmission and substation facilities are compatible and consistent with local context and the land use pattern established in the Comprehensive Plan.</p> <p><i>Discussion: Where feasible, electrical facilities should be sited within the area requiring additional service. Electrical facilities primarily serving commercial and mixed use areas should be located in commercial and mixed use areas, and not in areas that are primarily residential. Further, the siting and design of these facilities should incorporate measures to mitigate the visual impact on nearby residential areas. These</i></p>	<p><b>Response:</b> The Energize Eastside project is required because an additional 230 kV power source is required to serve the Eastside region, inclusive of Bellevue, and meet federal planning requirements. PSE studies have concluded that the power source must be centrally located in the defined Eastside region. The transmission lines will connect the new power source (a new transformer) with existing 230 kV substations in the region in Redmond, at the Sammamish substation, and in Renton, at the Talbot Hill substation. This project will serve all uses in the Eastside service area, including industrial, commercial, residential, and public facilities in the City of Bellevue. Projected electricity demand in the City of Bellevue, which is a population and job center on the Eastside, significantly</p>

*considerations should be balanced with the community's need to have an adequate and reliable power supply.*

contributed to the need for PSE's proposed project. Thus, the proposed transmission line facilities will serve the areas requiring additional service.

The City of Bellevue is made up of a mix of land uses that have developed around the utility corridor that was established in the late 1920s and early 1930s. The corridor is identified in the Utilities Element of the Comprehensive Plan on both Map UT-6 (Existing Facilities) and Map UT-7 (Proposed Facilities). An Alternative Siting Analysis has been completed as required by the City of Bellevue Land Use Code and Comprehensive Plan for transmission corridors identified as sensitive sites.

As described in the Phase I DEIS, the proposed Richards Creek Substation will be located in an area zoned as light industrial. Land uses surrounding the substation site include a mix of industrial, institutional, vacant lands, and utility (PSE's Lakeside substation). A private school (Chestnut Hill Academy) is about 325 feet north of the substation site, adjacent to (and just east of) the Lakeside substation. As the proposed substation is adjacent to an existing PSE substation, it is compatible and consistent with local context and the land use pattern which already integrates utilities.

Similarly, the proposed transmission lines will be sited in the existing utility corridor and traverses a variety of land uses (including commercial, industrial, multi-family residential, and single family residential districts). The corridor predates the incorporation of the City and the existing land use patterns already integrate the utility facilities, keeping the proposed project compatible and consistent with local context and land use patterns.

This conclusion is confirmed by the Phase 2 DEIS, which found that impacts to land use will be "be less-than-significant because [the proposed project] is consistent with city and subarea plans, and would not adversely affect existing or future land use patterns."

	DEIS at 3.1-37.
<p><b>UT-96:</b> Require siting analysis through the development review process for new facilities, and expanded facilities at sensitive sites, including a consideration of alternative sites and collocation.</p> <p><i>Discussion: Sensitive facility sites are those new facilities and existing facilities proposed to be expanded where located in or in close proximity to residentially – zoned districts such that there is potential for visual impacts absent appropriate siting and mitigation. The city will update Map UT-7 to the extent needed to stay current with changes in Puget Sound Energy’s system planning.</i></p>	<p><b>Response:</b> PSE has prepared a siting analysis as required for expanded facilities at sensitive sites. Please see the Energize Eastside Alternative Siting Analysis - South Phase submitted with the Conditional Use Permit application for this project.</p>
<p><b>UT-97:</b> Avoid, minimize, and mitigate the impacts of new or expanded electrical facilities through the use of land use regulation and performance standards that address siting considerations, architectural design, site screening, landscaping, maintenance, avoidable technologies, aesthetics, and other appropriate measures.</p>	<p><b>Response:</b> The City of Bellevue and partner jurisdictions of Redmond, Renton, Kirkland, and Newcastle are in the process of completing a Final Environmental Impact Statement (FEIS) that addresses anticipated impacts from the proposed Energize Eastside project.</p> <p>Avoidance, minimization, and potential mitigation measures are discussed in detail in the <i>Phase 2 Draft Environmental Impact Statement</i> for the Energize Eastside project. Alternative technologies were analyzed in detail in the <i>Phase 1 Draft Environmental Impact Statement</i>.</p> <p>PSE proposes mitigation that fully complies with all of all of the City’s code requirements. Mitigation measures include, but are not limited to, revegetation, pole height reduction, and selection of pole finishes that are suitable to the context. PSE is also in discussions with the City to coordinate and ensure that any impact identified during the Partner Cities’ State Environmental Policy Act review are avoided, minimized and mitigated to the extent feasible under the law (<i>i.e.</i>, any mitigation must be proportionate to identified impacts caused by the proposed project).</p>
<p><b>UT-98:</b> Discourage new aerial facilities within corridors that have no existing aerial facilities.</p>	<p><b>Response:</b> PSE is proposing to replace two existing aerial 115 kV lines with two 230 kV lines within an existing, established utility corridor. No new aerial facilities are proposed outside the corridor.</p>

<p><b>UT-99:</b> Work with and encourage Puget Sound Energy to plan, site, build and maintain an electrical system that meets the needs of existing and future development, and provides highly reliable service for Bellevue customers.</p> <p><i>Discussion: Providing highly reliable service is a critical expectation for the service provider, given the importance of reliable and uninterrupted electrical service for public safety and health, as well as convenience. Highly reliable service means there are few and infrequent outages, and when an unavoidable occurs in its short duration and customers are frequently updated as to when power is likely to be restored. A highly reliable system will be designed, operated and maintained to keep pace with the expectations and needs of residents and businesses as well as evolving technologies and operating standards as they advance over time.</i></p>	<p><b>Response:</b> PSE has prepared two studies that describe the need for the Energize Eastside project: the <i>Eastside Needs Assessment Report</i> and the <i>Supplemental Eastside Needs Assessment Report</i> (Gentile et al., 2014, 2015). The deficiency in the transmission capacity on the Eastside is based on a number of factors. Key factors include growing population and employment in the Eastside (including significant projected growth in Bellevue), changing power consumption patterns, and changing utility regulations that require a higher standard of reliability. PSE has concluded that the most effective and efficient solution to meet the need objectives is to site a new 230 kV transformer at a central location on the Eastside that will be fed from the Sammamish substation in Redmond from the north and the Talbot Hill substation in Renton from the south. This decision is consistent with the City’s comprehensive plan, which requires not just reliable power, but “highly reliable” power.</p> <p>Without adding transmission capacity, a deficiency during peak periods could develop on the Eastside as early as the winter of 2017-2018, with the potential for load shedding (forced power outages) by the summer of 2018. The proposed project is needed to meet the needs of the City’s residents and businesses.</p>
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**Environmental Element**

The proposed transmission line replacement and substation project will have impacts on environmental resources within the City of Bellevue.

<b>Environmental Stewardship</b>	
<p><b>EN-12:</b> Work toward a citywide tree canopy target of at least 40% canopy coverage that reflects our “City in a Park” character and maintain an action plan for meeting the target across multiple land use types including right-of-way, public lands, and residential and commercial uses.</p> <p><b>EN-13:</b> Minimize the loss of tree canopy and natural areas due to transportation and infrastructure projects and mitigate for losses, where impacts are unavoidable.</p>	<p><b>Response:</b> Selective tree canopy will be removed as part of the substation development and transmission line upgrade. Strict federal clearance requirements must be met with the upgrade from a 115 kV transmission corridor to a 230 kV transmission corridor, resulting in additional vegetation management within the existing corridor. Mature vegetation will also be cleared to construct the proposed substation on the Richards Creek substation site and prevent mature vegetation from falling into</p>

the new substation and causing an outage. Substation-compatible trees and understory will be used to restore areas where tree removal is to occur outside the substation footprint. Additionally, wildlife snags will be created where possible from trees removed.

To mitigate for loss of significant trees in the transmission corridor, PSE is proposing mitigation ratios that meet or exceed regulatory standards. PSE will work with individual property owners to replace trees on private property. Where individual property owners decline to have new trees planted onsite, PSE will work with the City to place additional trees offsite.

PSE is required by federal standards to maintain safe clearances between vegetation and utility lines. The upgraded transmission lines will have to comply with PSE's 230 kV vegetation management standards, which generally require removal of trees located in the wire zone that have a mature height of more than 15 feet. Taller trees within the transmission right of way may also be affected depending on tree species, tree health, distance from the wires, and topography.

PSE has been meeting with property owners along the existing corridor to discuss tree replacement and will continue to work together to develop property-specific landscaping and tree replacement plans. It is anticipated that a number of trees cannot be replaced onsite due to property owners' preferences. In those cases, replacement trees will need to be planted outside the corridor. One benefit of offsite planting is the option to plant larger trees that will contribute to habitat quality and area aesthetics. Offsite options may include city parks, neighborhood groups/HOAs, and developments within the Spring District. PSE will work with the City to identify other offsite areas that would benefit from these trees.

PSE's goal is that the proposed project will result in a net increase in the number of trees, which should assist the City in

	achieving its tree cover goals.
<b>Water Resources</b>	
<b>EN-19:</b> Retain existing open surface water systems in a natural state and restore conditions that have become degraded.	<b>Response:</b> The substation development will include the replacement of the existing culvert under the access driveway with a fish passable culvert that will enhance drainage and sediment flow within the stream channel. The stream channel will be regraded to assist with sediment transport and create habitat for potential fish species. Habitat will also be enhanced along the stream channel on the Richards Creek substation site. No other natural open surface water systems in Bellevue will be affected by the project.
<b>EN-26:</b> Manage water runoff for new development and redevelopment to meet water quality objectives, consistent with state law.	<b>Response:</b> The proposed substation development will occur on a site with existing impervious surface and an associated stormwater detention pond. The new substation development will meet current City of Bellevue Stormwater Engineering Design Standards. The existing pond will be replaced with a stormwater vault to control runoff from the substation site. These measures are protective of state water quality objectives.
<b>Geo Hazards</b>	
<p><b>EN-30:</b> Regulate land use and development to protect natural topographic, geologic, vegetational, and hydrological features.</p> <p><b>EN-39:</b> Use specific criteria in decisions to exempt specific small, isolated, or artificially created steep slopes from critical areas designation.</p> <p><b>EN-40:</b> Minimize and control soil erosion during and after development through the use of best management practices and other development restrictions.</p>	<p><b>Response:</b> All applicable City of Bellevue land use and clearing regulations, including LUC 20.25H.125 – Performance Standards, will be complied with as part of the Energize Eastside project construction. There will be selective tree removal and 24 poles (20 in buffers and 4 in critical area - south half) will be replaced within geo hazard areas. Per the Bellevue code, areas that do not meet the 10 foot rise or 1,000 square feet threshold (including small engineered or manmade slopes) have been removed from the geo hazard analysis.</p> <p>A temporary erosion and sediment control plan will be developed for the project, including the transmission corridor and substation site. Necessary best management practices (BMPs) will be used as appropriate, including chipping and scattering of removed vegetation. Disturbance will be limited to the minimum necessary within geo hazard areas, including limiting equipment access and disturbance</p>

	areas. All disturbed areas will be restored.
<b>Fish and Wildlife Habitat</b>	
<p><b>EN-63:</b> Preserve and maintain fish and wildlife habitat conservation areas and wetlands in a natural state and restore similar areas that have been degraded.</p> <p><b>EN-67:</b> Prohibit creating new fish passage barriers and remove existing artificial fish passage barriers in accordance with applicable state law.</p> <p><b>EN-70:</b> Improve wildlife habitat especially in patches and linkages by enhancing vegetation composition and structure, and incorporating indigenous plant species compatible with the site.</p> <p><b>EN-71:</b> Preserve a portion of significant trees throughout the city in order to sustain fish and wildlife habitat.</p>	<p><b>Response:</b> Impacts to fish, wildlife, wetlands and habitat conservation areas are discussed and analyzed in detail in the Critical Areas Report and Biological Evaluations associated with the proposed project. As explained in those documents, limited disturbance is anticipated within fish and wildlife habitat areas and wetlands. Existing poles within wetlands will be replaced outside of wetland areas to the greatest extent feasible. Buffer impacts will be limited to the pole footprint and selective vegetation management activities required by federal clearance standards.</p> <p>The Richards Creek culvert replacement and restoration project will significantly enhance fish passage and habitat along the existing stream channel at the Richards Creek substation site. This will provide linkages to mitigation areas on the adjacent Lakeside substation and King County Transfer Station sites.</p>
<b>Critical Areas</b>	
<p><b>EN-84:</b> Use science based mitigation for unavoidable adverse impacts to critical areas to protect overall critical areas function in the watershed.</p>	<p><b>Response:</b> The proposed mitigation for wetland and buffer impacts caused by the Energize Eastside project will be mitigated using the best available science in compliance with LUC 20.25H, the City of Bellevue’s critical areas code. The Richards Creek culvert replacement and stream restoration will result in measurable habitat improvement to critical area functions and values. Mitigation specifics are presented in the associated Critical Areas Report.</p>

**Subareas**

The existing transmission corridor crosses through the Richards Valley, Factoria, and Newport Hills Subareas identified in the Comprehensive Plan. The Richards Creek substation site is located within the Richards Valley subarea.

<b>Richards Valley</b>	
<i>General Land Use</i>	
<p><b>Policy S-RV-1.</b> Enhance the natural environment within the industrial area by encouraging redevelopment to consider natural features in site design, including but not limited to reducing impervious surface,</p>	<p><b>Response:</b> The proposed Richards Creek substation will be located on a site zoned as Light Industrial within the Richards Valley subarea. The site contains wetland and stream critical areas. The substation</p>

<p>improving the functions of wetlands and stream corridors, incorporating natural drainage features, retaining trees, and restoring vegetated corridors.</p>	<p>development will be consolidated on the portion of the site that results in the least impact to critical areas. The existing stream corridor and associated wetlands will be enhanced through the replacement of the existing culvert with a fish passable culvert, which will also improve stream and sediment flow and fish habitat. The corridor will be enhanced with appropriate vegetation to provide stream and wetland habitat improvements. The associated Critical Areas Reports provide additional information.</p>
<p><i>Natural Determinants</i></p>	
<p><b>Policy S-RV-6.</b> Protect and enhance the capability of Richards Creek, Kelsey Creek, and Mercer Slough and their tributaries to support fisheries along with other water-related wildlife.</p> <p><b>Policy S-RV-7.</b> Retain and enhance existing vegetation on steep slopes, within wetland areas, and along stream corridors to control erosion and landslide hazard potential and to protect the natural drainage system.</p>	<p><b>Response:</b> The Richards Creek culvert replacement and stream enhancement project on the Richards Creek substation site will support stream habitat through the replacement of an existing under-sized culvert with a fish passable culvert that will improve stream and sediment flows in the channel. Habitat along the stream will also be improved and will enhance the natural drainage system.</p> <p>Additional description and analysis of landslide hazard potential associated with the project can be found in the Bellevue South Segment Critical Areas Report.</p>
<p><i>Utilities</i></p>	
<p><b>Policy S-RV-20.</b> Use common corridors for new utilities if needed.</p> <p><i>Discussion: If new power lines are needed in the Subarea, they should be developed in areas that already contain power lines, rather than causing visual impacts in new areas.</i></p>	<p><b>Response:</b> The existing 115 kV transmission lines within the Sammamish-Lakeside-Talbot Hill corridor will be upgraded to 230 kV in lieu of the development of a new corridor. The Richards Creek substation site is also located along the existing corridor.</p>
<p><b>Policy S-RV-21.</b> Improve the appearance of public streets and power line rights-of-way.</p>	<p>The transmission line corridor within the Richards Creek subarea is located in a Light Industrial land use district. There are currently numerous transmission lines and other utilities in the corridor. PSE will explore opportunities with the City.</p>
<p><i>Community Design</i></p>	
<p><b>Policy S-RV-33.</b> Develop areas designated for light industrial uses with sensitivity to the natural constraints of the sites.</p>	<p><b>Response:</b> The Richards Creek substation will be located within the Light Industrial zoning district. It will be developed on the least sensitive portion of the site, making use of existing disturbed areas and limiting new impacts to critical areas and buffers.</p>
<p><b>Factoria</b></p>	
<p><i>General Land Use</i></p>	

<p><b>Policy S-FA-2:</b> Protect single family neighborhoods from encroachment by more intense uses.</p>	<p><b>Response:</b> The transmission line project will upgrade existing transmission lines within an existing transmission corridor, avoiding encroachment into neighboring single-family areas. The vast majority of the area development has occurred around the transmission corridor, which was established in the late 1920s and early 1930s. Any single family neighborhoods adjacent to the proposed line are already adjacent to the existing transmission lines.</p>
<p><i>Critical Areas</i></p>	
<p><b>Policy S-FA-8:</b> Protect and enhance the capability of Sunset Creek, Richards Creek, Coal Creek, and their tributaries to support fisheries and other water related wildlife.</p> <p><b>Policy S-FA-9:</b> Retain and enhance vegetation on steep slopes, within wetland areas, and along stream corridors in order to control erosion, reduce landslide hazard and to protect the natural drainage system.</p>	<p><b>Response:</b> The Richards Creek culvert replacement and stream enhancement project on the Richards Creek substation site will support stream habitat through the replacement of an existing under-sized culvert with a fish passable culvert that will improve stream and sediment flows in the channel. Habitat along the stream will also be improved and will enhance the natural drainage system.</p> <p>Additional description and analysis of landslide hazard potential associated with the project can be found in the Bellevue South Segment Critical Areas Report.</p>
<p><i>Utilities</i></p>	
<p><b>Policy S-FA-24.</b> Encourage the undergrounding of utility distribution lines in areas of new development and redevelopment.</p>	<p>Energize Eastside is a transmission project. Policy S-FA-24 it not applicable as it only applies to distribution lines.</p>
<p><b>Newport Hills</b></p>	
<p><i>General Land Use</i></p>	
<p><b>S-NH-8.</b> Protect significant trees and environmentally-sensitive areas (steep slopes, riparian corridors, and wetlands) in accordance with the provisions of the Land Use Code.</p>	<p><b>Response:</b> Selective tree removal will occur within the corridor, including in critical areas, to meet federal clearance requirement for vegetation management. Most disturbance within these areas will be temporary and restored to an equal or better condition. Unavoidable impacts to trees and critical areas will be mitigated in accordance with the provisions of the Land Use Code.</p>
<p><i>Environment</i></p>	
<p><b>S-NH-28.</b> Ensure that all new development and redevelopment includes measures to protect and enhance surface water quality.</p>	<p><b>Response:</b> The transmission line upgrade project will result in little net stormwater runoff. Appropriate BMPs will be used during construction to ensure protection of potentially affected surface water. The wetland rehabilitation and culvert</p>

	replacement proposed in conjunction with the Richards Creek substation will likely have a positive effect on surface water quality.
<b>S-NH-30.</b> Protect and enhance fish and wildlife habitat in environmentally-sensitive areas.	<b>Response:</b> Where possible, areas with fish and wildlife habitat will be avoided. If impacts are unavoidable, the appropriate mitigation will be included as required by the Land Use Code.

*B. The design is compatible with and responds to the existing or intended character, appearance, quality of development and physical characteristics of the subject property and immediate vicinity; and*

**Response:** The Energize Eastside project is compatible with and responds to the existing character, appearance, quality of development and physical characteristics of the subject site and immediate vicinity.

**Richards Creek Substation.** The property currently serves as a pole storage yard and has a utility corridor with existing transmission lines, water pipelines, and a petroleum pipeline through the center of the site. It is well screened from surrounding uses by mature vegetation. The site is surrounded to the north by PSE’s existing Lakeside Switch substation, to the west by industrial development including a water and wastewater supply company, to the south by King County’s Factoria Solid Waste Transfer Station, and upslope to the east by a stormwater detention facility tract that is heavily vegetated. The substation use is consistent with the uses in the area and the current use of the site. Located within the Light Industrial (LI) zoning district, the existing site screening will be enhanced with the Richards Creek culvert replacement project and stream restoration and enhancement proposal.

**Transmission Line.** The transmission line corridor is an existing utility corridor that was established in the late 1920s and early 1930s. The current uses adjacent to the corridor developed over time as areas were annexed into the City and these areas became more dense and populated. The utility corridor is part of the existing character of these areas. PSE is proposing to replace the existing 115 kV transmission poles with steel poles to accommodate 230 kV conductors. The poles will generally be installed in the same location or in close proximity to the existing poles. In most cases, the number of poles will be reduced from four to one or two. The consistency of the proposed transmission lines with other uses in the vicinity was confirmed by the Phase 2 DEIS, which found that impacts to land use will be “be less-than-significant because [the proposed project] is consistent with city and subarea plans, and would not adversely affect existing or future land use patterns.” DEIS at 3.1-37.

The DEIS identified potential aesthetic impacts with respect to a limited number of poles located in the Somerset neighborhood. PSE has diligently worked to reduce these aesthetic impacts. For example, the DEIS assessed aesthetic impacts by assuming that all poles

would be a rust/brown color. Alternative pole colors, however, are a powerful and effective tool in reducing contrast with the horizon and aesthetic impacts. PSE accordingly proposes the use of transmission line poles that are either galvanized or powder coated with a light blue or light grey paint to decrease any perceived contrast with the horizon in the Somerset viewshed. Consideration of pole finish will also be evaluated along the entire project to help minimize potential aesthetic impacts. Additional information is provided above under the UT-64 discussion.

PSE has also undertaken additional design work to refine pole placement, reduce the number of poles, decrease pole height and use more streamlined pole designs. Based on this, PSE has determined that pole height in the Somerset area can be reduced from the around 85-foot poles analyzed in the DEIS to approximately 75-foot poles.

In many areas, PSE further proposes using a *delta* conductor configuration that uses less hardware rather than the arguably more impactful rectilinear design assessed in the DEIS. By limiting the area of visual impact and mirroring other natural elements, PSE can effectively mitigate aesthetic impacts and ensure consistency with adjacent uses.

- C. *The conditional use will be served by adequate public facilities including streets, fire protection, and utilities; and*

**Response:** The transmission line upgrade will consist of replacing two existing 115 kV transmission lines within an existing 100-foot wide corridor, with two 230 kV lines in the same corridor. No new permanent access or other public facilities will be required to accommodate the upgraded lines. The proposed substation will be constructed on an existing PSE-owned site within the Light Industrial zoning district north of I-90. The site currently serves as a pole storage yard and is accessed from SE 30<sup>th</sup> Street. The existing driveway will be realigned to serve the new substation and a new fish passable culvert will be installed under the driveway to assist with stream sediment capacity and flow. The existing transmission corridor and new substation will not require any new permanent access or public facilities or services. Traffic to the new substation will be minimal and will not require additional public facilities.

- D. *The conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property; and*

**Response:** ***Richards Creek Substation.*** Bellevue's land use code does not define "materially detrimental." But a recent Division I decision found that "'material' can be defined as '[b]eing both relevant and consequential; crucial.' And 'detrimental' means '[c]ausing damage or harm; injurious.'" *Puget Sound Energy, Inc. v. East Bellevue Community Council*, Case No. No. 74464-0-1 (January 30, 2017). Applying this definition, the new substation will not be materially detrimental to uses or properties in the immediate vicinity of the subject property because it builds on the existing utility facilities and is consistent with the surrounding Light Industrial uses.

The area around the proposed Richards Creek Substation site houses industrial warehouses, PSE's Lakeside substation, an elementary school, a range of commercial building types, and two- to three-story apartment/condo buildings. The site itself is currently used as a pole storage yard and is situated within the Light Industrial zoning district north of I-90 in Factoria. As stated in the DEIS "[o]verall, visual quality is low in the vicinity of the Richards Creek substation site because the built environment dominates the natural environment (except for the undeveloped wooded area to the east) and building form lacks consistency, the built environment consists of an industrial area with different building forms and configurations and large parking lots, and a high presence of utility infrastructure that varies in form (Lakeside substation and 115 kV transmission lines)." DEIS at Table 3.2-1.

The Richards Creek substation will be screened with existing or replacement vegetation, and adjacent to other compatible uses, such as the PSE Lakeside switching substation and the King County Factoria Transfer Station facility. As analyzed in detail in the Partner Cities' Phase 2 DEIS, "[t]here would be no long-term impacts to land use and housing from operation of the substation *because the Richards Creek substation would be compatible with the existing and nearby land uses (industrial) and neighborhood character.*" DEIS at 3.1-21. This supports a finding that the proposed substation would not materially damage or harm current uses in the vicinity. In addition, the DEIS concluded that the Richards Creek substation is consistent with future light industrial uses proposed for the parcel. DEIS at 3.1-21. As such, the proposed facility would not be materially harmful to future land uses proposed in the vicinity.

**Transmission Line—South Segment.** The south segment of the proposed transmission line upgrade will also not be materially detrimental to uses or properties in the immediate vicinity. PSE proposes siting the south segment along the same corridor used by existing transmission lines. This corridor has been established for almost a century. Because adjacent land uses and properties already integrate transmission line facilities, they will not be materially impacted by replacement of the existing transmission line facilities. The consistency of the proposed transmission lines with other uses in the vicinity was confirmed by the Phase 2 DEIS, which found that impacts to land use will "be less-than-significant because [the proposed project] is consistent with city and subarea plans, and would not adversely affect existing or future land use patterns." DEIS at 3.1-37.

With respect to aesthetic impacts to properties in the vicinity of the proposed transmission line, the DEIS describes the south segment as follows:

Areas with generally high visual quality include the Coal Creek Natural Area (where the natural environment is less disturbed by the built environment) and residential areas away from the existing transmission line that have consistent building height and form. Areas with generally low visual quality are those located along I-90 and residential areas located adjacent to the transmission line. Utilities

are present, including a 115 kV transmission line, and the utility configuration has consistent form and height along the option.

DEIS at 3.2-13. The DEIS ultimately concludes that, with the exception of the Somerset neighborhood, “[c]ontrast with the existing aesthetic environment would generally be low because the transmission line would be within the existing corridor.” DEIS at 3.2-69.

PSE understands that some community groups in Somerset are concerned about the change in height of poles associated with the upgraded transmission line and may argue that this causes a materially detrimental impact to viewscapes that already house poles. A majority of these homes are outside of the “immediate vicinity” of PSE’s proposed transmission line upgrade. That said, to limit materially harmful and damaging impacts to *all* of PSE’s Bellevue customers, PSE proposes using the existing utility line corridor where transmission lines currently exist.

PSE’s engineers continue to work diligently at each pole location to solicit community and property owner feedback on pole design, reduce the height of all poles to the extent technically feasible and safe, and to move pole location when feasible. PSE’s engineers have had significant success advancing these goals. For example, proposed pole height in the south segment was reduced from an average of approximately 95 ft (as analyzed in the DEIS) to around 85 ft. These efforts limit perceived impacts, minimize perceived magnitude of change, and ensure that there are no materially detrimental impacts.

Assessment of aesthetic impacts is highly subjective and adaptable (*i.e.*, people become acclimated to a changed aesthetic environment). See *e.g.*, DEIS at 3.2-25 (“Because the value of scenic views and the aesthetic environment is subjective, it is difficult to quantify or estimate impacts.”); DEIS at 3.10-1 (“studies have found that the effects on property values... tend to diminish over time after the project is constructed.”). One more objective rubric for assessing harm to properties in the vicinity is house values. The Phase I and Phase II of the DEIS confirmed that there would be no materially detrimental impact to house values resulting from PSE’s proposed transmission line upgrade. DEIS at 3.10-1—2; see *also*, Energize Eastside Project -- Phase I Draft Environmental Impact Statement at Ch. 10-21—22 (summarizing studies detailing economic impacts of transmission lines on housing values). This is especially significant as the studies reviewed contemplated the siting of a new transmission line, rather than a transmission line upgrade where similar utilities already exist. The DEIS’s conclusions on economic impacts provides further evidence that PSE’s proposed transmission line upgrade would not be materially harmful to properties in the immediate vicinity.

E. *The conditional use complies with the applicable requirements of this Code.*

**Response:** The proposed transmission line upgrade and substation project complies with the applicable requirements of the City of Bellevue code as evidenced through the documentation provided by this Conditional Use application.

**LUC 20.20.255.E: Electrical utility facility decision criteria:**

1. *The proposal is consistent with Puget Sound Energy’s System Plan;*

**Response:** The need for additional 230 kV capacity in the Eastside region was identified, and has been included in PSE’s Electrical Facilities Plan for King County (“Plan”), since 1993. As explained in the Plan, “[t]he 230 kV sources for the 115 kV system in northeast King County are primarily the Sammamish and Talbot Hill substation. The loads on the 230-115 kV transformers in these stations will be high enough to require new sources of transformation.” Additionally, the “Lakeside 230 kV Substation project [now referred to as Energize Eastside] will rebuild two existing 115 kV lines to 230 kV between Sammamish and Lakeside [where PSE proposes the construction of the Richards Creek substation], and between Lakeside and Talbot Hill.”

2. *The design, use, and operation of the electrical utility facility complies with applicable guidelines, rules, regulations, or statutes adopted by state law, or any agency or jurisdiction with authority;*

**Response:** Performance requirements for any integrated transmission system are heavily regulated at both the federal and regional levels. PSE’s regulators include FERC, NERC and WECC (the Federal Energy Regulatory Commission, North American Electric Reliability Corporation and Western Electricity Coordinating Council, respectively).

NERC is the regulatory authority certified by FERC to develop and enforce reliability standards. NERC has delegated the task of monitoring and enforcing the federal reliability standards to WECC, the regional entity that has authority over transmission in the western region.

The NERC standards mandate that certain forecasts and studies must be completed to determine if the system has sufficient capability to meet expected loads now and in the future. When completing transmission planning studies, contingencies are simulated to determine if the electric system meets the mandatory NERC performance requirements<sup>1</sup> for

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<sup>1</sup> The transmission planning standards that were in effect in 2012-2013 were: TPL-001-3, TPL-002-0b 2nd Rev (TPL-002-2b), TPL-003-0b 2nd Rev (TPL-003-2b), and TPL-004-2. TPL-001-3, TPL-002-2b, TPL-003-2b, and TPL-004-2 are being retired as they are replaced in their entirety by TPL-001-4. Enforcement of the new standards began January 1, 2015. Visit the NERC website at <http://www.nerc.com/pa/Stand/Reliability Standards/TPL-001-4.pdf> for more information.

a given set of forecasted demand levels, generation configurations and levels, and multiple system component outages.

Notwithstanding questions of likelihood, federal regulations require that the appropriate planning be undertaken proactively. This conservative planning methodology is implemented to prevent large scale, cascading, transmission system blackouts, like those that have occurred in the recent past (for example, the 2003 Northeast blackout that affected 55 million people in the Northeast and Midwest regions of the United States and Canada).

The PSE transmission planning studies performed in 2013 and 2015 determined that thermal violations on transmission line and transformer equipment might occur under foreseeable scenarios within the next few years. The thermal violations are a result of running scenarios for several component outage contingencies, as required by NERC, that take into consideration peak demand (which is heavily dependent on seasonal temperatures and daily demand profiles) and levels of conservation. In essence, this is a requirement to have redundancy in the transmission system.

#### **2.2.4 FERC FINDINGS AND CONCLUSION**

In an effort to stop PSE's Energize Eastside project, a complaint was filed with the Federal Energy Regulatory Commission (FERC) against PSE and other utilities (Attachment A). FERC dismissed all aspects of the complaint, stating:

"Based on the record before us, we find that Puget Sound [PSE] and the other Respondents complied with their transmission planning responsibilities under Order No. 890 in proposing and evaluating the Energize Eastside Project." (FERC Docket No. EL15-74-000, [Order Dismissing Complaint](#), Issued Oct. 21, 2015.)

The FERC response also concluded:

"We agree with Puget Sound [PSE] and ColumbiaGrid that the Energize Eastside Project was properly classified a Single System Project because it was designed to address Puget Sound's projected inability to serve its own customers, ColumbiaGrid's Puget Sound Area Study Team did not find any Material Adverse Impacts associated with the project, and ColumbiaGrid included the project as a Single System Project in its most recent 2015 Biennial Plan. Accordingly, we find that the Energize Eastside Project was proposed and evaluated in accordance with the then-applicable transmission planning requirements." (FERC Docket No. EL15-74-000, [Order Dismissing Complaint](#), Issued Oct. 21, 2015.)

3. *The applicant shall demonstrate that an operational need exists that requires the location or expansion at the proposed site;*

**Response:** The Richards Creek substation is essentially an expansion of the Lakeside substation, which is mapped as a “non-sensitive” site in the City’s Comprehensive Plan (Map UT-7). Normal practice is to have the 230 kV station co-located with the adjoining 115 kV station; however, due to topographic and environmental considerations located south of the Lakeside substation, expanding the station in that direction would be challenging. Therefore, placing the two stations on separate parcels was determined to be the most effective approach. Since the two yards have separate access points, they are required to have different names for operational and emergency purposes.

Using the existing transmission line corridor provides the shortest path between the Sammamish substation in the north and the Talbot Hill substation in the south to the Lakeside substation area. Operationally, replacing the existing 115 kV lines with 230 kV lines utilizes an existing corridor without the need for creating a new one through areas that do not have transmission lines today.

4. *The applicant shall demonstrate that the proposed electrical utility facility improves reliability of the system as a whole, as certified by the applicant’s licensed engineer;*

**Response:** In total, five separate studies performed by four separate parties have confirmed the need to address Eastside transmission capacity (20.20.255.E.4; D.3.b & c):

- Electrical Reliability Study by Exponent, 2012 (City of Bellevue);
- Eastside Needs Assessment Report by Quanta Services, 2013 (PSE);
- Supplemental Eastside Needs Assessment Report by Quanta Services, 2015 (PSE);
- Independent Technical Analysis by Utility Systems Efficiencies, Inc., 2015 (City of Bellevue); and
- Review Memo by Stantec Consulting Services Inc., 2015 (EIS consultant)

All of these studies are provided in the Alternative Siting Analysis. These studies were reviewed and confirmed by Jens Nedrud, Manager of System Planning, a WA State licensed engineer. See Attachment B (containing PSE’s Certification of Need).

PSE transmission planning studies demonstrate that, under certain contingencies, the delivery system on the Eastside could not continue to meet reliability requirements without significant infrastructure upgrades.

The Needs Assessment reports published in 2013 and 2015 and performed pursuant to the mandatory federal transmission planning standards, identified four major areas of concern:

1. Overload of PSE facilities in the Eastside area. Studies identified potential overloading of transformers at Sammamish and Talbot Hill substations, and several 115 kV transmission lines routing power to the Eastside area are at risk of overloading under certain conditions.
2. Small margin of error to manage risks from inherent load forecast uncertainties. PSE's planning studies rely in large part on load forecast data. Imbedded in PSE's load forecasts are several factors that include elements of risk. These include conservation, weather and block loads.
  - Conservation: To date, PSE customers have achieved 100 percent of the company's conservation goals, which are very aggressive within the industry. If 100 percent of conservation goals are not achieved, then the transmission system capacity will be surpassed sooner than expected.
  - Weather: PSE's load forecast assumes "every other year" cold weather. (Some utilities take a more conservative approach, using the coldest and hottest weather in five or ten years, as inputs to system performance studies<sup>2</sup>.) If the region experiences weather extremes outside of those used in PSE's planning studies, electricity demand will surpass the transmission system capacity sooner than expected.
  - Block loads: These include large development projects that add significant load to the system. If block load growth increases more than anticipated, demand for electricity will surpass the transmission capacity sooner than expected.
3. Increased use and expansion of Corrective Action Plans (CAPs) to keep the system compliant. CAPs are a series of operational steps used to prevent system overloads or loss of customers' power. They are a short-term fix to alleviate potential operational conditions that could put the entire grid at risk. They protect against large-scale, cascading power outages; however, they can put large numbers of customers at increased risk of power outages. For example, to prevent winter overloads on the Talbot Hill transformer banks, PSE is already using CAPs, which increases outage risk to customers. As growth continues, additional CAPs will be needed. By Federal standards, CAPs are not intended to be long-term solutions to system deficiencies.
4. Impacts to interconnections identified by ColumbiaGrid. Though the need for Energize Eastside is driven by local demand, because the electric system is interconnected for the benefit of all, it is a federal requirement to study all electric transmission projects to ensure there are no material adverse impacts to the reliability or operating characteristics of PSE's or any surrounding utilities' electric systems. ColumbiaGrid, the regional planning entity, produces a Biennial Transmission Expansion Plan that addresses system needs in the Pacific Northwest, including the PSE system.

PSE's 2015 Supplemental Needs Assessment Report confirmed the winter deficit findings in the 2013 Needs Assessment Report, stating that:

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<sup>2</sup> For example, ISO-NE plans to a 90/10 or one in ten year weather forecast.

*By winter of 2017-18, there is a transmission capacity deficiency on the Eastside that impacts PSE customers and communities in and around Kirkland, Redmond, Bellevue, Issaquah, Newcastle, and Renton along with Clyde Hill, Medina, and Mercer Island... **By winter of 2019-20, at an Eastside load level of approximately 706 MW, additional CAPs are required that will put approximately 63,200 Eastside customers at risk of outages.***

The 2015 Needs Assessment also confirmed that by summer of 2018, there would be a transmission capacity deficiency on the Eastside that impacts PSE customers and communities in and around Kirkland, Redmond, Renton, Bellevue, Issaquah and Newcastle along with Clyde Hill, Medina and Mercer Island. **By summer of 2018, CAPs will be required to manage overloads under certain N-1-1 contingencies, and the use of these CAPs will place approximately 68,800 customers at risk and could require 74 MW of load shedding, affecting approximately 10,900 customers at a time.**

Based on the 2015 Needs assessment, if the Energize Eastside project gets delayed until after the summer of 2018, load shedding may be used as a corrective action plan to meet the mandatory reliability requirements defined by NERC. This could result in PSE having to turn the power off to tens of thousands of customers under certain forecasted conditions and would be necessary to prevent more widespread outages beyond the Eastside area. To further study this, in 2015 PSE commissioned Nexant to simulate three scenarios of rotating outages that could be needed if no action is taken to upgrade the Eastside's transmission system. Nexant's Energize Eastside Outage Cost Study determined that if PSE must use corrective action plans that include rolling blackouts, more than 130,000 customers could be impacted as early as the summer of 2018, at a cost of tens of millions of dollars to the local economy.

Load shedding is not a practice that PSE or many other responsible utilities use (unless absolutely necessary). Since load shedding adversely impacts residential, commercial and industrial customers, and surrounding cities, towns and neighboring communities, it is necessary and good utility practice to coordinate with cities, towns, municipal officials and emergency services, and to publicly inform those affected.

The City of Bellevue contracted with Utility System Efficiencies, Inc. (USE) to perform an independent technical analysis (ITA) of the purpose, need and timing of the Energize Eastside project, and this study confirmed the capacity deficiency in the Eastside area. The ITA was performed to verify the project need and PSE's study methods, as these were questioned by a small public opposition group.

The ITA concluded that "PSE used reasonable methods to develop its forecast showing the Eastside area growing at a higher level [faster pace] than the county or system level". Additionally, the ITA addressed common questions about the project, including:

- Is the Energize Eastside project needed to address the reliability of the electric grid on the Eastside? **The ITA determined, “YES.”**
- If the load growth rate was reduced, would the project still be needed? **The ITA determined, “YES.”**
- If generation was increased in the Puget Sound area, would the project still be needed? **The ITA determined, “YES.”**
- Is there a need for the project to address regional flows, with imports/exports to Canada ? **The ITA determined that by modeling zero flow to Canada, the project is still necessary to address local need.**

5. *For proposals located on sensitive sites as referenced in Figure UT.5a of the Utility Element of the Comprehensive Plan, the applicant shall demonstrate:*

a. *Compliance with the alternative siting analysis requirements of subsection D of this section;*

See PSE’s Alternative Siting Analysis.

b. *Where feasible, the preferred site alternative identified in subsection D.2.d of this section is located in the land use district requiring additional service and residential land use districts are avoided when the proposed new or expanded electrical utility facility serves a nonresidential land use district;*

As explained in the five studies assessing the need for Energize Eastside, PSE’s proposed transmission line upgrade is responsive to projected growth in the Eastside generally and the City of Bellevue specifically.

6. *The proposal shall provide mitigation sufficient to eliminate or minimize long-term impacts to properties located near the electrical utility facility.*

The Phase 1 and Phase 2 DEISs identified limited unavoidable significant adverse impacts. PSE is committed to implementing avoidance, minimization, and mitigation identified through the SEPA review process where feasible to avoid and address any significant adverse impacts. PSE is committed to fully complying with all mitigation required in the City’s code and permit conditions. Specifically, PSE will mitigate those impacts identified in the Critical Areas Report, as well as tree impacts that are necessary to meet federal transmission line operational standards. PSE will work with affected property owners, the City, and other stakeholders to replace trees in the most effective manner that meets the permit conditions.

F. *Design Standards:*

*In addition to the requirements set forth in Part 20.30B LUC, Part 20.30E LUC, Part 20.25B LUC (if applicable), and other applicable provisions of this section, all proposals to locate or expand an electrical utility facility shall comply with the following:*

1. *Site Landscaping. Electrical utility facilities shall be sight-screened as specified in LUC 20.20.520.F.2 or as required for the applicable land use district. Alternatively, the provisions of LUC 20.20.520.J may be used, provided this subsection does not apply to transmission lines as defined in LUC 20.50.018.*

**Response:** The proposed project in the South Bellevue Segment consists of a transmission line corridor and substation site. This requirement is not applicable within the transmission line corridor. At the Richards Creek substation site, LUC 20.20.520.F.2 requires 15 feet of Type I landscaping on all sides of the substation, subject to restrictions on landscaping within critical areas. The substation site contains wetland and stream critical areas on the north, south, and western portions of the site.

As part of the Conditional Use Permit submittal, PSE has submitted a landscape plan proposing the required landscape screen along the eastern side of the substation with a combination of proposed replacement trees and existing understory vegetation. The screen will be elevated above the existing substation due to a retaining wall and screens the substation from undeveloped property that is forested and contains a stormwater detention facility that serves multi-family development further east across 139th Ave SE.

LUC 20.20.520.F.6 states that if a proposal is located within the Critical Area Overlay District, the Director shall waive the planting requirement of F.2 and shall require the use of native vegetation within the critical area or critical area buffer in lieu of landscape development if the width of the existing vegetation is at least twice that as required under F.2. Supplemental plantings can be added to achieve the required width. Existing critical areas along the north side of substation are within the transmission corridor that leads to PSE's existing Lakeside switching station. Critical areas located to the south and west of the proposed substation will be enhanced as part of the Richards Creek culvert replacement and restoration portion of the substation project.

2. *Fencing. Electrical utility facilities shall be screened by a site-obscuring fence not less than eight feet in height, provided this subsection does not apply to transmission lines as defined in LUC 20.50.018. This requirement may be modified by the City if the site is not considered sensitive as referenced in Figure UT.5a [UT-7] of the Utility Element of the Comprehensive Plan, is adequately screened by topography and/or existing or added vegetation, or if the facility is fully enclosed within a structure. To the maximum extent possible, all electrical utility facility components, excluding transmission lines, shall be screened by either a site-obscuring fence or alternative screening.*

**Response:** This criterion is only applicable to the Richards Creek substation portion of the project and not the transmission corridor. The Richards Creek substation site on Figure UT.5a (now Map UT-7 in the Comprehensive Plan) is a non-sensitive site. Additionally, the site is sufficiently screened by critical area vegetation (existing and proposed enhancement) and based on the site topography, location at the end of a public street, and the proposed location of the substation footprint setback in the hill to the east, it is unlikely the substation will be noticeably visible from outside the substation property.

3. *Required Setback. The proposed (including required fencing) shall conform to the setback requirement for structures in the land use district.*

**Response:** The required structure setbacks for the Light Industrial zoning district are:

	<b>Required</b>	<b>Proposed</b>
<b>Front</b>	15 feet	280 feet
<b>Rear</b>	15 feet	63 feet
<b>Side</b>	15 feet	168 feet /87 feet

4. *Height limitations. For all electrical utility facility components, including transmission lines, the City may approve a request to exceed the height limit for the underlying land use district if the applicant demonstrates:*

- a. *The requested increase is the minimum necessary for the effective functioning of the electrical utility facility; and*

**Response:** The request to exceed the height limit is the minimum necessary for the effective and safe functions of the transmission lines. The existing corridor is located within different zoning districts throughout the City, including residential, commercial, and industrial. The replacement pole height will need to increase over the current pole height. NESC provides minimum clearance requirements for conductors from the ground based on operating temperature and loading to account for sag. These safety standards also require increased separation between the three conductors necessary for each circuit, when the voltage is increased from 115 kV to 230 kV. This increased conductor separation adds height to the poles. Poles are designed to meet the minimum height, the required safety and design standards, and ensure effective functioning of the transmission line during all operational conditions.

- b. *Impacts associated with the electrical utility facility have been mitigated to the greatest extent technically feasible.*

**Response:** As stated in Decision Criterion E6 above and the Alternative Siting Analysis, the location of the new transmission line minimizes impacts to adjacent properties by using an existing transmission line corridor that was established more than eighty years ago. The site selected for the substation is located in a Light Industrial zoning district on a large property that provides a greater opportunity for natural and enhanced screening. Additionally, extensive engineering, which included design and operational parameters, was undertaken to minimize pole height to the extent possible. This approach also allowed for a reduction in EMF, which in turn allowed for the lowest AC interaction with other utilities that share the corridor. Flexibility of pole finish has been accounted for in an effort to help minimize the contrast of the replacement poles with the dominant background.

**ATTACHMENT A**  
**FERC Order**

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153 FERC ¶ 61,076  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Philip D. Moeller, Cheryl A. LaFleur,  
Tony Clark, and Colette D. Honorable.

Coalition of Eastside Neighborhoods for Sensible  
Energy,  
Citizens for Sane Eastside Energy,  
Larry G. Johnson,  
Glenna F. White, and  
Steven D. O'Donnell

v.

Docket No. EL15-74-000

Puget Sound Energy,  
Seattle City Light,  
Bonneville Power Administration, and  
ColumbiaGrid

ORDER DISMISSING COMPLAINT

(Issued October 21, 2015)

1. In this order, we dismiss a complaint (Complaint) filed by the Coalition of Eastside Neighborhoods for Sensible Energy, Citizens for Sane Eastside Energy, and individuals Larry G. Johnson, Glenna F. White, and Steven D. O'Donnell (collectively, Complainants) against Puget Sound Energy (Puget Sound), Seattle City Light, a department of the City of Seattle (Seattle), Bonneville Power Administration (Bonneville), and ColumbiaGrid (collectively, Respondents).

**I. Background**

2. Puget Sound, Seattle, and Bonneville are members of ColumbiaGrid, a non-profit membership corporation whose purpose is to coordinate the operation, use, and expansion of the Pacific Northwest transmission system. Currently, however,

Puget Sound is the only Respondent that is an enrolled member in the ColumbiaGrid transmission planning region, established by certain parties to comply with Order No. 1000.<sup>1</sup> Puget Sound is planning to construct a transmission project consisting of approximately 18 miles of electric transmission lines and associated substation upgrades between the Cities of Redmond and Renton in the State of Washington (Energize Eastside Project). Specifically, the Energize Eastside Project will add a 230/115 kV transformer near Puget Sound's Lakeside Substation and rebuild the existing Sammamish-Lakeside-Talbot 115 kV lines to convert them to 230 kV lines. The exact location of the rebuilt 230 kV transmission lines will be determined after the completion of the state Environmental Impact Statement and local land use permitting processes, which are currently underway. The Energize Eastside Project will be located completely within Puget Sound's service territory. Puget Sound is planning to construct the project in order to accommodate projected local load growth that Puget Sound projects will create local transmission capacity deficiencies in the area beginning by the winter of 2017-18.

3. On June 9, 2015, Complainants filed the Complaint pursuant to section 206 of the Federal Power Act (FPA)<sup>2</sup> and Rule 206 of the Commission's Rules of Practice and Procedure.<sup>3</sup> Complainants allege that the Energize Eastside Project was promoted and implemented by Respondents in a manner that violates Order Nos. 890<sup>4</sup> and 1000. Complainants also assert that Respondents have violated Order No. 2000,<sup>5</sup> "contractual

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<sup>1</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014) (Order No. 1000).

<sup>2</sup> 16 U.S.C. § 824e (2012).

<sup>3</sup> 18 C.F.R. § 385.206 (2015).

<sup>4</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009) (Order No. 890).

<sup>5</sup> *Regional Transmission Organizations*, Order No. 2000, FERC Stats. & Regs. ¶ 31,089 (1999), *order on reh'g*, Order No. 2000-A, FERC Stats. & Regs. ¶ 31,092 (2000), *aff'd sub nom. Pub. Util. Dist. No. 1 v. FERC*, 272 F.3d 607 (D.C. Cir. 2001) (Order No. 2000).

obligations they have entered into with the Commission that incorporate the provisions and policies set forth in those Orders,” and the terms of their Open Access Transmission Tariffs (Tariffs).<sup>6</sup>

4. Complainants argue that the Energize Eastside Project is a Bulk Electric System facility, as defined in Order No. 773,<sup>7</sup> based on the Commission’s “bright line” test, because it is a 230 kV project.<sup>8</sup> They further argue that because the project meets more than one regional need – it is intended to meet both Puget Sound’s local load needs and to provide additional transmission capacity to support 1,500 MW of power flow north to Canada in order to satisfy Bonneville’s obligation to deliver power to Canada under the terms of the Columbia River Treaty<sup>9</sup> – it was subject to the requirements of Order No. 1000 and should have gone out to bid to third parties.<sup>10</sup>

5. Complainants argue that, under Order No. 1000, ColumbiaGrid was required to initially determine whether there is a transmission need on the regional system that would require a project such as the Energize Eastside Project. Complainants assert that, if ColumbiaGrid determined that there was such a need, it needed to inform its members and other interested stakeholders, allow them to propose solutions to resolve the transmission need, and then study those proposals and the associated load flow studies. Complainants further argue that, if ColumbiaGrid determined that the preferred solution met the goals of more than one entity, it needed to determine a fair allocation of the costs of the project.<sup>11</sup> Complainants assert that this process was not followed because Puget Sound alone determined that the Energize Eastside Project was necessary and

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<sup>6</sup> Complaint at 1-2.

<sup>7</sup> *Revisions to Electric Reliability Organization Definition of Bulk Electric System and Rules of Procedure*, Order No. 773, 141 FERC ¶ 61,236 (2012) (Order No. 773).

<sup>8</sup> Complaint at 6.

<sup>9</sup> *Id.*, J. Richard Lauckhart Aff. at P 18.

<sup>10</sup> *Id.* at 2, 6.

<sup>11</sup> *Id.*, J. Richard Lauckhart Aff. at PP 20-22.

conducted the associated load flow studies,<sup>12</sup> and ColumbiaGrid did not determine any regional cost allocation.<sup>13</sup>

6. Complainants conclude that Respondents have violated the regional planning process required by Order Nos. 890 and 1000 because they have violated the “single utility” rule, failed to properly ascertain the regional need for the Energize Eastside Project, failed to conduct their own environmental assessment of the project, and did not conduct industry-standard load flow studies to determine whether the Energize Eastside Project might be duplicative, less efficient, and more costly than better alternatives.<sup>14</sup>

7. In particular, Complainants assert that Order No. 1000’s “single utility” rule required the Respondents to study the regional system as if a single utility owned all relevant generating, transmission, and distribution facilities.<sup>15</sup> Complainants argue that Respondents have not complied with this requirement because Puget Sound did not ask ColumbiaGrid to conduct regional power flow studies for the Energize Eastside Project, but instead, conducted inappropriate power flow studies of its own to determine if the project was necessary.<sup>16</sup> Complainants contend that if these studies were performed on a single utility basis, they would have logically looked at using existing Seattle transmission lines to address the transmission capacity deficiency.<sup>17</sup> Complainants note that Seattle allegedly refused to allow Puget Sound to use those lines because Seattle preferred to reserve those lines for its own use to meet its operating needs.<sup>18</sup>

8. Complainants argue that Respondents also circumvented the requirements of Order No. 1000 because ColumbiaGrid did not evaluate the potential negative environmental impacts of the Energize Eastside Project on its own<sup>19</sup> and Respondents

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<sup>12</sup> *Id.*, J. Richard Lauckhart Aff. at P 25.

<sup>13</sup> *Id.*, J. Richard Lauckhart Aff. at P 22.

<sup>14</sup> *Id.* at 2-3.

<sup>15</sup> *Id.*, J. Richard Lauckhart Aff. at P 49.

<sup>16</sup> *Id.*, J. Richard Lauckhart Aff. at P 25.

<sup>17</sup> *Id.* at 7.

<sup>18</sup> *Id.*, J. Richard Lauckhart Aff. at P 47, n.16; Attachment K.

<sup>19</sup> *Id.* at 8.

chose the Energize Eastside Project without giving any consideration to its environmental impacts or considering the environmental impacts of alternatives.<sup>20</sup>

9. Complainants also allege that the load flow studies Puget Sound conducted were flawed. In particular, they argue that the studies should not have included 1,500 MW of firm transmission to Canada because the transmission system has operated for over 50 years without the ability to deliver 1,500 MW to Canada.<sup>21</sup> Complainants contend that the Columbia River Treaty envisioned the construction of a new transmission line in order to facilitate the delivery of power to Canada that was contemplated in the treaty, but that Bonneville and its counterparty to the treaty, the British Columbia Hydro and Power Authority (BC Hydro), chose not to build this line. Complainants argue that, as a result, Bonneville put in place an operating procedure to curtail flows to Canada anytime such flows might cause overloads on transmission lines in western Washington. Thus, Complainants assert that the transmission system has operated without the ability to deliver the 1,500 MW of treaty power to Canada. Complainants argue, therefore, that the load flow studies for the Energize Eastside Project should have been conducted with no flow between Canada and the United States.<sup>22</sup>

10. In addition, Complainants assert that Puget Sound's load flow studies were flawed because they did not include 1,435 MW of output from eight Puget Sound-controlled natural gas generators located in western Washington. Complainants state that a load flow study performed by Utility Systems Efficiencies, Inc. (Utility Systems) for the City of Bellevue included some, but not nearly all, of this output. Complainants argue that this omission creates inappropriate results in the Puget Sound and Utility Systems load flow studies.<sup>23</sup>

11. Complainants also assert that Puget Sound's 2013 Integrated Resource Plan shows that it needs an additional 1,500 MW of generating capacity by 2018 in order to cover estimated peak load and provide an appropriate level of reserves. Complainants argue that Puget Sound has not determined where it will obtain this additional 1,500 MW of supply and that, therefore, Puget Sound will need to run all of its resources to cover peak load in 2018, including the natural gas plants that were excluded from the Puget Sound and Utility Systems load flow studies. Complainants contend that, as a result, the load

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<sup>20</sup> *Id.*, J. Richard Lauckhart Aff. at P 75.

<sup>21</sup> *Id.* at 4.

<sup>22</sup> *Id.*, J. Richard Lauckhart Aff. at PP 78-86.

<sup>23</sup> *Id.*, J. Richard Lauckhart Aff. at PP 37-44.

flow studies need to include the natural gas plants that were excluded from the Puget Sound and Utility Systems load flow studies.<sup>24</sup> Complainants also note that Puget Sound's 2013 Integrated Resource Plan did not address the possibility of building additional generating units in the area of the Energize Eastside Project to accomplish the dual objective of contributing to the need for 1,500 MW of additional generating capacity and addressing a potential transmission problem in the area.<sup>25</sup>

12. Complainants describe several alternatives to the Energize Eastside Project that they allege could be put in place at a lower cost and with lower environmental impact than the Energize Eastside Project.<sup>26</sup> Complainants also assert that ColumbiaGrid and its member utilities are not acting in compliance with Order No. 1000 because they have yet to agree on a ColumbiaGrid Planning and Expansion Functional Agreement (Planning Agreement) that brings them into compliance with Order No. 1000. Complainants acknowledge that the Planning Agreement and subsequent amendments have been accepted by the Commission, but they assert that ColumbiaGrid and its member utilities have not agreed on an Order No. 1000-compliant Planning Agreement because Bonneville has not yet made a compliance filing to fully conform its Tariff to the Commission's *pro forma* Tariff, as modified by Order No. 1000.<sup>27</sup>

13. Complainants request that the Commission order ColumbiaGrid to perform transparent and industry-standard load flow studies to determine whether the Energize Eastside Project meets a local transmission need and whether a more efficient, less expensive, and less environmentally destructive alternative exists.<sup>28</sup> Complainants assert that Puget Sound, Bonneville, and Seattle have already committed to have ColumbiaGrid perform such studies in their Order Nos. 890 and 1000 compliance filings and in the Planning Agreement.<sup>29</sup>

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<sup>24</sup> *Id.*, J. Richard Lauckhart Aff. at PP 90-92.

<sup>25</sup> *Id.*, J. Richard Lauckhart Aff. at PP 102-103.

<sup>26</sup> *Id.* at 5; J. Richard Lauckhart Aff. at PP 47, 95-104.

<sup>27</sup> *Id.*, J. Richard Lauckhart Aff. at PP 6-9; 11-15.

<sup>28</sup> *Id.* at 7.

<sup>29</sup> *Id.* at 5.

14. Complainants ask that the Commission order Puget Sound to “cease and desist from any further activity with respect to [the Energize Eastside Project], including seeking permits for it” once Complainants’ requested load flow studies “show conclusively there is no local load reliability issue that would justify [the Energize Eastside Project] being built.”<sup>30</sup>

15. Complainants further request that the Commission order Seattle and Bonneville to cooperate in restarting the project selection process at the ColumbiaGrid level, cooperate in properly performed load flow studies, and to not engage in any further acts that are subversive of the Order Nos. 890 and 1000 processes.<sup>31</sup>

16. Additionally, Complainants request that the Commission order Puget Sound, Bonneville, and Seattle to provide an Order No. 1000-compliant Planning Agreement. Complainants ask that, if these entities fail to provide an Order No. 1000-compliant Planning Agreement, the Commission direct them to form a Regional Transmission Organization (RTO) or Independent System Operator (ISO) to ensure Order Nos. 890 and 1000 compliance. Finally, Complainants state that, because ColumbiaGrid’s method for selecting its board members is not fully compliant with the “independence” requirements set out in Order No. 2000, the selection method should be considered in consolidation with ColumbiaGrid’s ongoing Order No. 1000 compliance proceeding in Docket No. ER15-429-000, *et al.*<sup>32</sup>

## **II. Notice and Responsive Pleadings**

17. Notice of the Complaint was published in the *Federal Register*, 80 Fed. Reg. 34,631 (2015), with answers, protests, and interventions due on or before June 29, 2015. Avista Corporation (Avista) filed a timely motion to intervene and comments. Puget Sound and ColumbiaGrid filed a joint motion to dismiss and answer. Bonneville filed a motion to dismiss Bonneville as a Respondent. Seattle filed a motion to dismiss and answer. Powerex Corp. (Powerex) filed a motion to intervene out-of-time.

18. On July 13, 2015, Complainants filed answers and, separately, a motion for order of default against Bonneville. On July 27, 2015, Seattle filed an answer to Complainants’ answer. On July 28, 2015, Bonneville filed an answer to Complainants’ answer and an answer to Complainants’ motion for order of default. On August 11, 2015, Puget Sound

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<sup>30</sup> *Id.* at 7.

<sup>31</sup> *Id.* at 8.

<sup>32</sup> *Id.*

submitted supplemental information to its motion to dismiss and answer and Complainants submitted a letter objecting to the inclusion of that supplemental information in the record.

**A. Puget Sound and ColumbiaGrid Motion to Dismiss and Answer**

19. Puget Sound and ColumbiaGrid argue that the Complaint should be dismissed because Complainants have failed to satisfy the Commission's rules for structuring a complaint, set forth in Rule 206 of the Commission's Rules of Practice and Procedure.<sup>33</sup> Specifically, Puget Sound and ColumbiaGrid assert that the Complaint does not "clearly identify the action or inaction which is alleged to violate applicable statutory standards or regulatory requirements,"<sup>34</sup> or "explain how the action or inaction violates the applicable statutory standards or regulatory requirements"<sup>35</sup> because the Complaint does not cite any particular portion or provision of Order Nos. 890 or 1000 that Respondents have allegedly violated. Puget Sound and ColumbiaGrid note that Order Nos. 890 and 1000 require the development of an Attachment K to Puget Sound's Tariff that satisfies those orders and thus, Attachment K, not Order Nos. 890 and 1000, defines the planning process that Puget Sound must carry out. Puget Sound and ColumbiaGrid further state that Puget Sound's Attachment K relies on the planning obligations set forth in the Planning Agreement, which was first approved by the Commission in 2007 and is used by ColumbiaGrid to facilitate the coordinated planning of multi-system transmission projects.<sup>36</sup> Puget Sound and ColumbiaGrid argue that the Complaint also does not cite any provision of Attachment K or the Planning Agreement that Respondents have allegedly violated. They assert that the Commission has previously dismissed complaints for failing to comply with these requirements.<sup>37</sup>

20. Puget Sound and ColumbiaGrid also argue that the Complaint fails to set forth the "business, commercial, economic or other issues presented by the action/inaction as such relate to or affect the Complainants,"<sup>38</sup> and to make a "good faith effort to quantify the

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<sup>33</sup> Puget Sound and ColumbiaGrid Answer at 7.

<sup>34</sup> 18 C.F.R. § 385.206(b)(1) (2015).

<sup>35</sup> 18 C.F.R. § 385.206(b)(2) (2015).

<sup>36</sup> Puget Sound and ColumbiaGrid Answer at 4, 8.

<sup>37</sup> *Id.* at 7-8 (citing *Citizens Energy Task Force v. Midwest Reliability Org.*, 144 FERC ¶ 61,006, at P 38 (2013)).

<sup>38</sup> *Id.* at 9 (citing 18 C.F.R. § 385.206(b)(3) (2015)).

financial impact or burden (if any) created for the complainant as a result of the action or inaction.”<sup>39</sup> Rather, Puget Sound and ColumbiaGrid state that Complainants generally assert that the Energize Eastside Project is “more costly” than their preferred alternatives, but they do not provide any information on the cost of the proposed alternatives. In fact, Puget Sound and ColumbiaGrid contend that Complainants merely assert that unnamed realtors have informed Complainants that their homes (whose number and present value are also unspecified) may decrease in value if the Energize Eastside Project is constructed and then argue, without further support, that local taxes will increase if the project is built.<sup>40</sup>

21. Puget Sound and ColumbiaGrid allege that the Complaint has also failed to indicate “the practical, operational, or other nonfinancial impacts imposed as a result of the action or inaction, including, where applicable, the environmental, safety or reliability impacts of the action or inaction.”<sup>41</sup> Puget Sound and ColumbiaGrid assert that the Complaint merely states that the Energize Eastside Project is “environmentally unsound and hazardous” without any support other than noting that the project will be co-located with an existing pipeline and require routine tree-cutting.<sup>42</sup>

22. Puget Sound and ColumbiaGrid also note that Complainants are required to state “the specific relief or remedy requested,”<sup>43</sup> but that some of the relief requested in the Complaint cannot be granted. They explain that Complainants request that the Commission order Puget Sound to cease and desist from any further activity with respect to the Energize Eastside Project, including seeking permits for it; however, transmission construction, siting, and permitting fall within the purview of state and local jurisdictions, so it would be beyond the scope of the Commission’s jurisdiction to direct Puget Sound to refrain from seeking state and local permits for the project.<sup>44</sup>

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<sup>39</sup> *Id.* at 9-10 (citing 18 C.F.R. § 385.206(b)(4) (2015)).

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 10 (citing 18 C.F.R. § 385.206(b)(5) (2015)).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 11 (citing 18 C.F.R. § 385.206(b)(7) (2015)).

<sup>44</sup> *Id.*

23. In addition, Puget Sound and ColumbiaGrid assert that Complainants do not have standing to bring a complaint regarding Attachment K or the Planning Agreement; Attachment K describes the process by which Puget Sound coordinates with its transmission customers, neighboring transmission providers, affected state authorities, and other stakeholders, and Complainants do not fall within any of those categories because they are merely landowners in the area where the Energize Eastside Project will be built. Similarly, Puget Sound and ColumbiaGrid assert that Complainants are third-party non-signatories to the Planning Agreement and therefore do not have standing to bring a complaint regarding the Planning Agreement.<sup>45</sup>

24. Puget Sound and ColumbiaGrid argue that Complainants' allegations should be dismissed as impermissible collateral attacks on Commission Order Nos. 890, 1000, and 2000. They contend that Complainants' allegation that ColumbiaGrid's method for selecting its board members does not comply with the "independence" requirements set out in Order No. 2000 and Complainants' request that the Commission order Respondents to form an RTO or ISO are not relevant to whether Puget Sound complied with its transmission planning obligations. Puget Sound and ColumbiaGrid argue that, because ColumbiaGrid is not an RTO, the Order No. 2000 "independence" requirements are not applicable. Puget Sound and ColumbiaGrid also assert that Order No. 2000 did not mandate the creation of RTOs, and Order Nos. 890 and 1000 did not impose any specific requirements for the structure in which public utilities must implement the planning provisions that were to be incorporated into Attachment K. Therefore, they argue that Complainants' assertions regarding ColumbiaGrid's method for selecting its board members and their request that the Commission order Respondents to form an RTO or ISO are impermissible collateral attacks on Order Nos. 890, 1000, and 2000.<sup>46</sup>

25. Puget Sound and ColumbiaGrid also contend that Complainants collaterally attack Order Nos. 890 and 1000, and the Commission's orders accepting Puget Sound's compliance filings made pursuant to those orders, when they assert that the Energize Eastside Project should have gone out to bid to third parties and that Puget Sound should be required to abandon the project if new studies show there is no load reliability issue. Puget Sound and ColumbiaGrid assert that there is no requirement in Attachment K of Puget Sound's Tariff or the Planning Agreement that Puget Sound request bids or issue a request for proposals prior to any construction of a transmission facility. They also contend that the inclusion of any project, including the Energize Eastside Project, in a

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<sup>45</sup> *Id.* at 11-13.

<sup>46</sup> *Id.* at 13-14.

ColumbiaGrid transmission plan is not a condition precedent to Puget Sound's decision to build a project.<sup>47</sup>

26. Puget Sound and ColumbiaGrid further argue that the Complaint should be dismissed for a lack of jurisdiction as it applies to ColumbiaGrid. They assert that the Commission has found that ColumbiaGrid does not own, operate, or control jurisdictional facilities necessary to qualify it as public utility under the FPA, and, therefore, ColumbiaGrid is not subject to section 206 of the FPA.<sup>48</sup>

27. In answering the Complaint, Puget Sound and ColumbiaGrid argue that, if the Commission considers the substantive issues raised by the Complaint, the Complaint must be rejected because Complainants have not demonstrated that Puget Sound has failed to comply with its Commission-approved transmission planning process contained in Attachment K of the Puget Sound Tariff and the Planning Agreement, nor have they demonstrated that the Respondents have violated Orders Nos. 890 and 1000.<sup>49</sup>

28. In support, Puget Sound and ColumbiaGrid assert that the Energize Eastside Project was originally conceived in 2006 and pre-dates the Order No. 1000 amendments to Attachment K of Puget Sound's Tariff; therefore, the Energize Eastside Project was subject to the Order No. 890 transmission planning requirements, not the Order No. 1000 requirements. They note that the Commission held that the Order No. 1000 requirements "apply to the evaluation or reevaluation of any transmission facility that occurs *after* the effective date of the public utility transmission provider's filing adopting the transmission planning and cost allocation reforms of the pro forma [Tariff] required by this Final Rule."<sup>50</sup> They state that Puget Sound's Order No. 1000 amendments to Attachment K of its Tariff did not take effect until January 1, 2015, and, therefore, that Complainants' allegations regarding supposed non-compliance with Order No. 1000 are inapposite.<sup>51</sup>

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<sup>47</sup> *Id.* at 15-16.

<sup>48</sup> *Id.* at 19.

<sup>49</sup> *Id.* at 19-20.

<sup>50</sup> *Id.* at 20-21 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 65) (emphasis added).

<sup>51</sup> *Id.*

29. Moreover, Puget Sound and ColumbiaGrid argue that Puget Sound complied with its then-applicable Order No. 890 transmission planning requirements for the Energize Eastside Project. They state that, pursuant to Puget Sound's Attachment K that was approved following Order No. 890, Puget Sound was required to develop an annual 10-year plan that identified new transmission facilities and facility replacements or upgrades that it was planning over the next 10 years. They explain that, pursuant to the then-applicable Planning Agreement, Puget Sound was required to advise ColumbiaGrid of any "Single System Projects" that it was planning on its system and submit those proposed projects to ColumbiaGrid. Puget Sound and ColumbiaGrid assert that Puget Sound complied with these requirements.<sup>52</sup>

30. Puget Sound and ColumbiaGrid state that, in accordance with Puget Sound's Order No. 890-compliant Attachment K, Puget Sound identified the Energize Eastside Project in each of its annual 10-year plans from 2009 to 2014, and posted all of those annual plans on its Open Access Same-Time Information System. They explain that Puget Sound notified ColumbiaGrid of the Energize Eastside Project as a Single System Project, as required by the Planning Agreement, and that ColumbiaGrid subsequently included the Energize Eastside Project in its Biennial Transmission Expansion Plans.<sup>53</sup>

31. Puget Sound and ColumbiaGrid argue that, contrary to Complainants' arguments, their studies properly included the 1,500 MW of transmission capacity associated with Bonneville's obligation to return power to Canada under the Columbia River Treaty. They assert that, when studying energy flows on the transmission system, transmission planners study the paths upon which energy flows rather than the contract paths upon which energy is commercially transacted and scheduled. They state that all flows of energy in the Puget Sound region, such as flows related to Bonneville's obligation to deliver power to Canada, affect the flows of energy on parallel transmission facilities like Puget Sound's facilities. Puget Sound and ColumbiaGrid argue that, to ensure transmission system reliability, Puget Sound's and ColumbiaGrid's studies considered a range of possible operating conditions, including one where Bonneville schedules 1,500 MW of energy on its contract path, and the effect those operating conditions have on Puget Sound's underlying transmission facilities. They assert that these assumptions are consistent with prudent utility practice because Bonneville's legal obligation to Canada exists, and it must be accounted for and anticipated in planning studies.<sup>54</sup>

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<sup>52</sup> *Id.* at 21-22.

<sup>53</sup> *Id.* at 27-28.

<sup>54</sup> *Id.* at 6, n.20.

32. Puget Sound and ColumbiaGrid argue that the Energize Eastside Project was properly classified a Single System Project. They state that Puget Sound's then-applicable Attachment K defines a Single System Project as "any modification of a single Transmission System that[:] (i) is for the purpose of meeting a Need that impacts only such single Transmission System; (ii) does not result in Material Adverse Impacts on any transmission system; and (iii) is included as a Single System Project in a Plan."<sup>55</sup> They explain that the Energize Eastside Project meets a "Need" that impacts only a single transmission system. They state that a "Need" is defined to include a projected inability of a transmission owner to serve its network load, native load customer obligations, or other existing long-term firm transmission obligations. Puget Sound and ColumbiaGrid assert that, in reports from 2013 and 2015, Puget Sound identified a need for transmission supply on Puget Sound's system in order to serve Puget Sound customers.<sup>56</sup>

33. Puget Sound and ColumbiaGrid state that Puget Sound introduced the Energize Eastside Project into ColumbiaGrid's existing Puget Sound Area Study Team transmission expansion planning process and the study team adopted the Energize Eastside Project in the team's expansion plan, without any finding of Material Adverse Impacts on any transmission system.<sup>57</sup> Puget Sound and ColumbiaGrid maintain that the Energize Eastside Project was included as a Single System Project in a "Plan." They state that "Plan" is defined as "at any time the then current Biennial Plan, as then revised by any Plan Updates." They assert that ColumbiaGrid explicitly included the Energize Eastside Project as a Single System Project in its most recent 2015 Biennial Plan.<sup>58</sup>

34. Puget Sound and ColumbiaGrid contend that ColumbiaGrid also complied with its remaining transmission planning responsibilities with respect to the Energize Eastside Project. They note that, in accordance with the Planning Agreement, ColumbiaGrid is required to develop a Biennial Plan, which must include those Single System Projects on a transmission system that have been submitted for inclusion in the Biennial Plan. Puget Sound and ColumbiaGrid assert that ColumbiaGrid has complied with this obligation because Puget Sound properly submitted the Energize Eastside Project to ColumbiaGrid

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<sup>55</sup> *Id.* at 23 (citing Puget Sound Attachment K § A.51; Planning Agreement § 1.51).

<sup>56</sup> *Id.* at 24-25.

<sup>57</sup> *Id.* at 25-27.

<sup>58</sup> *Id.* at 27.

for consideration, and ColumbiaGrid included the project as a Single System Project in its Biennial Plans.<sup>59</sup>

35. Finally, Puget Sound and ColumbiaGrid argue that, even assuming *arguendo* that the Energize Eastside Project is subject to the Order No. 1000 amendments to the Puget Sound Tariff and the Planning Agreement, the Commission has made clear that Order No. 1000 “do[es] not require that the transmission facilities in a public utility transmission provider’s local transmission plan be subject to approval at the regional or interregional level, unless that public utility transmission provider seeks to have any of those facilities selected in the regional transmission plan for purposes of cost allocation.”<sup>60</sup> Puget Sound and ColumbiaGrid assert that the Energize Eastside Project is a local load-serving project and that none of the Respondents is seeking to include the project in the regional plan for purposes of cost allocation; therefore, the Energize Eastside Project would not be subject to Order No. 1000’s regional approval process.<sup>61</sup>

#### **B. Seattle Motion to Dismiss and Answer**

36. Seattle explains that it is a department of the City of Seattle through which the city provides electric utility service. Seattle moves to dismiss the Complaint on the grounds that nothing in Order Nos. 890 or 1000 prevents a utility from building facilities in its service territory that are needed to serve load. Seattle also asserts that Complainants’ references to Order No. 2000 are irrelevant to their claims because Order No. 2000 details the requirements applicable to RTOs, and there are no RTOs in the Energize Eastside Project’s region.<sup>62</sup>

37. More specifically, Seattle argues that, in Order No. 890, the Commission expressly disavowed any intention to dictate which investments a utility would undertake, finding that “the planning obligations imposed in this Final Rule do not address or dictate which investments identified in a transmission plan should be undertaken by transmission providers.”<sup>63</sup> Seattle further notes that Attachment K to the Puget Sound Tariff reflects the same concept, as the Tariff states that it “does not dictate or establish which

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<sup>59</sup> *Id.* at 28-29.

<sup>60</sup> *Id.* at 21 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 65).

<sup>61</sup> *Id.*

<sup>62</sup> Seattle Answer at 2-3.

<sup>63</sup> *Id.* at 7 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 438).

investments identified in a transmission plan should be performed or how such investments should be compensated.”<sup>64</sup>

38. Seattle maintains that Order No. 1000 expressly permits incumbent public utility transmission providers to develop and build local transmission facilities outside of the Order No. 1000 process, provided the project is located solely within the public utility’s retail distribution service area, and is not proposed or selected in the regional transmission plan for purposes of cost allocation.<sup>65</sup> Seattle further explains that Order No. 1000 defined a “local transmission facility” as “a transmission facility located solely within a public utility transmission provider’s retail distribution service territory or footprint that is not selected in the regional transmission plan for purposes of cost allocation.”<sup>66</sup>

39. Seattle asserts that the Energize Eastside Project falls within the Commission’s definition of a “local transmission facility” since the transmission line is limited in length to 18 miles, the proposed route for the line sits entirely within Puget Sound’s combined electric and gas service area, and Puget Sound has not opted to include the project in the ColumbiaGrid regional cost allocation process under Order No. 1000.<sup>67</sup> Seattle argues that, therefore, the Energize Eastside Project is the type of project the Commission made clear can be developed independently by an incumbent utility, without running afoul of Order No. 1000.<sup>68</sup>

40. Seattle further asserts that Complainants’ claim that the Energize Eastside Project is a Bulk Electric System facility under the definition adopted in Order No. 773 is irrelevant. Seattle argues that the applicable scope of the Reliability Standards enforced by the North American Electric Reliability Corporation (NERC) has nothing to do with the scope of the transmission planning process under Order No. 1000.<sup>69</sup>

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<sup>64</sup> *Id.* (citing Puget Sound Tariff, Attachment K, Part II).

<sup>65</sup> *Id.* at 1-2.

<sup>66</sup> *Id.* at 7-8 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 63).

<sup>67</sup> *Id.*

<sup>68</sup> *Id.* at 9.

<sup>69</sup> *Id.* at 10.

41. Finally, Seattle points out that Order No. 1000 has no direct application to entities like Seattle that fall within the definition of a non-public utility under section 201(f) of the FPA.<sup>70</sup> Seattle explains that it is a non-public utility because it is a department of the City of Seattle and the City of Seattle is a city organized under a Charter authorized by the Washington State Constitution.<sup>71</sup> Seattle asserts that, in Order Nos. 890 and 1000, the Commission expressly declined to take action under section 211A of the FPA<sup>72</sup> to require non-public utilities to participate in the Order Nos. 890 and 1000 processes.<sup>73</sup>

**C. Bonneville Motion to Dismiss**

42. Bonneville argues that it should be dismissed as a Respondent because the Complaint was filed pursuant to section 206 of the FPA, but the Commission has no jurisdiction over Bonneville pursuant to section 206.<sup>74</sup> Bonneville asserts that the Commission and several U.S. Circuit Courts have held that the Commission lacks jurisdiction over Bonneville pursuant to section 206.<sup>75</sup> Bonneville also notes that it is a party to a Memorandum of Agreement with Seattle and Puget Sound that memorializes the parties' plans to construct certain transmission projects, but that a subsequent letter agreement clarified that Bonneville is not participating in the Energize Eastside Project.<sup>76</sup>

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<sup>70</sup> 16 U.S.C. § 824 (2012).

<sup>71</sup> Seattle Answer at 2, 6, 11.

<sup>72</sup> 16 U.S.C. § 824j-1 (2012).

<sup>73</sup> Seattle Answer at 11 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 192; Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 815, 821; Order No. 1000-A, 139 FERC ¶ 61,132 at P 778).

<sup>74</sup> Bonneville Motion to Dismiss at 3-4.

<sup>75</sup> *Id.* at 4 (citing *Avista Corp.*, 143 FERC ¶ 61,255, P 2, n.4 (2013) (“[w]e recognize that Bonneville Power is not a public utility under section 201 of the FPA, 16 U.S.C. § 824 (2006), and is not subject to Commission directives made pursuant to FPA section 206;” *Bonneville Power Admin. v. FERC*, 422 F.3d 908, 924 (9th Cir. 2005) (*Bonneville*))).

<sup>76</sup> *Id.* at 2-3.

**D. Avista Comments**

43. Avista supports the Puget Sound and ColumbiaGrid Answer and reiterates that the Complaint contains no allegations of any violations of any specific provision of Order Nos. 890 and 1000, or of Attachment K to Puget Sound's Tariff.<sup>77</sup> Avista also reiterates that Order No. 1000 planning requirements do not apply to the Energize Eastside Project because the project predates the January 1, 2015 effective date of the Order No. 1000 amendments to Attachment K of Puget Sound's Tariff.<sup>78</sup> Avista further asserts that Complainants' request that the Commission order Puget Sound, Bonneville, and Seattle to file an Order No. 1000-compliant Planning Agreement is moot because the Commission has already conditionally accepted Respondents' Planning Agreement, subject to a further compliance filing that remains pending before the Commission.<sup>79</sup>

**E. Complainants Answers and Motion for Order of Default**

44. Complainants filed three separate answers to respond to the Puget Sound and ColumbiaGrid Answer, the Seattle Answer, and the Bonneville Motion to Dismiss, as well as a motion for Order of Default against Bonneville. In Complainants' answer to the Puget Sound and ColumbiaGrid Answer, they reiterate that the Energize Eastside Project is not a local load facility because it falls within the Bulk Electric System definition. Complainants also argue that the project should not be considered as a local load facility because its cost will be included in the rate for firm transmission service on the Puget Sound transmission system.<sup>80</sup> Complainants further contend that ColumbiaGrid has agreed to submit itself to the Commission's jurisdiction because it has signed the Planning Agreement and has a Commission-approved rate schedule on file with the Commission.<sup>81</sup> Finally, Complainants reiterate that Puget Sound's load flow studies were flawed because they included 1,500 MW of transmission capacity for Bonneville's delivery of power to Canada.<sup>82</sup>

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<sup>77</sup> Avista Comments at 3-4.

<sup>78</sup> *Id.* at 4.

<sup>79</sup> *Id.* at 5.

<sup>80</sup> Complainants Answer to Puget Sound and ColumbiaGrid Answer at 3-5.

<sup>81</sup> *Id.* at 12.

<sup>82</sup> *Id.* at 13-17.

45. In their answer to the Seattle Answer, Complainants argue that the Energize Eastside Project has been “selected in a regional transmission plan for purposes of cost allocation” because its cost would go into the rate for firm transmission service on the Puget Sound transmission system.<sup>83</sup> Complainants also reiterate that a “single-utility” approach would have identified Puget Sound’s use of Seattle’s transmission facilities as the solution to meet the need that the Energize Eastside Project is designed to address.<sup>84</sup> Complainants further contend that the Commission has jurisdiction over Seattle pursuant to section 211A of the FPA.<sup>85</sup> In addition, Complainants state that Seattle is subject to sanctions under section 211A because it does not have a Tariff on file with the Commission.<sup>86</sup>

46. In response to the Bonneville Motion to Dismiss, Complainants argue that section 211A of the FPA authorizes the Commission to enforce the requirements of Order No. 890 against even non-public utility transmission providers like Bonneville.<sup>87</sup> Complainants also argue that Bonneville has voluntarily submitted to the Commission’s jurisdiction under Order No. 890 in exchange for reciprocity because Bonneville has signed the Planning Agreement and has an Attachment K to its Tariff on file with the Commission.<sup>88</sup>

47. In the motion for Order of Default against Bonneville, Complainants argue that, because Bonneville only moved to dismiss the Complaint and did not answer the Complaint, Bonneville should be considered in default under Rule 213(e) of the Commission’s Rules of Practice and Procedure<sup>89</sup> and, as to Bonneville, all relevant facts stated in the Complaint should be deemed admitted.<sup>90</sup>

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<sup>83</sup> Complainants Answer to Seattle Answer at 6.

<sup>84</sup> *Id.* at 11-12.

<sup>85</sup> *Id.* at 13-14.

<sup>86</sup> *Id.* at 3-4.

<sup>87</sup> Complainants Answer to Bonneville Motion to Dismiss at 2, 4-7.

<sup>88</sup> *Id.* at 4, 10.

<sup>89</sup> 18 C.F.R. § 385.213(e) (2015).

<sup>90</sup> Complainants Motion for Order of Default at 1-2.

**F. Seattle July 27 Answer**

48. Seattle argues that Complainants are incorrect in claiming that Seattle is out of compliance with the Commission's open access policies because it does not have a Tariff on file with the Commission. Seattle asserts that reciprocity does not require Seattle to file its Tariff with the Commission. Seattle explains that it satisfies the reciprocity condition by offering to provide transmission service under the terms of its publicly-available Tariff, but it is not required to file that Tariff with the Commission.<sup>91</sup>

49. Seattle also argues that Complainants are wrong in asserting that there is a basis for proceeding against Seattle under section 211A of the FPA. Seattle asserts that the Complaint was framed as a complaint under section 206, which has no application to Seattle, a non-public utility under section 201(f).<sup>92</sup>

**G. Bonneville July 28 Answers**

50. Bonneville reiterates that the Complaint was filed under section 206 of the FPA, which does not apply to Bonneville, and that the Complaint fails to allege any violation on the part of Bonneville that falls within the Commission's jurisdiction. In response to Complainants' argument that section 211A authorizes the Commission to enforce the requirements of Order No. 890 against Bonneville, Bonneville argues that Complainants have not made any arguments that fall within the Commission's section 211A authority. Bonneville states that section 211A(b)(2) authorizes the Commission to issue a rule or order requiring an unregulated transmission utility, such as Bonneville, to provide transmission services "on terms and conditions (not relating to rates) that are comparable to those under which the unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential."<sup>93</sup> However, Bonneville argues that Complainants do not make any allegation of non-comparable or discriminatory effects as required by section 211A. Bonneville asserts that, moreover, Complainants are not current or potential transmission customers of Bonneville, and thus could not have been denied any service on Bonneville's system or be treated differently than any other of Bonneville's customers.<sup>94</sup>

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<sup>91</sup> Seattle July 27 Answer at 3-4.

<sup>92</sup> *Id.* at 5.

<sup>93</sup> Bonneville July 28 Answer at 3-4 (citing 16 U.S.C. § 824j-1(b)(2) (2012)).

<sup>94</sup> *Id.* at 4.

51. Bonneville also disputes that it has voluntarily submitted itself to the Commission's jurisdiction. It states that, in *Bonneville*, the U.S. Court of Appeals for the Ninth Circuit rejected an argument that Bonneville had submitted itself to Commission jurisdiction by agreeing to abide by certain tariffs, and found that the Commission cannot exercise jurisdiction beyond what is authorized in the statute, regardless of whether the jurisdiction is exercised without objection or even with the consent of the relevant parties.<sup>95</sup>

52. Bonneville also filed an answer to Complainants' motion for Order of Default. Bonneville states that Rule 213(e) of the Commission's Rules of Practice and Procedure does not require the Commission to find an entity in default for failing to answer a complaint, but instead provides that any person failing to answer a complaint "may" be considered in default and the relevant facts "may" be deemed admitted as to that person. Bonneville argues that it should not be considered in default because the Commission's lack of jurisdiction over Bonneville under section 206 is well settled and, thus, it would be a waste of Bonneville's and the Commission's resources to require Bonneville to answer the Complaint. If the Commission finds that it has jurisdiction over Bonneville in this case, Bonneville requests that the Commission deny the motion for Order of Default and allow Bonneville additional time to file an answer.<sup>96</sup>

#### **H. Subsequent Pleadings**

53. On August 11, 2015, Puget Sound filed a letter providing supplemental information to the factual assertions in its answer. On the same day, Complainants filed a letter asking the Commission not to make Puget Sound's letter part of the record.

### **III. Discussion**

#### **A. Procedural Matters**

54. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), Avista's timely, unopposed motion to intervene serves to make it a party to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2015), the Commission will grant the late-filed motion to intervene of Powerex, given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

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<sup>95</sup> *Bonneville*, 422 F.3d at 924.

<sup>96</sup> Bonneville July 28 Answer to Motion for Order of Default at 3-5.

55. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to an answer unless otherwise ordered by the decisional authority. We will accept the answers in this case because they provided information that assisted us in our decision-making process.

**B. Substantive Matters**

56. We will dismiss the Complaint with respect to Bonneville, Seattle, and ColumbiaGrid because the Complaint was filed pursuant to section 206 of the FPA, and Bonneville, Seattle, and ColumbiaGrid are not subject to the Commission's section 206 jurisdiction. Section 201 of the FPA specifies the scope of the Commission's jurisdiction under subchapter II of the FPA, which includes section 206. Section 201(f) provides that, "[n]o provision in this subchapter shall apply to, or be deemed to include, the United States, a State or any political subdivision of a State. . . or any agency, authority, or instrumentality of . . . the foregoing . . . unless such provision makes specific reference thereto."<sup>97</sup> Bonneville is a federal power marketing administration within the United States Department of Energy<sup>98</sup> and Seattle is a city organized under a Charter authorized by the Washington State Constitution;<sup>99</sup> section 206 of the FPA does not make any specific reference to include entities such as Bonneville or Seattle. Therefore, Bonneville and Seattle are not subject to the Commission's jurisdiction under section 206 of the FPA. The Commission has also found that ColumbiaGrid does not own, operate or control jurisdictional facilities necessary to qualify it as public utility under the FPA; thus, it is not subject to the Commission's jurisdiction under section 206 of the FPA.<sup>100</sup> Accordingly, we dismiss the Complaint against Bonneville, Seattle, and ColumbiaGrid.

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<sup>97</sup> 16 U.S.C. § 824(f).

<sup>98</sup> See, e.g., Bonneville Motion to Dismiss at 3; *Avista Corp.*, 143 FERC ¶ 61,255, at P 2, n.4 (2013) ("We recognize that Bonneville Power is not a public utility under section 201 of the FPA...and is not subject to Commission directives made pursuant to FPA section 206.").

<sup>99</sup> See Seattle Answer at 11.

<sup>100</sup> See *ColumbiaGrid*, 119 FERC ¶ 61,007, at PP 16, 27 (2007) ("NIPPC argues that the Commission should find that ColumbiaGrid is subject to the Commission's jurisdiction because ColumbiaGrid will perform certain jurisdictional services... We also disagree with assertions raised by NIPPC regarding the jurisdictional status of ColumbiaGrid... The current Planning Agreement does not cause ColumbiaGrid to own, operate or control jurisdictional facilities").

57. Complainants argue that the Commission has jurisdiction over Bonneville and Seattle in this matter pursuant to section 211A of the FPA.<sup>101</sup> We disagree. Section 211A provides that the Commission may issue a rule or order requiring an unregulated transmitting utility, such as Bonneville or Seattle, to provide transmission services “(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and (2) on terms and conditions (not relating to rates) that are comparable to those under which the unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.”<sup>102</sup> In Order No. 890, the Commission did not adopt a generic rule implementing section 211A with respect to all non-jurisdictional unregulated transmitting utilities<sup>103</sup> or invoke its authority under section 211A to require such non-jurisdictional entities to participate in the Order No. 890 planning processes, but instead found that it could exercise such authority on a “case-by-case” basis if there is an appropriate record.<sup>104</sup> Complainants have provided no basis for the Commission to exercise its authority under section 211A. The Complaint does not allege that Respondents are providing non-comparable, discriminatory, or preferential transmission services. Moreover, the Complaint does not allege that the Complainants are current or potential transmission customers of any Respondent; therefore, Complainants could not have received non-comparable or discriminatory transmission service from any Respondent, or have been treated differently from any other of Respondents’ transmission customers.<sup>105</sup>

58. Complainants also argue that Bonneville, Seattle, and ColumbiaGrid have agreed to submit themselves to the Commission’s jurisdiction because they are parties to the Planning Agreement and have tariffs or rate schedules on file with the Commission.<sup>106</sup>

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<sup>101</sup> See Complainants Answer to Bonneville Motion to Dismiss at 3-7; Complainants Answer to Seattle Answer at 13-14.

<sup>102</sup> 16 U.S.C. § 824j-1(b).

<sup>103</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 192.

<sup>104</sup> *Id.* P 441.

<sup>105</sup> See *id.* P 192 (“A *potential customer* may file an application with the Commission seeking an order compelling the unregulated transmitting utility to provide transmission service that meets the standards of FPA section 211A.”) (emphasis added).

<sup>106</sup> See, e.g., Complainants Answer to Puget Sound and ColumbiaGrid Answer at 12; Complainants Answer to Seattle Answer at 13-15; Complainants Answer to Bonneville Motion to Dismiss at 10.

Complainants assert that it is “commonplace” and “axiomatic” in the law that “a party not otherwise subject to the jurisdiction of a governmental entity can nevertheless agree to submit itself to that jurisdiction.”<sup>107</sup> However, courts have found that the Commission cannot exercise jurisdiction or authority that is not authorized by statute, even if the relevant parties voluntarily participated in Commission-approved markets and the parties consent to the jurisdiction.<sup>108</sup>

59. We also will dismiss the Complaint with respect to the remaining Respondent, Puget Sound. Rule 206 of the Commission’s Rules of Practice and Procedure provides that a complaint must “[c]learly identify the action or inaction which is alleged to violate applicable statutory standards or regulatory requirements”<sup>109</sup> and “[e]xplain how the action or inaction violates applicable statutory standards or regulatory requirements.”<sup>110</sup> We find that the Complaint fails to meet these requirements because the Complaint does not cite any specific provision of any Commission order or regulation, or any specific provision of the Puget Sound Tariff or Planning Agreement, that Respondents have allegedly violated. Instead, Complainants make vague allegations that Respondents have violated Order Nos. 890, 1000, and 2000, as well as the Puget Sound Tariff and Planning Agreement, without citing any specific provision of those orders, the Tariff, or the Planning Agreement that Respondents have allegedly violated. Thus, Complainants have not identified the “applicable statutory standards or regulatory requirements,” that Respondents have allegedly violated. We cannot conclude that the Complaint has sufficiently identified the behavior that allegedly violates the applicable standards or requirements, or that it has sufficiently explained how there is such a violation, when Complainants have not even identified the applicable standards or requirements.

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<sup>107</sup> See, e.g., Complainants Answer to Puget Sound and ColumbiaGrid Answer at 12; Complainants Answer to Bonneville Motion to Dismiss at 10.

<sup>108</sup> See, e.g., *Bonneville*, 422 F.3d 908, 924 (“[The Commission] cannot exercise jurisdiction or authority unless authorized by statute, regardless of whether the jurisdiction is exercised without objection or even with the consent of the relevant parties. . . Similarly, [the Commission] cannot expand its statutory authority to reach governmental entities/non-public utilities through § 206(b) simply because such entities voluntarily participated in markets approved by [the Commission] that involved [Commission]-jurisdictional wholesale sales of electric energy in interstate commerce.”).

<sup>109</sup> 18 C.F.R. § 385.206(b)(1).

<sup>110</sup> 18 C.F.R. § 385.206(b)(2).

60. The Commission has previously dismissed complaints for failing to comply with these requirements. For example, in a case involving a complaint that alleged a violation of a NERC Reliability Standard, the Commission dismissed the complaint, finding that, “[i]f a complaint regarding an alleged violation of a Reliability Standard is to meet the threshold requirements of Rule 206, then the complaint must, at a minimum, set forth the specific provision of the Reliability Standard that is at issue.”<sup>111</sup> The Complaint here similarly fails to provide that minimum level of specificity because it simply makes broad reference to Order Nos. 890, 1000, and 2000, the Puget Sound Tariff, and the Planning Agreement, and does not set forth any specific provision that is at issue.

61. In addition to the Complaint’s procedural deficiencies, Complainants have not met their burden of proof under section 206 of the FPA to demonstrate that the Respondents’ actions with respect to the Energize Eastside Project have violated any applicable requirement or are otherwise unjust, unreasonable, or unduly discriminatory, or preferential. Rather, contrary to Complainants’ vague allegations that the Respondents have violated Order Nos. 890 and 1000, the record before us shows that Puget Sound and the other Respondents have complied with the applicable transmission planning requirements in those orders.

62. We agree with Puget Sound and ColumbiaGrid that the Energize Eastside Project was properly evaluated under the then-applicable Order No. 890 transmission planning requirements. The Commission has stated that Order No. 1000 does “not require that the transmission facilities in a public utility transmission provider’s local transmission plan be subject to approval at the regional or interregional level, unless that public utility transmission provider seeks to have any of those facilities selected in the regional transmission plan for purposes of cost allocation.”<sup>112</sup> The Commission has further explained that “Order No. 1000 does not prevent an incumbent transmission provider from meeting its reliability needs or service obligations by choosing to build new transmission facilities that are located solely within its retail distribution service territory or footprint and that are not selected in a regional transmission plan for purposes of cost allocation.”<sup>113</sup> The record before us shows that the Energize Eastside Project is located completely within Puget Sound’s service territory, that it was included in Puget Sound’s local transmission plan to meet Puget Sound’s reliability needs, and that neither Puget Sound, nor any other eligible party, requested to have the project selected in the

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<sup>111</sup> *Citizens Energy Task Force v. Midwest Reliability Org.*, 144 FERC ¶ 61,006, at P 39 (2013).

<sup>112</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 190.

<sup>113</sup> *Id.* P 425.

regional transmission plan for purposes of cost allocation;<sup>114</sup> therefore, the project is not subject to the Order No. 1000 regional approval process, and is instead subject to the Order No. 890 transmission planning requirements.

63. Based on the record before us, we find that Puget Sound and the other Respondents complied with their transmission planning responsibilities under Order No. 890 in proposing and evaluating the Energize Eastside Project. As required by the Attachment K of Puget Sound's Tariff that was approved following Order No. 890, Puget Sound identified the Energize Eastside Project in its annual 10-year plans. Puget Sound also notified ColumbiaGrid of the Energize Eastside Project as a Single System Project, as required by the then-applicable Planning Agreement, and ColumbiaGrid subsequently included the Energize Eastside Project in its Biennial Transmission Expansion Plans.<sup>115</sup> We agree with Puget Sound and ColumbiaGrid that the Energize Eastside Project was properly classified a Single System Project because it was designed to address Puget Sound's projected inability to serve its own customers, ColumbiaGrid's Puget Sound Area Study Team did not find any Material Adverse Impacts associated with the project, and ColumbiaGrid included the project as a Single System Project in its most recent 2015 Biennial Plan. Accordingly, we find that the Energize Eastside Project was proposed and evaluated in accordance with the then-applicable transmission planning requirements.

64. Complainants argue that the Energize Eastside Project has been "selected in a regional transmission plan for purposes of cost allocation," and therefore is subject to the Order No. 1000 regional approval process, because its cost would go into the transmission rate for firm transmission service on the Puget Sound transmission system.<sup>116</sup> However, Complainants' argument confuses two separate issues. The regional cost allocation contemplated in Order No. 1000 involves allocating the costs of a transmission facility across a region. Including the cost of the Energize Eastside Project in Puget Sound's rate for firm transmission service on its system affects only Puget Sound's transmission rate and does not mean that the project was "selected in a regional transmission plan for purposes of cost allocation."

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<sup>114</sup> See, e.g., Puget Sound and ColumbiaGrid Answer at 5, 21; Seattle Answer at 9.

<sup>115</sup> Puget Sound and ColumbiaGrid Answer at 27-28.

<sup>116</sup> See Complainants Answer to Seattle Answer at 6.

65. Complainants also assert that development of the Energize Eastside Project should have gone out to bid to third parties pursuant to Order No. 1000.<sup>117</sup> However, Complainants are incorrect because Order No. 1000 does not require project developers to be selected using a competitive bidding process<sup>118</sup> and there is no requirement in Puget Sound's Tariff or the Planning Agreement that Puget Sound issue a request for proposals or request bids prior to any construction of a transmission facility.

66. Complainants request that the Commission order Puget Sound "to cease and desist from any further activity with respect to [the Energize Eastside Project], including seeking permits for it."<sup>119</sup> Regardless of Complainants' arguments, we could not grant this requested relief because much of the "activity with respect to" the project, such as transmission siting and permitting, is not subject to the Commission's jurisdiction.

67. Complainants argue that the Energize Eastside Project is not a local load-serving project that is exempt from Order No. 1000 because it is a Bulk Electric System facility, as defined in Order No. 773.<sup>120</sup> This argument is inapposite. The Bulk Electric System definition was developed by NERC for use in determining the scope of NERC Reliability Standards and related obligations. Specifically, the definition of Bulk Electric System includes transmission facilities that are 100 kV or higher, with exceptions, such as local distribution facilities.<sup>121</sup> Order No. 1000 does not require that transmission planning regions use this Bulk Electric System definition to determine whether a transmission project is subject to the Order No. 1000 regional planning process. Instead, Order No. 1000 provides public utilities with the option to "use flexible criteria in lieu of 'bright line' metrics when determining which transmission projects are in the regional

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<sup>117</sup> See, e.g., Complaint at 2.

<sup>118</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 259, 321 & n.302 ("[T]he public utility transmission providers in a region may, but are not required to, use competitive solicitation to solicit projects or project developers to meet regional needs...[T]he Commission declines to adopt commenter suggestions to mandate a competitive bidding process for selecting project developers.").

<sup>119</sup> Complaint at 7.

<sup>120</sup> See, e.g., *id.* at 6; Complainants Answer to Puget Sound and ColumbiaGrid Answer at 4-5.

<sup>121</sup> Order No. 773, 141 FERC ¶ 61,236 at PP 45, 52, 56.

transmission plan.”<sup>122</sup> Consistent with this option, ColumbiaGrid’s regional planning process does not use the voltage of a transmission project as a threshold metric to determine whether the project should be in the regional plan. Nevertheless, the Energize Eastside Project is not subject to the Order No. 1000 regional approval process because it is located completely within Puget Sound’s service territory, it was included in Puget Sound’s local transmission plan to meet Puget Sound’s reliability needs, and neither Puget Sound, nor any other eligible party, requested to have the project selected in the regional transmission plan for purposes of cost allocation. Whether or not the Energize Eastside Project falls within the Bulk Electric System definition does not affect this conclusion.

68. Complainants discuss alleged flaws in the load flow studies that Puget Sound conducted for the Energize Eastside Project. However, Complainants do not demonstrate that the studies violated any applicable transmission planning requirements or were otherwise unjust, unreasonable, or unduly discriminatory or preferential. Complainants do not cite anything that would require Puget Sound to use the study inputs and assumptions that Complainants prefer instead of the inputs and assumptions that Puget Sound used. Complainants state, without citation, that Puget Sound was obligated to ask ColumbiaGrid to conduct power flow studies for the project pursuant to a 2012 Order No. 1000 compliance filing.<sup>123</sup> They also assert that the studies did not comply with the “single utility” rule set forth in Order No. 1000.<sup>124</sup> However, as discussed above, any Order No. 1000 requirements are not applicable to the Energize Eastside Project. Beyond this, Complainants merely assert that Puget Sound’s load flow studies were not “industry-standard,” produced “tortured results,” and used “undisclosed and dubious inputs.”<sup>125</sup> Complainants do not explain what the “industry-standard” for such load flow studies is, and do not cite to anything demonstrating that Puget Sound’s study inputs and assumptions were flawed beyond Complainants’ mere allegations that they are

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<sup>122</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 223; Order No. 1000-A, 139 FERC ¶ 61,132 at P 283 (affirming that public utility transmission providers, in consultation with stakeholders, may apply either flexible criteria or bright-line metrics when determining which transmission facilities are in the regional transmission plan).

<sup>123</sup> See Complaint, J. Richard Lauckhart Aff. at P 25.

<sup>124</sup> See *id.* at 7, J. Richard Lauckhart Aff. at PP 49-50.

<sup>125</sup> See *id.* at 2-3; J. Richard Lauckhart Aff. at P 25.

flawed.<sup>126</sup> Moreover, Puget Sound has demonstrated that its needs assessments identified a transmission capacity deficiency, that the Energize Eastside Project was included in its annual transmission plans to address the deficiency beginning in 2009, that the project was reviewed by ColumbiaGrid's Puget Sound Area Study Team and not found to have any Material Adverse Impacts, and was included in ColumbiaGrid's Biennial Transmission Plans.<sup>127</sup> Accordingly, we do not believe that Complainants' allegations that Puget Sound's load flow studies were flawed provide any basis for the Commission to grant any of Complainants' requested relief.

69. Complainants also allege that ColumbiaGrid's method for selecting its board members is not fully compliant with the "independence" requirements set out in Order No. 2000. This allegation is inapposite because the Order No. 2000 "independence" requirements apply to RTOs, and ColumbiaGrid is neither an RTO nor ISO.<sup>128</sup> Accordingly, the "independence" requirement of Order No. 2000 does not apply to ColumbiaGrid.

70. Finally, Complainants request that the Commission order Puget Sound, Bonneville, and Seattle to provide the Commission with an Order No. 1000-compliant Planning Agreement, or, in the alternative, order those entities to form an RTO to ensure Order No. 890 and Order No. 1000 compliance.<sup>129</sup> Order No. 2000 encouraged the voluntary formation of RTOs, but did not require entities to form RTOs.<sup>130</sup> Therefore, Order No. 2000 does not support Complainants' argument that the Commission can order Puget Sound, Bonneville, and Seattle to form an RTO or ISO. Additionally, Complainants' request that the Commission order those Respondents to file an Order No. 1000-compliant Planning Agreement is also misplaced. Respondents have already

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<sup>126</sup> *Californians for Renewable Energy, Inc. v. Pac. Gas & Elec. Co.*, 142 FERC ¶ 61,143, at P 18 (2013) ("rather than bald allegations, [complainants] must make an adequate proffer of evidence including pertinent information and analysis to support its claims.") (quoting *Ill. Mun. Elec. Co. v. Cent. Ill. Pub. Serv. Co.*, 76 FERC ¶ 61,084, at 61,482 (1996)).

<sup>127</sup> See, e.g., Puget Sound and ColumbiaGrid Answer at 5, 26-27.

<sup>128</sup> See, e.g., *id.* at 14; Avista Comments at 3, n.5.

<sup>129</sup> See Complaint at 8.

<sup>130</sup> Order No. 2000, FERC Stats. & Regs. ¶ 31,089 at 30,995 ("we find it appropriate in this instance to adopt an open collaborative process that relies on voluntary regional participation to design RTOs.").

filed the Planning Agreement with the Commission to facilitate compliance with Order No. 1000 and the Commission has conditionally accepted the Planning Agreement, subject to a further compliance filing, which remains pending before the Commission.<sup>131</sup> Any concerns that Complainants have regarding the compliance of Respondents' Planning Agreement with Order No. 1000 are more properly considered in that proceeding. Moreover, Complainants Coalition of Eastside Neighborhoods for Sensible Energy and Citizens for Sane Eastside Energy have filed a motion to intervene and protest in that ongoing proceeding,<sup>132</sup> and have not explained why timely resolution of their concerns regarding Order No. 1000 compliance cannot be achieved in that forum.<sup>133</sup>

71. Given our determinations above, we will deny Complainants' motion for Order of Default against Bonneville. As Bonneville notes, Rule 213 does not require the Commission to find an entity in default for failing to answer a complaint, but provides that the Commission "may" make such a finding.<sup>134</sup> Given that the Commission does not have section 206 jurisdiction over Bonneville in this proceeding, we find that Bonneville is not in default for not answering the Complaint.

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<sup>131</sup> See *Avista Corp.*, 151 FERC ¶ 61,127, at P 2 (2015).

<sup>132</sup> Coalition of Eastside Neighborhoods for Sensible Energy, *et al.*, Motion to Intervene and Protest, Docket No. ER15-429-001, *et al.* (filed July 6, 2015).

<sup>133</sup> See 18 C.F.R. § 385.206(b)(6) (2015) (providing that a complaint must "[s]tate whether the issues presented are pending in an existing Commission proceeding or a proceeding in any other forum in which the complainant is a party, and if so, provide an explanation why timely resolution cannot be achieved in that forum.").

<sup>134</sup> 18 C.F.R. § 385.213(e) ("[a]ny person failing to answer a complaint *may be* considered in default, and all relevant facts stated in such complaint *may be* deemed admitted.") (emphasis added).

The Commission orders:

(A) The Complaint is hereby dismissed, as discussed in the body of this order.

(B) Complainants' motion for Order of Default is hereby denied, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

**Attachment B**  
**Certification of Need**

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Puget Sound Energy  
P.O. Box 97034  
Bellevue, WA 98009-9734  
PSE.com

July 20, 2017

Heidi Bedwell  
Environmental Planning Manager  
City of Bellevue  
450 110<sup>th</sup> Avenue NE  
Bellevue, WA 98009-9012

**Re: Reliability Certification for Energize Eastside 230-kV Project (LUC 20.20.255.E)**

Dear Ms. Bedwell,

Puget Sound Energy, Inc. (PSE) hereby certifies that the proposed electrical utility facility referenced above improves reliability to the customers served and reliability of the system as a whole.

The 2013 Eastside Needs Assessment confirmed that by winter of 2017-18, there is a transmission supply need on the Eastside of Lake Washington which impacts PSE customers and communities in and around Kirkland, Redmond, Bellevue, and Newcastle along with Clyde Hill, Medina, and Mercer Island. The 2015 Needs Assessment reconfirmed that, by winter of 2017-18, there is a transmission capacity deficiency on the Eastside. The supply need focuses on the two 230 kV supply injections into central King County at Sammamish Substation in the north and Talbot Hill Substation in the south. Rigorous comprehensive reliability assessments have been performed under the mandatory North American Electric Reliability Corporation's (NERC) Transmission Planning Standards (TPL-standards) and the WECC Reliability Standards to determine if any potential adverse impacts to the reliability of delivery of electricity exist on the PSE transmission system. In addition to the mandatory reliability standards, PSE also adheres to PSE's Transmission Planning Guidelines which describe how to plan and operate PSE's electric transmission system. These guidelines are in place to encourage the optimal use of the transmission system for service to loads and generators while complying with the mandatory standards. These guidelines also support transfers between utilities, when applicable, to support economic use of available resources.

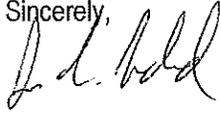
To address this deficiency, PSE plans to build a new 230-115 kV substation in the Bellevue area with a 230-115 kV transformer and upgrade the existing 115-kV lines to 230-kV lines to provide a reliable source to the new substation. The new substation will allow existing 115 kV lines to distribute the power into Eastside communities. This would provide increased capacity and reliability for more than 100,000 customers in the Bellevue, Redmond, Kirkland, Newcastle, Clyde Hill, Medina, Mercer Island, Renton and Issaquah areas.

Completing this infrastructure upgrade would eliminate PSE's reliance on corrective action plans (CAPs). These CAPs could include intentional shedding of the load under certain conditions when re-dispatching the generation and/or sectionalizing the transmission system would not help in reducing the load beyond

capacity limitations of the transmission equipment. Thus, ensuring reliable service to all the Eastside customers and beyond by preventing a large area outage.

Should you have further questions, please feel free to contact Brad Strauch, Energize Eastside Infrastructure Program Manager at 425-456-2556 or [bradley.strauch@pse.com](mailto:bradley.strauch@pse.com).

Sincerely,

A handwritten signature in black ink, appearing to read "J. Nedrud". The signature is fluid and cursive, with the first name "Jens" and last name "Nedrud" clearly distinguishable.

Jens Nedrud, PE  
Manager, System Planning  
PUGET SOUND ENERGY