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BEFORE THE HEARING EXAMINER
FOR THE CITY OF BELLEVUE, WASHINGTON

In Re:

Puget Sound Energy (PSE) - Energize Eastside

No. 17-120556-LB AND 17-120557-LO

Energize Eastside "South Bellevue Segment" Conditional Use Permit File 17-120556-LB and Critical Areas Land Use Permit File 17-120557-LO

MOTION OF CENSE TO CONTINUE AND CONSOLIDATE HEARINGS

1. MOTION.

The Coalition of Eastside Neighbors for Sensible Energy (CENSE) moves the Hearing Examiner for an order continuing the hearing and review of the current conditional use and critical area permit applications for the South Segment of the "Energize Eastside" proposal by Puget Sound Energy (PSE) until applications are submitted for the entire proposal in the City of Bellevue. At that time the permit applications should be consolidated for staff review, public hearings and a single decision by the Examiner.

Under the recently amended Bellevue Hearing Examiner Rules of Procedure Rule 1.19: "The examiner may continue proceedings for good cause on his or her own motion, or the motion of a party. . . ." Rule 1.17 permits consolidation as follows:

1 When practical and consistent with ordinance requirements, the examiner will
2 consolidate land use matters for hearing. Any party may bring to the attention of
the examiner the need for consolidation.

3 As will be described herein, good cause exists to continue the hearing on this
4 matter until all permits for the anticipated activity of the applicant have been received.
5 In addition, consolidation of the pending matter with the application for the remainder of
6 the applicant's proposal is not only practical, but consistent with the terms of the land
7 use code. The Examiner should order both a continuance and a consolidation with
8 applications for the remainder of this transmission project in Bellevue.

9 **2. INTERESTS OF CENSE.**

10 CENSE is a nonprofit corporation organized by Eastside residents and was
11 formed to address transmission proposals by PSE. CENSE represents itself and its
12 members in this proceeding. Among CENSE's members are Bellevue residents and
13 property owners adversely impacted by the construction and operation of the proposed
14 transmission line.

15 CENSE has been involved and commenting on the "Energize Eastside" proposal
16 since 2014, including comments on procedure, environmental impact statement ("EIS")
17 scoping comments and substantive comments on two draft environmental impact
18 statements (Phase 1 and Phase 2) issued by PSE and the City of Bellevue. By this
19 reference, these comments are incorporated.

20 CENSE and its members will be harmed by the recent proposal of PSE to divide
21 its transmission proposal into two arbitrary parts, the North Bellevue Segment (NBS)
22 and the South Bellevue Segment (SBS). From August, 2017, to the present CENSE
23 has objected to this segmentation and its letters of opposition to the segmentation of
24 this proposal are attached (Attachments 1 through 3). This motion seeks to prevent
25 the harm inherent in this segmentation by requesting the Hearing Examiner to order
26 that no hearing be held on the SBS proposal until such time as applications for the
27 entire "Energize Eastside" proposal in Bellevue are received and reviewed and staff
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1 reports on the overall proposal have been issued.

2 **3. DESCRIPTION OF PSE.**

3 PSE is a privately owned electric and gas utility operating in northwest
4 Washington. Currently it is entirely owned by foreign interests lead by the Macquarie
5 Group, Australian investment bankers. In November, 2018, MacQuarie signed a
6 tentative agreement to sell its interests to existing and new foreign interests from
7 Canada and the Netherlands. The sale to these new interests is pending before the
8 Washington Utilities and Transportation Commission with hearings to be held in
9 February or March 2019.

10 **4. THE “ENERGIZE EASTSIDE” PROPOSAL.**

11 As found on PSE’s website for the project, the project is described as follows:

12 The Energize Eastside project will build a new substation and upgrade
13 approximately 18 miles of existing transmission lines from Redmond to
Renton.

14 PSE’s transmission proposal would connect two existing substations, Sammamish in
15 the north (in Redmond) and Talbot Hill in the south (in Renton). PSE intends to
16 connect these two existing substations with new 230 kV transmission lines, totaling
17 some 18 miles. A map of the proposal is found at page 9 of the recently issued “Land
18 Use Division Staff Report” found at <https://tinyurl.com/yd46yar4>¹ (Hereinafter “Staff
19 Report”). The proposal also includes a substation referenced as “the Richards Creek
20 Substation” on an eight-acre property located in Bellevue (just north of I-90). Staff
21 Report at 13. The proposal will pass through, and require permits from, five
22 jurisdictions, Redmond, Kirkland, Newcastle, Renton and Bellevue.

23 When PSE initially indicated its intent to seek permits for its transmission
24

25 ¹To allow for better legibility of the brief, tinyurl.com was used to provide shorter links to the websites
26 referenced herein; all documents linked are found on the City of Bellevue or the PSE Energize Eastside
27 websites. For instance, the original link for the January 24, 2019 Staff Report is
28 [https://development.bellevuewa.gov/UserFiles/Servers/Server_4779004/File/pdf/Development%20Service
s/EnergizeEastside/Staff%20Report%20FINAL%201242019.pdf](https://development.bellevuewa.gov/UserFiles/Servers/Server_4779004/File/pdf/Development%20Services/EnergizeEastside/Staff%20Report%20FINAL%201242019.pdf).

1 proposal, the five permitting jurisdictions entered into an “Interagency Agreement” (IAA)
2 for environmental review dated February 20, 2015. See <https://tinyurl.com/ydfa6z kf>.

3 The “preferred project” was described in the IAA as follows:

4 Description: The most viable solution type considered was a combination
5 of adding a new substation with a 230 kV transformer and connecting it
6 with the Talbot and Sammamish substations via a new 230 kV
7 transmission line.²

8 Bellevue was made the “lead agency” for SEPA review. After the Interagency
9 Agreement was signed, the City adopted the unusual procedure of preparing two draft
10 environmental impact statements before doing a final EIS. The first was to address
11 project justification and overall alternatives and the second to consider detailed impacts
12 of the proposed transmission line.

13 The SEPA process began with a Notice of Public Scoping for the Phase 1 DEIS,
14 the comment period for which ended on April 20, 2015. In the scoping summary, the
15 project was described as follows:

16 Alternative 1- New Transformer and Transmission Line

17 Adding a new 230kV to 115kV substation and connecting it with the Talbot and
18 Sammamish substations via a new 230 kV transmission line is PSE’s preferred
19 solution. This solution would provide a new 230 kV transmission source and
20 improve reliability for the Eastside area. To provide the greatest system benefit,
21 the new transformer would need to be located somewhere between State Route
22 520 and Interstate-90.

23 <https://tinyurl.com/y8qyr5q4>.³ The Phase 1 DEIS was to focus on the general
24 programmatic elements of the transmission proposal and consider possible
25

26 ²PSE has voluntarily chosen to seek five separate permits from the five separate jurisdictions through
27 which its proposed transmission line would run. PSE could have chosen to seek a permit for the entire
28 line under the Energy Facilities Siting Act, chapter 80.50 RCW which created the “Energy Facilities Site
29 Evaluation Council” (EFSEC). RCW 80.50.030(1). EFSEC has jurisdiction over the reconstruction of
30 “electrical transmission facilities” when “(ii) An applicant chooses to receive certification under this
31 chapter, and the facilities are: . . . (B) located in more than one jurisdiction that has promulgated land use
32 plans or zoning ordinances; . . .” Though PSE has decided not to seek EFSEC jurisdiction, it may still file
33 an application for the entire proposal with EFSEC if one, or all, of the five jurisdictions denies a land use
34 application application. See *Residents Opposed to Kittitas Turbines v. State Energy Facility Site
35 Evaluation Council (EFSEC)*, 165 Wn.2d 275, 291, 197 P.3d 1153, (2008).

36 ³From link at <http://www.energizeeastsideeis.org/library.html#p2scoping>.

1 alternatives. In the 2015 Phase 1 Scoping Summary at page 19, the City of Bellevue
2 responded to a possible alternative to not connect the entire transmission line between
3 the Sammamish and Talbot Hill substations. It was determined that this alternative
4 would not be considered for the following reasons:

5 Third, disconnecting the north and south sections of the route at a central
6 Bellevue substation in order to prevent non-Eastside load from being carried on
7 this line during peak periods of demand on the Eastside would deprive the
8 Eastside of power supply needed during these periods. Separating the system in
9 central Bellevue from the region at grid would also not meet FERC mandatory
10 reliability standards. This could be a corrective action plan, which is temporary in
11 nature and not a long-term solution, and does not bring a new source or new
12 generation into the deficiency area.

13 See page 19. Thus, during the Phase 1 EIS process, PSE and the City of Bellevue did
14 not identify, or consider, two separate segments for the overall project in Bellevue.

15 Following scoping, the "Phase 1" DEIS was issued by the City of Bellevue on
16 January 28, 2016. At the first page of the Phase 1 DEIS the project was defined as
17 follows:

18 PSE is proposing to construct and operate a new 230 kV to 115 kV electrical
19 transformer served by approximately 18 miles of new high-capacity electric
20 transmission lines (230 kV) extending from Renton to Redmond.

21 <https://tinyurl.com/y8dvrhan>. The transmission system was shown on Figure 1-1. At
22 page FS-I of the Phase 1 DEIS, the document states that

23 Transmission Improvement would need to be tied to these two
24 substations in order to address the need for the project;

25 This Phase 1 DEIS was to consider the "programmatic alternatives" impacts of the
26 proposal and overall need for the project:

27 alternatives were selected that would broadly define different ways of
28 approaching the deficiency in transmission capacity identified by PSE.

Phase 1 DEIS, page 1-15. That DEIS continuously referenced the project as a single
eighteen-mile project connecting the two substations, with no hint that the proposal
would be divided into two parts in central Bellevue. CENSE and others provided
extensive comments on the Phase 1 document.

1 As a part of its continuous process, PSE and its target cities provided a comment
2 period on scoping of the Phase 2 DEIS. The project continued as a unified whole again,
3 with no suggestion that it would be segmented into two parts for review in Bellevue.

4 The Phase 2 DEIS described:

5 “most effective and cost efficient solution to meet its objective is to site a new
6 230 kV transformer in the enter of the Eastside, which would be fed by new 230
7 kV transmission lines form the north and south (Stantec, 2015)

8 Phase 2 DEIS at page 1-4 (<https://tinyurl.com/yb9hzt85>, linked from
9 <http://tinyurl.com/y7ojwb6u>, where it is also available as individual hyperlinked chapters
10 and appendices). That DEIS did provide alternate routing to avoid the jurisdiction of the
11 East Bellevue Community Council due to its veto authority over conditional use permits
12 such as that required for PSE’s transmission project. DEIS at pages 2-29 and 2-31.
13 However, again, there was no indication that the project might be divided into separate
14 North and South Segments in Bellevue for review and permitting. Once again, CENSE
15 and other commenters understood the project was subject to a single permit and review
16 in the city of Bellevue.

17 The South Segment Staff Report states, at page 86, that PSE engaged in
18 “community outreach efforts regarding the construction of a new transmission line to
19 connect the Talbot Hill and Lakeside Substations” well before the Conditional Use
20 permit application was submitted. However, in none of these supposed “community
21 outreach efforts” was it indicated that the South Bellevue Segment might be given
22 separate consideration, nor was there any suggestion that lines north of the Lakeside
23 Substation only provided “redundancy” as described below.

24 On August 8, 2017, PSE abruptly deviated from its plan for the development by
25 announcing that it was going to divide the overall project into two parts and that it was
26 filing a land use application with the City of Bellevue just for the south segment (3.4
27 miles), which began at the Newcastle city limits in the south and ended at the Lakeside
28 substation just north of I-90 in Bellevue. Regarding the NBS, PSE publicly stated:

1 PSE anticipates submitting permit applications for the northern portion in
2 Redmond and Bellevue later this year (i.e. in 2017).

3 CENSE immediately objected to the bifurcation in a letter dated August 31, 2017,
4 attached hereto as Attachment 1. In its letter, CENSE asked for a supplemental
5 environmental impact statement to consider the newly created South Bellevue
6 Segment.

7 Ignoring our letter, PSE filed an application for the south Bellevue segment in
8 September, 2017, accepted by the City over CENSE's objection. At this time, PSE
9 explained on its website (September 18, 2017):

10 PSE anticipates that submitted application for the northern portion in Bellevue
11 and Redmond in late 2017 - early 2018.⁴

12 CENSE wrote the city again on January 17, 2018, requesting that the City defer review
13 of the south segment application until both Bellevue segments could be considered
14 together. See Attachment 2. On January 26, 2018, the PSE website had backed away
15 from a timetable for the northern segment, stating:

16 The next major application to be submitted will be for the northern portion of the
17 project in Bellevue and Redmond.

18 CENSE submitted an additional letter dated March 9, 2018, again objecting to
19 segmentation. See Attachment 3. On May 5, 2018, in its "Spring 2018 Project Update,"
20 PSE repeated the sentence above. The "Summer 2018 Update" issued September
21 12, 2018, had abandoned any reference to "the next major application" and said:

22 The permitting process continues for the souther portion of the project in south
23 Bellevue, Newcastle and Renton and we anticipate the respective cities will hold
24 public hearings this fall.

25 Notwithstanding the representations of PSE, no application for the North
26 Bellevue Segment of the transmission line has been made as of December, 2018. This
27 is the longer segment of the overall facility: the North Bellevue Segment is 5.24 miles
28 long and the South Bellevue Segment is only 3.28 miles. Indeed, our most recent email

⁴<https://energizeeastside.com/news/permitting-process-moves-ahead-for-energize-eastside>.

1 from PSE dated December 17, 2018, indicates that PSE has no timetable for filing for
2 the north Bellevue segment. See Attachment 4 hereto.

3 PSE has gone from indicating it would file the NBS application in just a few
4 months (in late 2017) to having no timetable at all in late 2018.

5 PSE's response, that it has no timetable for filing permit applications for the
6 remainder of the project, is not credible. PSE surely cannot claim it needs more time
7 for preparation of plans and project detail. The Staff Report indicates that the project
8 was actively proposed back in 2009, more than ten years ago. Staff Report at 10
9 (<https://tinyurl.com/yd46yar4>). In the Alternate Siting Analysis submitted with its
10 application, PSE stated (page 26): "In 2015, PSE began collecting field information
11 necessary for design and environmental review." Indeed, PSE has prepared photo
12 simulations for the entire route in Bellevue, including sites along the North Bellevue
13 Segment, going back to 2016. PSE has also stated that continuing to rely on the
14 existing transmission system could put the power grid at risk under anticipated
15 conditions. FEIS at 1-3 (<https://tinyurl.com/yajtg52g>). If this is a real concern, one
16 would expect accelerated work on necessary project plans, not abrupt cancellation.

17 In the FEIS, Bellevue and PSE stated that the proposal was for a new
18 transformer which "would need to be fed by new 230 kV transmission lines from the
19 north and south." *Id.* (Emphasis supplied). Indeed, PSE has promoted its project (in a
20 multi-million dollar public relations campaign) as essential to meet Eastside energy
21 needs, but until December, 2018, has never indicated it would indefinitely defer the
22 north segment of the line through Bellevue.

23 On January 24, 2019, the City of Bellevue issued its staff report for the proposal,
24 continuing to describe the proposal as an "upgrade of approximately 16 miles of two
25 existing 115 kV transmission lines with 230 kV lines across multiple jurisdictions from
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1 Redmond to Renton.”⁵ <https://tinyurl.com/yd46yar4>. There is no indication in the 151
2 page Staff Report as to when, or if, PSE intends to apply for the north segment of the
3 line in Bellevue. Indeed, the north segment is not shown on any drawings or maps,
4 except on page 9, Figure II-1 of the staff report. There the Staff Report indicates the
5 purpose of the North Bellevue Segment will be to “Close transmission gap to increase
6 reliability.” However, pages 10-12 of the Staff Report (<https://tinyurl.com/yd46yar4>)
7 describe only the entire 18-mile transmission line and various studies that relate to the
8 entire line.

9 The Staff Report does not a devote a single line to the environmental impacts of
10 the north segment; indeed the Staff Report does not disclose the length of the north
11 segment (it is 5.24 miles long). The only specific discussion of the north segment is
12 found on page 100 of the Staff Report:

13 The south segment of the Project provides additional capacity that addresses the
14 Project need and could function whether or not the north segment is built. The
15 north segment would provide redundancy in the supply of 230 kV power to the
16 substation.

17 (Emphasis supplied). A similar statement is made at page 111 of the Staff Report:

18 The full build out of the Energize Eastside project will include a similar
19 connection to the north to provide redundancy, but the south portion of the
20 Project that is the subject of PSE’s current proposal can function independently.

21 These conclusory statements are not supported by any technical analysis, transmission
22 modeling or other background information. The concept that the North Bellevue
23 Segment merely provides “redundancy” and the South Bellevue Segment can operate
24 independently is new to these proceedings, though environmental review essentially
25 commenced in early 2015, four years ago.

26 Indeed, the FEIS included Appendix J-1, which included comments on the Phase

27 ⁵Curiously, the Phase 1 DEIS states:

28 PSE is proposed to construct and operation a new 230 kV electrical transformer served by
approximately 18 miles of new high capacity electric transmission line (230kv) extending from
Renton to Redmond.

Page 1-1. It is not clear how the proposal shrunk from 18 to 16 miles in length.

1 1 Draft EIS and responses thereto (<https://tinyurl.com/yd7h265f>). At pages J1-9 to J1-
2 17, there is a discussion of “Project Objectives” responding to “comments related to the
3 overall project objective.” See page J1-9. Despite the fact that the FEIS was prepared
4 six months after the application for just the South Bellevue Segment was filed, there is
5 no discussion as to how, or why, the South Bellevue Segment, standing alone, could
6 meet the project objectives.

7 **5. AUTHORITY IN SUPPORT OF CONTINUANCE OF HEARING PENDING**
8 **RECEIPT OF APPLICATION FOR THE NORTHERN BELLEVUE SEGMENT.**

9 A. **PIECEMEALING OF A SINGLE PROJECT IS NOT PERMISSIBLE.**

10 In our three letters to the City of Bellevue, CENSE provided extensive legal
11 precedent that segmentation of a single project into two parts is not permitted.
12 CENSE’s comments and concerns on this subject have been continuously ignored by
13 City of Bellevue staff, and by PSE.

14 Cases such as *Merkel v. Port of Brownsville*, 8 Wn.App. 844, 509 P.2d 390
15 (1973) make clear that a project developer like PSE cannot take a “single project and
16 divide it into segments” for review. 8 Wn.App. at 850-51. As the Court said:

17 There is nothing in the record before us to indicate that the contemplated
18 construction has ever been anything but one project. The question,
19 therefore, is whether the port may take a single project and divide it into
segments for purposes of SEPA and SMA approval. The frustrating effect
of such piecemeal administrative approvals upon the vitality of these acts
compels us to answer in the negative.

20 8 Wn.App. at 850-51. As far back as 2008, the “Energize Eastside” project has been
21 considered and reviewed as a single proposal. Moreover, LUC 20.20.255 requires a
22 review of the operational need and impact for the facility as a whole. The Examiner
23 should reject PSE’s proposal to conduct two separate reviews of what has been,
24 through two DEISs and a FEIS, over a three year period, a single project.

25 The on-paper excuse for segmentation by PSE is that it will likely build the
26 proposal in two phases, with the south segment going first, though there is no
27 explanation as to why the North Bellevue Segment is not being built first. In any event,
28

1 the South Bellevue Segment also connects to other southerly project facilities, which
2 also requires permits in Newcastle (1.5 miles) and Renton (4 miles), where applications
3 have been made, but no hearings are scheduled. See FEIS at page 2-6.

4 Since PSE has always maintained that the application for the NBS will be
5 forthcoming shortly, review and consideration of the SBS should be held in abeyance
6 until the North Bellevue Segment application is made, at which time the two proposals
7 will be consolidated. Good cause exists to continue the hearing so that the full scope of
8 the project is considered in a single hearing and decision.

9 B. DIVIDING THE PROJECT WILL RESULT IN TWO HEARINGS AND
10 SIGNIFICANT ADDITIONAL TIME AND EXPENSE TO INTERESTED
RESIDENTS.

11 One of the apparent purposes of the PSE's segmentation gambit is to divide the
12 project into two parts to mask the impact of the entire facility. The arbitrary division
13 ignores impacts of the north part of the proposal over a lengthy (5.2 mile) area of the
14 City of Bellevue, which is primarily residential area, with various critical areas.

15 PSE's plan also requires additional time and expense for members of the public
16 interested in the project, apparently hoping that they will tire from having to endure two
17 separate public hearings and two review procedures. While time and expense are
18 concerns for volunteer civic organizations like CENSE, PSE does not have similar
19 financial constraints. Indeed PSE is allowed to charge back all expenses on this project
20 to its ratepayers, as PSE states:

21 Regular upgrades or additions to the electric infrastructure are shared by all of
22 PSE's 1.1 million customers and paid for over time. We don't yet know the total
cost of the project, but estimates range from \$150 million to \$300 million.

23 Included in the costs that PSE would charge back to Bellevue ratepayers are its costs
24 of pursuing this application, including expert witnesses, attorney fees, extensive
25 advertising and other administrative expenses. Obviously this differs from private
26 developers that must pay their own processing and administrative costs. Moreover,
27 PSE will claim a profit margin, or return on investment, set by the Washington Utilities
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1 and Transportation Commission, at 9.8%, a return well above anything possible in
2 ordinary market investments.

3 However, local residents and other interested members of the public do not have
4 a public subsidy or guaranteed reimbursement for their expenses and their time spent
5 in land use hearings. Forcing the public to attend and participate in two hearings in
6 Bellevue is not consistent with the public interest and should not be permitted.

7 PSE also requests that decisions be made about project need, discussed in the
8 staff report at pages 41-46. It is presumed that if project need is determined for the
9 smaller southern segment, it will become a precedent to be applied when PSE brings
10 forward the proposal for the larger North Bellevue Segment.

11 In addition, the segmenting plan also requires two staff reviews, two hearings by
12 the Hearing Examiner, and two separate decisions/recommendations. The plan also
13 requires that the Bellevue City Council hold two separate reviews of the proposal, at two
14 different times. Good cause exists to continue the hearing to allow examination of the
15 entire proposal, not just a small part.

16 C. BECAUSE PSE'S SEGMENTATION DIVIDES THE PROJECT, THE
17 SEGMENTATION VIOLATES THE BELLEVUE LAND USE CODE.

18 The alignment proposed for the northern segment includes a lengthy routing
19 through the area of the East Bellevue Community Council. See FEIS at page 2-25.
20 Under state law, the EBCC has authority "to independently determine whether to
21 approve or disapprove land use legislation affecting territory within its jurisdiction, in
22 keeping with the Legislature's intent to allow local level decision making. *City of*
23 *Bellevue v. East Bellevue Community Council*, 138 Wn.2d 937, 945, 983 P.2d 602
24 (1999). The EBCC has statutory authority to approve or disapprove conditional use
25 permits, like the one required for the Bellevue segment of the overall transmission line.

26 Recently, EBCC declined to approve another PSE transmission line within its
27 jurisdictional area. PSE filed suit under the Land Use Petition Act to void EBCC's

1 decision, but the trial court upheld the decision. On appeal, Division 1 of the Court of
2 Appeals, in an unpublished decision, determined that substantial evidence did not
3 support that particular EBCC decision, *Puget Sound Energy, Inc. v. East Bellevue*
4 *Community Council*, 74464-0-1, 74465-8-1 (January 30, 2017).

5 During the appeal briefing, PSE also claimed that EBCC's decision exceeded its
6 authority. This argument was rejected by both the trial court and the Court of Appeals:

7 The trial court properly concluded that the EBCC's decision was not outside its
8 authority or jurisdiction to the extent of its area. Thus, the trial court concluded
that PSE failed to satisfy its burden under RCW 36.70C.130(1)(e).

9 However, PSE raised another argument to the Court of Appeals, as follows:

10 PSE argues, for the first time in its reply brief, that the EBCC "asserts the right to
11 unilaterally affect the reliability of power to Bellevue homeowners outside its
territory." Because PSE makes this argument for the first time in its reply brief, it
12 is too late for us to consider. We decline to do so.

13 But the City of Bellevue had essentially joined in PSE's argument; as the Court of
14 Appeals said:

15 However, Bellevue makes a similar argument as a respondent. It argues that the
16 EBCC's decision, if left standing, would have an extraterritorial affect because it
will affect citizens outside the EBCC's area.

17 The Court of Appeals resolved the City of Bellevue's claim as follows:

18 As we discussed earlier in this opinion, the area over which EBCC has
jurisdiction is bounded on the north by NE 8th Street. The area includes 148th
19 Avenue S.E., and the service areas for the two substations to be linked by the
project are only partially within the EBCC's area.

20 RCW 35.14.040 provides that the EBCC's disapproval "shall not affect the
21 application of any ordinance or resolution affecting areas outside the community
municipal corporation." Because we hold that PSE has met its burden to show
22 that the EBCC's resolution is improper, we need not also decide whether the
resolution violates the geographical limitations of this statute. Accordingly, that is
23 an issue left for decision another day.

24 (Emphasis supplied).

25 The strategy of the City and PSE to segment the overall transmission project is
26 another facet of their joint strategy to constrain the power of EBCC to rule on PSE
27

1 proposals within the EBCC jurisdiction.⁶ The north end of the south segment (now
2 terminating at the Lakeside Substation) is less than a mile from the boundary of
3 EBCC’s jurisdiction and would line up directly with PSE’s original intended path through
4 the EBCC community.

5 Tellingly, in the Phase 2 DEIS, the PSE and the City proposed an alternative
6 routing that would go around the EBCC jurisdiction, described as follows:

7 The East Bellevue Community Council (EBCC) has approval-disapproval
8 authority over certain land use actions within a portion of this option. PSE
9 selected two route options (Bypass Option 1 and Bypass Option 2) to examine in
the Phase 2 Draft EIS that would not be within EBCC jurisdiction, in case the
EBCC denies permit approval.

10 Phase 2 DEIS, page 3.1-26 (<https://tinyurl.com/y8atppn9>). However, inexplicitly, these
11 supposed “Bypass Options” were not included for analysis in the FEIS. See FEIS page
12 2-1 (<https://tinyurl.com/ybeh75wb>). By eliminating the “Bypass Options” from the FEIS,
13 they cannot be approved by the Hearing Examiner or the City Council because the
14 SEPA review is incomplete (i.e. not included in the project FEIS). Indeed, the EBCC
15 and the area of its jurisdiction are not mentioned at all in the City staff report, however,
16 the maps and text in the FEIS show and describe the proposed project built right
17 through the EBCC jurisdiction, for about a mile. FEIS page 2-25. As a practical matter,
18 the City and PSE wasted everyone’s time with their “Bypass Option” feint found in the
19 Phase 2 DEIS.

20 The abandonment of the “Bypass Options” by the City and PSE indicate their
21 return to the litigation strategy defined above. By proceeding with the south segment
22 first, PSE would seek to have its south segment approved, ending at the Lakeside
23 Substation, pointing like the barrel of a gun to EBCC’s jurisdictional area. See FEIS at
24 page 2-25. This would allow PSE and the City to resurrect their arguments that EBCC
25 cannot disapprove of the proposal because it “violates the geographical limitations” of

26
27 ⁶Several members of CENSE reside in the EBCC jurisdictional area and intend to participate in review
proceedings before EBCC regarding this matter.

1 RCW 35.14.040 with the approved south segment close by.

2 In addition, Page 1-12 of the FEIS discloses that the Bellevue North and South
3 Segments have fundamentally different permitting procedures. The South Segment is
4 a Process 1 decision in which the Hearing Examiner issues a decision that may be
5 appealed to the Bellevue City Council. To grant the appeal, an appellant must
6 demonstrate the decision's lack of support to the Council so that:

7 the City Council finds that the decision of the Hearing Examiner is not
8 supported by material and substantial evidence. In all other cases, the
9 appeal shall be denied. The City Council shall accord substantial weight to
10 the decision of the Hearing Examiner.

11 BCC 20.35.150.A.7.

12 However, because of the EBCC jurisdiction, the North Segment is a Process III
13 decision requiring a public hearing, but with the Hearing Examiner issuing only a
14 "recommendation" to the City Council, per BCC 20.35.340. Under BCC 20.25.300,
15 "Process III: City Council quasi judicial decisions" the code provides:

16 LUC 20.35.300 through 20.35.365 contain the procedures the City will use
17 in implementing Process III. The process is similar to Process I, except
18 that the Hearing Examiner makes a recommendation to the City Council
19 following the public hearing. The City Council acts as the final decision
20 maker even when no appeal of the Hearing Examiner recommendation is
21 filed. (Ord. 4972, 3-3-97, § 3)

22 (Emphasis supplied).

23 The Hearing Examiner should not allow the segmentation of a single project that
24 creates conflicts with City of Bellevue procedures and puts the Bellevue City Council on
25 the hook for two separate decisions on the same project. Consolidation of all permits
26 for the proposed transmission line is "fully consistent with ordinance requirements."

27 D. SEGMENTATION OF THE PROJECT RESULTS IN UNCERTAINTY AS
28 TO THE APPLICATION OF BCC 20.20.255.

As described above, the performance standards of BCC 20.20.255 require
careful review of the need for the project and the consideration of alternatives. If the
project considered is only the south segment, it is a much smaller project with many

1 fewer environmental consequences. The city's Staff Report
2 (<https://tinyurl.com/yd46yar4>) only considers impacts in the South Bellevue Segment,
3 ignoring the impacts on the remaining 5.25 miles of the project within the City of
4 Bellevue.

5 CENSE understands that the construction of the 16 or 18 mile transmission
6 proposal, as a linear project, will probably proceed in phases. However, there is no
7 justification for permitting of the proposal to proceed in phases. Nor is there any basis
8 to delay filing of the North Segment application, especially since it was originally
9 promised by PSE to be completed by the end of 2017.

10 Regarding the South Segment only, BCC 20.20.255 requires that proposals
11 located in a "Residential Land Use District" demonstrate the operational need for a
12 project and the applicant shall

- 13 i. Describe whether the electrical utility facility location is a consequence of
14 needs or demands from customers located within the district or area; and
- 15 ii. Describe whether the operational needs of the applicant require location of the
16 electrical utility facility in the district or area

17 (Emphasis supplied.) The location of the South Bellevue Segment is almost entirely in
18 well-established residential and natural areas (see page 4.1-13 of the FEIS), not in the
19 commercial and downtown areas of the city that are allegedly creating the need for the
20 project.

21 Similarly, the preferred alternative should be "located within the land use district
22 requiring additional service and residential land use districts are avoided when the
23 proposed new or expanded electric utility facility serves a nonresidential land use
24 district." In the present case, the residential areas through which the south segment
25 passes are stable areas, lacking opportunities for new growth that might create a need
26 for additional electric service. Indeed, at page 1-57 of the Phase 1 DEIS, PSE states:
27 "Growth in electrical demand in the coming decades is expected to be driven by new
28 multifamily and commercial development." Indeed, when the City Council adopted

1 Ordinance 5802 (amending the Bellevue Comprehensive Plan) and Ordinance 5805
2 (amending the Land Use Code to add LUC 20.20.255) in February, 2008, both
3 ordinances referenced the “needs of Puget Sound Energy to provide sufficient electrical
4 energy to service the growing demand of Downtown Bellevue and other commercial
5 areas.” Instead, the South Bellevue Segment abruptly terminates several miles from
6 the Bellevue Downtown Commercial core.

7 Per the FEIS, the South Bellevue Segment is only 3.28 miles (FEIS, page 2-27)
8 out of the 18-mile proposal. It is significantly smaller than the North Segment (5.2 miles
9 long). FEIS at 2-23 and 2-24. Seemingly, PSE asks that the South Bellevue Segment
10 be considered in isolation even though it is only 38% of the total project length in the
11 City of Bellevue. No explanation is provided as to why the North Bellevue Segment
12 should not be considered first.

13 In addition, for the first time in the city Staff Report, it was claimed that the South
14 Segment would have independent utility and that the North Bellevue Segment was only
15 to provide “redundancy.” No discuss of this segmentation was provided in the FEIS,
16 though the application for just the south segment was filed six months before FEIS
17 publication. Moreover, the “Purpose” section of the Staff Report, pages 8-11
18 (<https://tinyurl.com/yd46yar4>), references three studies that discuss “the need to
19 address Eastside transmission capacity.” Page 10. However, these now outdated
20 studies only considered the entire 18-mile proposed transmission line; none of the
21 studies discussed, let alone analyzed, a disconnected line with a 5.2 mile gap in the
22 City of Bellevue.

23 **4. SUMMARY AND REQUESTED RELIEF.**

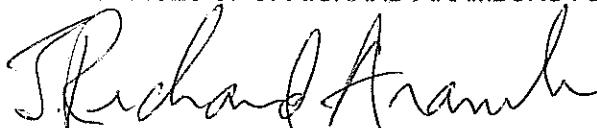
24 As demonstrated above, PSE seeks division of its single transmission proposal
25 in the City of Bellevue into two parts, asking that the smaller southern segment be
26 considered first and announcing it has no deadline for submission of applications for
27 the rest of the line. The segmentation of what has been for several years a single
28

1 project is contrary to established land use procedures, Washington caselaw and the
2 Bellevue Land Use Code. The proffered need for the project has always been based
3 on its full eighteen mile length. Such divide-and-conquer tactics should be rejected by
4 the Examiner; they create unnecessary and undue burdens on local residents. Good
5 cause exists to continue the present hearing until all applications to build the project in
6 Bellevue are received. Consolidation of these applications is fully practical and
7 consistent with ordinance requirements.

8 The Examiner is requested to continue further review of the south segment
9 proposal until an application for the remainder of the Bellevue portion of the project is
10 submitted and reviewed by City Staff. At that time PSE's applications would be
11 consolidated for hearing and a single hearing on the entire proposal would be held.

12 Respectfully submitted this ^{4th} day of February, 2019.

13 LAW OFFICES OF J. RICHARD ARAMBURU PLLC

14 

15 J. Richard Aramburu, WSBA #466
16 Attorney for CENSE

Attachment 1

2017-8-31 CENSE comment re bifurcation.pdf

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August 31, 2017

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Re: PSE Segmentation of Proposed Transmission line (“Energize Eastside”);
Need for Supplemental DEIS on New Transmission Proposal in Renton,
Newcastle and Bellevue

Dear Ms. Helland, Mr. Osguthorpe, and Ms. Henning:

As you are aware from our extended correspondence, I represent the Coalition of Eastside Neighbors for Sensible Energy (CENSE). CENSE has registered their concerns in various forums over the past years concerning the 18-mile 230kv transmission line proposed by PSE, branded as part of its intensive public relations campaign as “Energize Eastside.” The “Energize Eastside” project was launched in December 2013, almost four years ago.

To date, PSE has prepared two separate draft environmental impact statements (DEISs) on its proposal. CENSE has provided extensive public comment on these documents, orally at public hearings and in writing. The most recent comment period

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on the Phase 2 DEIS ended on June 21, 2017, about two months ago. On the first page of that document (dated May 8, 2017), the “Energize Eastside” project was described as follows:

The Energize Eastside project is a proposal to construct approximately 18 miles of new 230 Kilovolt (kV) electrical transmission lines and to add a new substation (Richards Creek) at the Lakeside substation in Bellevue to connect two existing bulk energy systems (one to the north in Redmond and one to the south in Renton), supply future electrical capacity and improve electrical grid reliability for Eastside communities.”

The final environmental impact statement (FEIS) is, according to the “Energize Eastside” website, to be publicly available in early 2018. Pursuant to the SEPA rules, no hearings can proceed on any permit applications for this proposal until the FEIS is available.

During environmental review, the routing of PSE’s proposed transmission has always been considered a single project, albeit with routing options. The Phase I DEIS spent some fifty-four pages discussing project alternatives, but there was no discussion of segmenting the project for permitting or construction that would divide the project into a northern and southern component.

Recently, PSE has made major press releases advertising that it has chosen a route for the 18-mile transmission line, referenced by PSE as the “Willow Route,” although no actual permit applications have been received from PSE for this route. Permit applications would be required in Renton, Newcastle and Bellevue.

Given the background described above, CENSE members were surprised to read on the “Energize Eastside” website approximately three weeks ago the following:

PSE will soon submit permit applications for the southern portion of the project. PSE’s plan is to build and energize the new Richards Creek substation in Bellevue and upgrade the transmission lines in south Bellevue, Newcastle, and Renton by summer 2018. We anticipate submitting permits for the northern portion later this year.

We need to build Energize Eastside in two construction phases to keep the backbone of the existing transmission system online and serving customers. By having the southern portion in service by next summer, we can avoid the need for rolling blackout plans. Once we’ve energized the southern portion of the project, we will begin work on the northern portion.

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From the foregoing, PSE indicates it will ask Bellevue, Newcastle and Renton to review and process separate permit applications for the southern segment of the project. It also says that by building the southern segment of the project, PSE “can avoid the need for rolling blackout plans.” As described above, this piecemealing of the proposal is entirely new.

For the reasons stated below, CENSE believes that separating this single project into two segments is inconsistent with applicable statutes, rules and regulations. Accordingly, we ask that Renton, Newcastle and Bellevue not accept separate applications for processing but insist on a single application and review for the entire 18-mile project. In addition, the statement that the southern portion will provide previously undisclosed benefits requires the preparation of a supplemental DEIS to discuss the segmenting proposal. The basis for our position is set forth below.

First, throughout the protracted SEPA process the proposal has been considered a single project. This was due in part to PSE statements in the first DEIS that the proposed transmission will be necessary to serve the Bellevue Central Business District and surrounding areas. Certainly there is no documentation that communities along PSE’s proposed southern segment are in need of additional transmission capacity. No alternatives were identified in either DEIS that would divide the project into two separate segments.

If the applicant now intends to divide the proposal into segments, that alternative must be considered in a supplemental EIS. If building the southern segment of the project separately really does “avoid the need for rolling blackout plans,” then that alternative should be considered in environmental review. Given the history of the review of this project, starting in December 2013, it is implausible that PSE would not have known of this course of action in May, 2017, when the Phase 2 DEIS was issued. This is the kind of new information about the project that requires a supplemental DEIS under WAC 197-11-405(4)(b),

Second, the bifurcation of the project is contrary to established land use and planning law. The impacts of the whole project must be considered in a single proceeding, lest the impacts of the whole are lost in an artificial division. Indeed, as the CENSE comments at various stages of the project have shown, the project as a whole lacks merit (and is a waste of public resources) because there is no need for it.

A single proposal needs a single public hearing and one review.

Third, bifurcating the process into north and south segments creates an unnecessary and wasteful review process. Interested citizens would be required to participate in two separate reviews for a single project. Local residents have already had to endure two

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separate and duplicative SEPA draft environmental impact statement reviews. To extend this process further with PSE's plan to try to wear out concerned neighbors with separate and duplicative reviews is inappropriate to the cities' policies of engagement of local citizens in the land use review process.

Fourth, PSE's announced intention is to have permits issued for its proposed new "South Segment" in early 2018. However, according to its own website, the final environmental impact statement for the proposal will not be issued until early 2018. The SEPA Rules, in effect for more than thirty years, provide at WAC 197-11-655(2) that:

Relevant environmental documents, comments, and responses shall accompany proposals through existing agency review processes, as determined by agency practice and procedure, so that agency officials use them in making decisions.

See also SEPA itself, RCW 43.21C.030(2)(d) (the detailed statement shall accompany the proposal through the existing agency review processes). Accordingly, the review process for the South Segment, even if appropriate under the law, cannot begin until the cities have the FEIS available for review.

Fourth, it is apparent that the *raison d'être* for the bifurcation of the project is to avoid engaging the East Bellevue Community Council (EBCC) in decision-making for the whole project. As described in *Puget Sound Energy, Inc. v. East Bellevue Community Council*, 74464-0-1, 74465-8-1, Court of Appeals of Washington, Division 1, January 30, 2017 (Unpublished), EBCC has previously been critical of PSE transmission projects within its jurisdiction. By dividing its project into separate north and south segments, and proposing to proceed with the south segment first, PSE can avoid EBCC decision-making while it builds the south segment of the project. The cities should not permit this deliberate avoidance of permitting procedures requiring local community review of conditional use permits.

Washington law has been clear for many years that segmentation of a single project is not appropriate. In *Merkel v. Port of Brownsville*, 8 Wn.App. 844, 509 P.2d 390 (1973), the Court rejected the segmentation of a single project into shoreline and upland elements for approval. The court indicated:

There is nothing in the record before us to indicate that the contemplated construction has ever been anything but one project. The question, therefore, is whether the Port may take a single project and divide it into segments for purposes of SEPA and SMA approval.

8 Wn.App. at 850-51. Indeed, the Bellevue Municipal Code for "electrical utility

Mr. Johnny Harris
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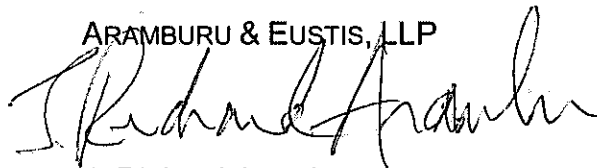
facilities" at BMC 20.20.225.E.4 requires that: "The applicant shall demonstrate that the proposed electrical utility facility improves reliability to the customers served and reliability of the system as a whole . . ." (emphasis supplied). Separate review of an artificial north and south segment of the proposed 18-mile transmission line is not appropriate under the code.

In summary, PSE's announced intention to take its single project, long touted by it as necessary to address growth in downtown Bellevue and environs, and break it into two parts. Such a bifurcation is inconsistent with the prior extensive SEPA review, with local ordinances and with Washington caselaw and the cities should not accept piecemeal applications for the project. Further, given the utility promoted for the project to resolve "rolling blackouts" without addressing that issue in the two DEISs, a supplemental DEIS must be prepared to address, document and consider this new alternative. We ask Renton, Newcastle and Bellevue to decline to accept piecemeal permits for this project.

Thank you for your attention to this request. If you have any questions, please contact the undersigned.

Sincerely,

ARAMBURU & EUSTIS, LLP



J. Richard Aramburu

JRA:cc

cc: CENSE
Bellevue City Council
Newcastle City Council
Renton City Council

Attachment 2

2018-1-17 CENSE re PSE Segmentation.pdf

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January 17, 2018

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Re: PSE SEGMENTATION OF PROPOSED TRANSMISSION LINE ("ENERGIZE EASTSIDE") FOR REVIEW

Dear Mmes Helland, Bedwell, Henning and M. Osguthorpe,

As you know, I represent the Coalition of Eastside Neighbors for Sensible Energy (CENSE). CENSE has been an active participant in review and comment on PSE'S proposed eighteen mile 230 kV transmission line from the time the project was announced in December, 2013.

More recently, we corresponded with you in a letter dated August 31, 2017, regarding the proposed bifurcation of this project into several segments for purposes of review and permitting. That letter is attached for your ready review (Attachment 1). No response was received to this correspondence.

Within the past month, we inquired as to when the Final Environmental Impact Statement would be issued for the project; the City's lengthy email response is attached (Attachment 2). In that email, Ms. Bedwell indicated that the FEIS will likely be available on or about March 1, stating:

Please note that we are in the active permit review phase (in both Bellevue and Newcastle), and I again encourage anyone who is interested in this project to focus their comments on the permit applications that have been submitted to the partner jurisdictions as well as the City of Bellevue.

Later in the email is the following recommendation:

In order to limit confusion, and because the comment period on the DEIS has long since passed, it is best to direct comments and review at this time to the permit application materials. The City recommends that interested parties submit comments on the permits early in the permitting process, rather than waiting to comment until after the FEIS is available. This of course does not preclude you or your clients from submitting additional comments at the public hearing on the permit applications.

It appears that the City is pushing local residents to submit comments on permit applications, even before the FEIS is available. However, at this point the only complete application filed for the Energize Eastside project is for the "Bellevue South Segment," which is only 5 miles of the 18 mile project. No permits have been filed for the Bellevue Central Segment (3 to 5 miles), the Bellevue North Segment (2.2 miles), the Redmond Segment (2 miles) or the Renton Segment (4 miles). A permit application has been filed for the 1.5 mile Newcastle Segment, but the City has determined that permit application is incomplete and not ripe for comment.

As we described in our August 31 letter, there is nothing to indicate that functionally the "Energize Eastside" proposal is anything other than, as described in the DEIS's, a single project "to connect two existing bulk energy systems (one to the north in Redmond and one to the south in Renton), supply future electrical capacity and improve electrical grid reliability for Eastside communities." This is the second sentence on the first page of the Phase 2 DEIS and the subject of paragraph 2 on page 1-7 of the Phase I DEIS. Since the FEIS is not yet complete, the CENSE members and other interested members of the public do not know if this statement will be changed. Of course, Bellevue staff knows what will be in the FEIS because they, with PSE, are

writing the document.

As we stated in our earlier letter, there is no reason to proceed to staff review, have staff recommendations, a public hearing and City Council review on a single isolated segment (only 28%) of a larger system. Indeed, though PSE seems to say there is some independent utility to the South Bellevue segment, it does not connect to any substation. The Talbot Hill Substation, the southern substation mentioned in the DEIS, is at the end of the Renton Segment, four miles from Newcastle. As we noted above, no permit application has been filed in Renton.

CENSE members have directly asked PSE when there would be permit applications for the other segments of "Energize Eastside." In an email received from Keri Pravitz, PSE's "Community Projects Manager" on January 12, 2018, Ms. Pravitz states:

Thanks for the email. We will submit our Renton permit application soon and then North Bellevue and Redmond will follow.

With the additional permit applications coming "soon," there is no basis to proceed with permit review on the isolated, orphan South Bellevue Segment until applications have been filed for all other segments. This is especially true where that segment has no independent utility. In addition, in Bellevue, if the bifurcation and segmentation continue, CENSE and other local residents will be forced to attend two or more hearings on what is a single project.

We understand and appreciate that PSE may desire to construct the project in two different phases if permitted, but that is no reason to divide the review process for the project into two different segments.

In fact, it appears that PSE is deliberately attempting to manipulate the hearing process for its own benefit. As you are aware, the PSE proposal requires a conditional use permit under the code and compliance with the specific criteria for Electrical Utility Facilities under 20.20.255. Under BMC 20.35.015.B, a conditional use is a Process I decision which is a "quasi-judicial decision made by the Hearing Examiner." However, a conditional use decision becomes a Process III decision under BMC 20.35.015.D.2 for "projects subject to the jurisdiction of a Community Council pursuant to RCW 35.14.040; . . ." As you are aware, PSE's preferred route is through an area subject to the jurisdiction of the East Bellevue Community Council, thus requiring a Process III decision. In an email to CENSE from Carol Helland dated June 3, 2015, this distinction was fully recognized:

EBCC jurisdiction has authority only to approve or disapprove applications within the jurisdiction of the Community Council. Refer to LUC section 20.35.365. The determination is made at the time of application. If PSE applies for a conditional use permit to approve an Energize Eastside

alignment that is located within the boundaries of the EBCC, then the application would be characterized as a Process III application. Refer to LUC 20.35.015.D.2. If PSE applies for a conditional use permit to approve an Energize Eastside alignment that is located outside the boundaries of the EBCC, then the application would be characterized as a Process I application. Refer to LUC 20.35.015.B.

(Emphasis supplied). It is apparent that PSE's gambit is to segment the process so that this integrated project is reviewed under two different land use processes based on its own arbitrary and non-sensible division. PSE plainly intends to attempt gaining approval for the South Segment of the project and then using that approval to put pressure on EBCC in the next round of permit review, which will be Process III. As you know, EBCC has rejected other PSE projects in its jurisdiction.

Our August 31, 2017, letter indicated that the segmentation of this project is illegal and inconsistent with sound public process standards. This is especially true for a project that has been under review for four years, employing two separate Phase 1 and Phase 2 DEIS's with separate scoping, public hearings and comment periods for each.

In fact, the Phase 1 DEIS issued January 28, 2016, was a specifically a non-project document as described on page 1.1:

This first phase assesses the comprehensive range of impacts and implications associated with broad options for addressing PSE's objectives, in a non-project or programmatic Environmental Impact Statement (EIS).

(Emphasis in original.) Per the PSE website, there were 1,078 pages of comments on the scope of this document. There were more than 500 comments on the Phase 1 DEIS, including 26 different organizations. At no time in that document was there any discussion that there might be a segmentation of this project.

In addition, Ms. Bedwell's encouragement to start commenting on the project in advance of issuance of the FEIS is certainly an insult to those who have spent literally thousands of hours to assemble comments on two DEIS's and are still awaiting the responses to these comments two years later. The City's introductory letter at the beginning of the Phase 1 DEIS says: "The Final EIS will include responses to comments on both the Phase 1 Draft EIS and the Phase 2 Draft EIS." Under WAC 197-11-560, FEIS response to comments is required:

The lead agency shall consider comments on the proposal and shall respond by one or more of the means listed below, including its response in the final statement. Possible responses are to:

- (a) *Modify alternatives including the proposed action.*
- (b) *Develop and evaluate alternatives not previously given detailed consideration by the agency.*
- (c) *Supplement, improve, or modify the analysis.*
- (d) *Make factual corrections.*
- (e) *Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons that support the agency's response and, if appropriate, indicate those circumstances that would trigger agency reappraisal or further response.*

Even if it was appropriate to proceed to review the orphan South Segment, CENSE and other members of the public should be given full opportunity to review the FEIS and prepare input to the Hearing Examiner in Bellevue, and the other jurisdictions, based on its content. Keep in mind that more than two years was spent developing two DEIS's, both of which will be responded to in this FEIS. Please recall, early on we asked the City to prepare a single FEIS for each phase, but the City refused.

In summary, we request the City to take the following actions:

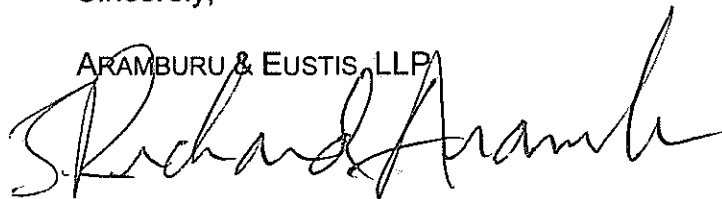
First, defer any further review of the application for the South Bellevue Segment until applications have been received for the other Bellevue segments as well as the Renton, Newcastle and Redmond segments.

Second, provide sufficient time for thorough review of the FEIS in advance of the public hearings. It is fundamentally unfair to allow PSE to prepare for the hearings with full knowledge of the content of the FEIS (indeed it is being written by the City and PSE) unless the public has the same privilege.

Thank you for your consideration of these comments. Because there was no answer to our attached letter of August 31, 2017, we request that you reply to today's comments no later than January 25, 2018. We look forward to your response.

Sincerely,

ARAMBURU & EUSTIS, LLP



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August 31, 2017

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Re: PSE Segmentation of Proposed Transmission line (“Energize Eastside”);
Need for Supplemental DEIS on New Transmission Proposal in Renton,
Newcastle and Bellevue

Dear Ms. Helland, Mr. Osguthorpe, and Ms. Henning:

As you are aware from our extended correspondence, I represent the Coalition of Eastside Neighbors for Sensible Energy (CENSE). CENSE has registered their concerns in various forums over the past years concerning the 18-mile 230kv transmission line proposed by PSE, branded as part of its intensive public relations campaign as “Energize Eastside.” The “Energize Eastside” project was launched in December 2013, almost four years ago.

To date, PSE has prepared two separate draft environmental impact statements (DEISs) on its proposal. CENSE has provided extensive public comment on these documents, orally at public hearings and in writing. The most recent comment period

CENSE Attachment 1 January 17, 2018
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Rick Aramburu

From: HBedwell@bellevuewa.gov
Sent: Tuesday, January 09, 2018 5:06 PM
To: carol@aramburu-eustis.com; Rick@aramburu-eustis.com
Subject: RE: ARAMBURU NON-DELIVERY - #2 - PSE Transmission Proposal.

Mr. Aramburu,

Thank you for your forwarded message. I do not have resolution from our IT department yet regarding an explanation for your undeliverable message. I can say we've been having a lot of network instability over the past several days and there may be some association with the instability and the reason for the email being undeliverable. I will update you on this issue when I have additional information to share. I assume you will confirm receipt of this message assuming you are able to receive it.

Regarding the remainder of your email, I can appreciate that your clients and other interested parties are anxious for the release of the FEIS. At this time we are anticipating a March 1st availability date. This assumes our final editing and production process goes as anticipated. However, the partner cities are still in the process of finalizing the FEIS, so this March 1st date may be subject to change.

Although I understand you and your clients are anxious to review the FEIS, please note that there is no additional comment period on the FEIS. As you are aware, the City provided copies of the DEIS, free of charge, in an effort to facilitate the DEIS commenting process. The City also extended the DEIS comment period, per your request, to provide additional time for public comment. The FEIS will contain responses to the comments submitted during the applicable time period, but there is no subsequent comment period on the FEIS itself. Once finalized, the FEIS will be issued and circulated as required by WAC 197-11-460(1). In the meantime, I would refer you to the DEIS, which remains publicly available, for the bulk of the substantive information that will be contained in the FEIS, and I appreciate your patience while the partner cities finalize the FEIS.

Many members of the CENSE community have expressed confusion regarding the two different processes that are currently underway, *i.e.*, the EIS process and the permitting process. Please note that we are in the active permit review phase (in both Bellevue and Newcastle), and I again encourage anyone who is interested in this project to focus their comments on the permit applications that have been submitted to the partner jurisdictions as well as the City of Bellevue. It bears repeating that the comment period for the DEIS is closed, and there is no subsequent comment period for the FEIS. Although the FEIS will be available for consideration by the partner cities as part of the permitting process, the FEIS is not a decision making document. It is one piece of information that decision makers, like the Director and Hearing Examiner at the City of Bellevue, will consider when making a decision on the subject permits. In order to limit confusion, and because the comment period on the DEIS has long since passed, it is best to direct comments and review at this time to the permit application materials. The City recommends that interested parties submit comments on the permits early in the permitting process, rather than waiting to comment until after the FEIS is available. This of course does not preclude you or your clients from submitting additional comments at the public hearing on the permit applications.

As I explained in previous communications to CENSE representatives, the City's current estimate is that the Director's Recommendation and Notice of Public Hearing will be issued no sooner than approximately 6 weeks after the FEIS is available. Your email references 6 weeks between FEIS availability and a public hearing. However, that is not what my communication noted. Instead, I explained that the City anticipated 6 weeks between the FEIS availability and the Director's Recommendation and Notice of Public Hearing. Typically, the City provides notice three weeks in advance of the public hearing. Thus, we currently anticipate over two months between the date the FEIS will be available and the public hearing on the permit applications that PSE has submitted to the City.

CENSE Attachment 2 January 17, 2018
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Finally, if you have not done so I would recommend you sign up for alerts from the project permitting [page](#). Communication on the permit process will be available on this page in addition to the city's standard noticing procedures. Any questions you may have regarding the permit process in other jurisdictions should be directed to those specific jurisdictions.

Sincerely,



Heidi M. Bedwell

Energize Eastside EIS Project Manager
Environmental Planning Manager, Land Use Division
Development Services Department
425-452-4862

www.bellevuewa.gov and www.mybuildingpermit.com

From: Carol at Aramburu-Eustis [mailto:carol@aramburu-eustis.com]

Sent: Tuesday, January 09, 2018 9:58 AM

To: Bedwell, Heidi <HBedwell@bellevuewa.gov>

Cc: Rick Aramburu <Rick@aramburu-eustis.com>

Subject: Re: ARAMBURU NON-DELIVERY - #2 - PSE Transmission Proposal.

Ms. Bedwell,

Rick has not received any response to his email below, forwarded to you (also for sharing with your IT person) last Friday.

Has a response been made?

Is there still a problem with Rick's email being rejected, or with you being able to send to that address?

Carol Cohoe
ARAMBURU & EUSTIS, LLP
720 Third Avenue, SUITE 2000
Seattle, WA 98104
(206) 625-9515

As of June 1, 2013 we are in SUITE 2000.

This message may be protected by the attorney-client and/or work product privilege. If you received this message in error please notify us and destroy the message. Thank you.

On 2018-01-05 10:30, Carol at Aramburu-Eustis wrote:

Ms. Bedwell and IT, the original message Rick was trying to send (with the forwarding header deleted).

Carol Cohoe
ARAMBURU & EUSTIS, LLP
720 Third Avenue, SUITE 2000
Seattle, WA 98104
(206) 625-9515

As of June 1, 2013 we are in SUITE 2000.

This message may be protected by the attorney-client and/or work product privilege. If you received this message in error please notify us and destroy the message. Thank you.

From: Rick Aramburu [<mailto:rick@aramburu-eustis.com>]

Sent: Thursday, January 04, 2018 1:31 PM

To: 'HBedwell@bellevuewa.gov '

Cc: 'Don Marsh' (don.m.marsh@hotmail.com)

Subject: PSE Transmission Proposal.

Heidi:

Happy 2018 to you.

Can you give me a better idea when the FEIS on the PSE 240 kV transmission proposal might be issued? In the meantime, is there a draft that we can review?

I want to make sure that CENSE and other impacted citizens and communities have sufficient time to review the document and prepare for hearings on the project itself. Given the length of the prior DEISs, I anticipate the FEIS will be a substantial document. In a prior email you mentioned a period as short as six weeks from the time the FEIS is issued and hearings are held. Given the length of these proceedings and the anticipated length of the FEIS, six weeks will not be enough time to prepare for any hearings.

Thank you.

Rick

J. Richard Aramburu

ARAMBURU & EUSTIS, LLP

720 Third Avenue

Pacific Building Suite **2000**

Seattle, WA 98104-1860

Telephone (206) 625-9515

Facsimile (206) 682-1376

This message may be protected by the attorney-client and/or work product privilege. If you received this message in error please notify us and

Attachment 3

ARAMBURU & EUSTIS, LLP

Attorneys at Law

J. Richard Aramburu
rick@aramburu-eustis.com
Jeffrey M. Eustis
eustis@aramburu-eustis.com

720 Third Avenue, Suite 2000
Seattle, WA 98104
Tel 206.625.9515
Fax 206.682.1376
www.aramburu-eustis.com

March 9, 2018

Heidi M. Bedwell
Environmental Planning Manager
City of Bellevue
PO Box 90012
Bellevue WA 98009-9012

Via Email:
HBedwell@bellevuewa.gov

Mike Brennan
Director of Development Services
City of Bellevue
PO Box 90012
Bellevue WA 98009-9012

Via Email:
MBrennan@bellevuewa.gov

Re: Segmentation of Proposed PSE Transmission in City of Bellevue

Dear Ms. Bedwell and Mr. Brennan:

On August 31, 2017 and January 17, 2018, I wrote to the city on behalf of CENSE concerning permitting for PSE's transmission line project through Bellevue. This correspondence objected to PSE's proposal to divide their project into two parts for permitting in the City of Bellevue. Copies of my letters are attached hereto for your ready reference.

As our previous correspondence described, this transmission line project, 9 miles of which is in the City of Bellevue, has always been considered a single project for environmental review and permitting. However, PSE has now filed a permit application for just the southern segment of the proposal (to the Lakeside substation) and is holding off on the application for the northern segment.

Your response to our correspondence, in an email dated January 30, 2018, provided no substantive response to our concerns about PSE's segmentation of the project, but did provide us with a date for the issuance of the FEIS for this proposal.

The FEIS has now been issued, a lengthy document consisting of nearly 5,000 pages.

March 9, 2018

Page 2

Public Comments are still being received by Bellevue. Given the size of the document, clearly the public will require additional time for permit review. However, a cursory review of the FEIS indicates no substantial justification for the arbitrary division of the project into two parts for review. Indeed, we have just received (March 6, 2018) the "Notice of Availability of Final Environmental Impact Statement" which describes 16-18 miles of electrical transmission lines, but gives no indication that this proposal will be segmented for permitting. Certainly the section on alternatives does not discuss building just one part of the project.

We understand that the potential construction of this linear facility will involve beginning at one place and staging construction in a sequential and continuous manner. However, this is distinct from the permitting of the facility, where there is no independent utility of construction of half the line. This is especially true under Bellevue's electrical utility facility in Section 20.20.255, when the code focuses on the need for the facility, its contribution to reliability and other systemic features. LUC 20.220.255.2.c.i requires the applicant to "describe whether the electrical utility facility is a consequence of needs or demands from customers located within the district or area." It is abundantly clear that the installation of the south segment is not a consequence of the residents near this line; the "need or demands," if any, are in downtown Bellevue and adjacent areas, which are in PSE's "north segment". Indeed, the Phase 1 DEIS did consider system need and alternatives, but never discussed the possibility of only building a part of the line.

In addition, are we to seriously believe that PSE would build the south segment and then stop at the Lakeside substation, at a cost of \$100,000,000+? Is it not the case that the approval of the south segment, with less impact than the entire eighteen mile line, will place substantial coercion on the Hearing Examiner and the City Council to approve the north segment? Won't the Hearing Examiner, the East Bellevue Community Council and the City Council have additional coercion placed on them to approve the north segment, even if it is violative of BMC 20.20.255, because it would cause PSE to waste considerable money on the south segment, which would then become a transmission line to nowhere?

In addition to the electric system issues, the proposed bifurcation poses procedural issues as well. These are discussed in our prior correspondence. Will the need for the project be determined in a proceeding on just the south segment of the facility, which does not connect to the north? Will the City be considering limiting the project to the south segment and determining no additional work will be permitted to the north? Is the staff seriously asking Bellevue residents to endure two sets of hearings, and two separate considerations by the City Council just to please PSE? Is this proposal an attempt to dilute opposition by separate consideration of segments north and south of the Lakeview substation? Because the proposal runs through the jurisdiction of the East Bellevue Community Council, and their approval of the conditional use permit is required, will review of the south segment be a Process I or Process III, the latter

March 9, 2018
Page 3

required when EBCC has jurisdiction? The proposition to segment a single transmission line project into two parts makes no technical, electrical or procedural sense.

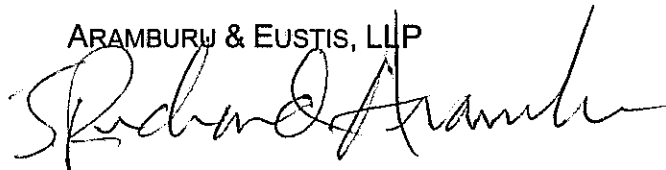
When the original bifurcation proposal was made by PSE, it indicated that the application for the northern segment would be submitted in later 2018. However, recent information from Carol Helland (an email of February 23, 2018) indicates that PSE anticipates the application for that segment will be made by late spring or early summer, less than three months away. Given these circumstances, no logical reason supports PSE's proposed segmentation into north and south segments. The delay of just a few weeks is a small part of the overall project consideration that stretches back to the fall of 2014.

The unfairness of PSE's proposed bifurcation cannot be remedied by later review by the Courts. It is incumbent on the staff to act now to assure that only a single hearing be held on this single project and the public interest be protected. A notice should be circulated to the community that review of the "Energize Eastside" proposal will be at a single hearing to be held following the submission of application materials for the entire project.

Because of the importance of this issue, we ask you to provide your response to this letter as soon as possible, but not later than March 16, 2018.

Sincerely,

ARAMBURU & EUSTIS, LLP

A handwritten signature in black ink, appearing to read "Richard Aramburu", written over the typed name below.

J. Richard Aramburu

JRA:cc
cc: CENSE

LAW OFFICES OF J. RICHARD ARAMBURU PLLC

720 Third Avenue, Suite 2000
Seattle, WA 98104
Tel 206.625.9515
Fax 206.682.1376

www.aramburulaw.com
www.aramburu-eustis.com

February 4, 2019

Hearing Examiner's Office
450 - 110th AVE NE
Bellevue, WA 98004
hearingexaminer@bellevuewa.gov

Erin Anderson
Sara A. Leverette
Stoel Rives LLP
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sara.leverette@stoel.com

Matt McFarland
Assistant City Attorney
P.O. Box 90012
Bellevue 98008
Mmcfarland@bellevuewa.gov

RE: Energize Eastside, South Bellevue Segment
Permit Nos. 17-120556-LB AND 17-120557-LO

Dear Counsel:

Enclosed for filing with the Hearing Examiner is a Motion to Continue and Consolidate Hearing relating to the upcoming hearings for the foregoing electric transmission project. Copied on this email are Matt McFarlane, Assistant City Attorney, and Erin Anderson and Sara Leverette, who have been identified as counsel representing the permit applicant Puget Sound Energy in the above referenced matter.

Section 1.16 of the Hearing Examiner Rules generally requires that motions be filed five days before a hearing. Because this is a motion for continuance and consolidation, we request that the motion be decided as a prehearing matter so that the time and expense of the hearing currently scheduled for March 28 may be avoided.

February 4, 2019
Page 2

Should the Examiner or counsel have any questions regarding this matter, please contact the undersigned.

Sincerely,

A handwritten signature in black ink that reads "J. Richard Aramburu". The signature is written in a cursive style with a large, prominent initial "J".

J. Richard Aramburu

JRA:cc

cc: Clients

Attachment 4

To: Loretta Lopez <llopez@mstarlabs.com>

Cc: "Bedwell, Heidi" <HBedwell@bellevuewa.gov>, Kesayian <kesayian@aol.com>, <whalvrsn1@frontier.com>, hansennp <hansennp@aol.com>

Bcc:

Date: Mon, 17 Dec 2018 09:57:34 -0800

Subject: RE: PSE North/Bridle Trails

Hi Loretta,

Thank you for your ongoing interest. PSE continues to focus on permitting of the south portion of Energize Eastside. Currently, we do not have a projected submittal date for the northern elements of the project. When those application materials are submitted, you will be notified by the City consistent with Bellevue's notice provisions.

For additional project information, please visit our website.

Sincerely,

Keri Pravitz

Community Projects Manager

d (425) 456-2007 | c (425) 495-3166