BEFORE THE CITY COUNCIL
OF BELLEVUE, WASHINGTON

Appeal of Decision of the Hearing Examiner, In the Matter of Conditional Use Permit Application for the South Bellevue Segment of the Energize Eastside Project, PUGET SOUND ENERGY, Applicant, DSD File No. 17-120556-LB, dated June 25, 2019.	No. CSEE STATEMENT OF APPEAL

Citizens for Sane Eastside Energy (CSEE) submits the following Statement of Appeal:

All the factual and legal errors in the Hearing Examiner's decision as enumerated and specified in detail in CENSE's appeal of even date are hereby adopted and incorporated by CSEE in their entirety by reference herein as if fully set forth. CSEE asks the Bellevue City Council to reverse the Hearing Examiner's decision or to remand the matter for further proceedings to cure the many errors and render a new decision.

Further, CSEE hereby appeals all of the hearing examiner's findings and decision in their entirety, including the extent to which the hearing was inevitably influenced and tainted by the set of processes and procedures leading up to and including the hearing itself, all as violative of substantive and procedural due process of law as guaranteed by the Constitutions of Washington State and the United States.

At every step of the way, the public's right to be heard and its right to confront witnesses and obtain evidence adverse to PSE, evidence affecting the public's persons, property and quality of life, were systematically denied in favor of a favored powerful local private utility given virtually exclusive control over choices and methods regarding Energize Eastside. Lack of meaningful public input and Bellevue official favoritism towards PSE fatally tainted the hearing held and the decision it produced.

Since the project was announced in 2013, PSE has treated the public as an unavoidable nuisance to be placated superficially while at the same time manipulating it. It did and does so in the confident knowledge that the legal matrix through which it navigates Energize Eastside affords no fair or effective means to oppose it. Bellevue officialdom and a powerful Bellevue business have synergistically combined to thwart the constitutional rights of those persons whom they ostensibly exist to serve.

From the outset of this project, PSE has engaged in a series of fraudulent acts, condoned and unchecked by state and municipal authorities, to aid and abet several

unconstitutional acts and omissions in the pre-hearing and hearing processes, including but not limited to the following:

1. PSE dusted off an old and abandoned project ("Sammamish-Lakeside-Talbot") meant to relieve a "congestion" of energy transfers within an area called the Northern Intertie between Canada and the Northwest United States. In 2013 PSE gave this old project a new name, "Energize Eastside," and a new purpose: a "local" project, needed to solve future Eastside-specific reliability challenges. Its earlier incarnation as Sammamish-Lakeside-Talbot was intended for a totally different purpose: to accommodate an additional 1500 MW to Canada when that power might be needed. This complete repurposing and renaming of Sammamish-Lakeside-Talbot was never openly disclosed to the public or the municipal permitting authorities. Nevertheless, those 1500 MW to Canada remained inappropriately intact as the chief component of Energize Eastside. From the start, the project had all the hallmarks of a classic bait and switch.

2. The residual 1500 MW to Canada component retained from Sammamish-Lakeside-Talbot became the decisive (yet false) need criterion input into computer simulations conducted and/or overseen by PSE, simulations in computer models used to estimate possible future electricity reliability failures. These computer simulations of possible future unwanted reliability events are known as load flow studies. 1500 MW is a massive amount of energy, about what the entire City of Seattle consumes on a typical day. With the 1500 MW to Canada inappropriately entered into their load flow studies, PSE claimed it had proof that Energize Eastside was necessary. Yet even the experts PSE relied on had to concede that without those 1500 MW in the studies, Energize Eastside was either not needed, or, alternatively, something vastly more modest would work and be preferable.

3. Citizens opposed to Energize Eastside sought repeatedly, from 2014 to the present, to obtain the load flow data scenarios used by PSE or others on its behalf to "check its homework." The data assumptions needed scrutiny by other experts for Appellants who questioned the results and suspicious methodology used. PSE has steadfastly rejected all such requests, citing federal information security regulations known as CEII as their excuse. Yet even when PSE has been asked to provide the sought-after data to CEII-approved experts working for CSEE or CENSE, PSE continued and continues to stonewall. In 2015, CENSE/CSEE experts Schiffman and Lauckhart did their own load flow studies based initially on baseline data provided by the Western Energy Coordinating Council (WECC), a regulating arm of the Federal Energy Regulatory Commission (FERC). Schiffman and Lauckhart then input criteria into their load flow studies as testified to by PSE-endorsed experts. Removing the assumption of the massive and bogus 1500 MW to Canada criterion, they concluded there is no need for Energize Eastside.

4. By law and universally accepted standards of fundamental fairness, the public must be meaningfully heard on a project of such magnitude as Energize Eastside. At an estimated cost of up to $300,000,000 and comprising up to 18 miles of new steel

towers doubling the height of existing wooden poles, along with wires doubling the voltage from 115kV to 230kV, this project is also dangerous and portends an environmental disaster. It would be built atop two parallel pipelines in the same corridor, pipelines owned and operated separately by the Olympic Pipeline Co. over whom PSE has no control. These aging and corrosive pipes, placed at shallow depths in the 1960s, pump jet fuel and other petroleum products under high pressure from Bellingham to SeaTac and beyond. This is the same pipeline that exploded in 1999 due to a small puncture in a pipe caused by a backhoe. The ensuing uncontrollable fire killed three boys and caused millions of dollars in property damage. The Energize Eastside project also would fall within the Seattle Fault earthquake zone. The fall distances from the taller steel towers will have a greater range of destruction potential in an earthquake; even PSE admits the project cannot be designed to protect against a significant earthquake. The increased tower fall distances do not meet HUD safety requirements for new dwellings and would make many properties on the Eastside ineligible for HUD assistance. They also do not meet wider right-of-way requirements in at least one affected city, Newcastle. Yet PSE has hired experts to proclaim this project is "acceptably" safe and legal.

5. When Energize Eastside was still known in the early 2000s as Sammamish-Lakeside-Talbot — the name that is still used for this project by the regional energy planning organization known as ColumbiaGrid — a cheaper and more efficient reliability alternative existed and continues to exist. After significant study, in 2005 ColumbiaGrid found the existing lines on the Eastside owned by Seattle City Light (SCL) would provide the best solution for the then-perceived future regional need to accommodate up to 1500 MW to Canada. Though not addressed by ColumbiaGrid, the SCL lines had a further advantage in that they did also not lie over petroleum products pipelines, and the SCL lines were adjacent to far less dense residential populations. There would also not be the need for cutting down thousands of trees and destroying many fragile habitats, as Energize Eastside promises to do. Indeed, in 2014 and 2015, spokespersons for PSE claimed in various public fora that their preferred route for the project was the SCL lines. PSE said it had asked SCL about using their Eastside lines, but SCL reportedly declined, stating they "preferred" retaining these lines for possible future use. In fact, however, SCL provided evidence, submitted by CSEE at the hearing, that in fact SCL would have cooperated with PSE to provide the cheaper, more efficient and safer solution, but PSE never made a formal request to do so. In other words, PSE lied. Under FERC Order 888, SCL would be legally obligated to share its part of the grid with PSE for Energize Eastside and help contribute to its cost — but also share in the profits. None of these facts has ever been disclosed by PSE to the public or affected cities' governing bodies, or that its so-called "preferred" route via SCL remains a viable option today. Indeed, PSE's website devoted to this project continues to state it would have preferred to build the project using the existing SCL route, but alas SCL "prefers" not to share. Unspoken on PSE's website: sharing a safer project with SCL would deprive PSE of the huge 9.8% profits guaranteed by law from the bloated project it wants to build.

6. Whether by design or neglect, all the powers that local, state and federal authorities might marshal to allow citizens who elect and pay them be afforded a meaningful say and participation in permitting this project have done little to nothing so far. Though Energize Eastside threatens to blight a city once proudly proclaiming itself a City in a Park, the project has been given white glove privileged treatment by the City of Bellevue. From PSE's relentless, misleading PR campaign that the project is all about increased electricity demand (when that demand has flatlined now for several years due to technological change and conservation); to its tight authoritarian control over CAG (Community Advisory Group) agendas and meetings; to having unlimited access to Bellevue staff while citizens are relegated to ineffective 3-minute sound bites at council meetings, the deck has been consistently stacked against the public interest to produce a preordained Bellevue growth boosterism result based on whatever PSE thinks is good for Bellevue business interests.

7. The City of Bellevue, through its land use ordinances and hearings relative to same, on paper and in practice, denies its citizens and others essential fairness as envisioned and guaranteed by our state and federal Constitutions. With reference to the hearing hereby appealed from, the constitutional violations encompass everything in the hearing record, in its entirety and not just in individually assigned errors sprinkled here and there. The pervasive fatal infirmities include the following:

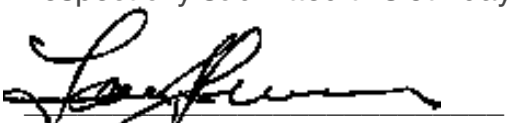
    A. No notice, or inadequate notice, was given by PSE of the bait and switch inherent in PSE's having promoted and presented to the public a unitary project, while then at the last minute switching to a CUP application for only a part of the "south" segment, leaving the "north" segment for a separate permit for another day, or never. This northern segment is now surprisingly described by PSE as "redundant." Yet since 2013 PSE was sending out alarms that blackouts would come to the Eastside by 2017 if this entire desperately needed Energize Eastside project were not built pronto. It was never conveyed as modular, with one or more of its parts being optional.

    B. CENSE and CSEE also moved for an order from the Hearing Examiner to obtain at long last fundamental key information from PSE that it otherwise freely gave Bellevue staff and third parties sympathetic to it, data such as the aforementioned load flow studies and historical electricity usage data specific to Eastside locations, rather than overbroadly PSE's entire service area. Again, the Hearing Examiner ruled "motion denied" with nothing further. One can only guess why he did so. Our legal system is founded on the bedrocks of evidence and reasoning, with evidence identified and admitted by rules of evidence, then applied to the law so that in an appeal, if undertaken, the reasons for the ruling can be examined, and sustained or overruled. Only that way can fundamental fairness occur, rather than leaving one to guess what sparked the whims of the judge. Appellants were thus denied due process of law by the hearing examiner's arbitrary and capricious denial of this and the previously mentioned CENSE and CSEE pre-hearing motion referred to in the preceding paragraph.

C. Appellants were further denied due process of law by the hearing officer's allowing PSE to present facts and expert conclusions based on them to which Appellants were denied the access and discovery they requested. Appellants, in the hearing and every public process leading up to and influencing it, were never afforded an opportunity to confront and cross-examine PSE witnesses, a right otherwise constitutionally guaranteed every citizen in any other judicial setting, civil or criminal.

Essential property rights and constitutional core values of fair play were abused in this hearing. The decision based on it is fatally flawed and must be reversed or remanded.

Respectfully submitted this 9th day of July, 2019.



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