

Bedwell, Heidi

From: Larry Johnson <larry.ede@gmail.com>
Sent: Thursday, January 17, 2019 3:05 PM
To: info@EnergizeEastsideEIS.org; Bedwell, Heidi
Cc: Sue Stronk; Lori E; Bruce Williams; Keith Hargis; Lynne Prevette; Richard Lauckhart; Russell Borgmann; Don Marsh; CENSE Board; City of Bellevue; Sara McMillon; Rob Wyman; tamrak@newcastlewa.gov; Carol Simpson; Rick Aramburu; Glenna White; Loretta Lopez; Karen Esayian
Subject: All EIS public comments on Energize Eastside should be made available to the CUP hearing examiner
Attachments: letter to Bedwell 1-17-19.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms. Bedwell,

Please include the attached letter in the materials to be submitted to the hearing officer who will preside at the hearing of PSE's CUP and CALUP applications for Energize Eastside.

I assume in addressing this letter to you I am contacting the person responsible for managing the public comments regarding the FEIS for the PSE Energize Eastside project. If I am incorrect in that regard, I ask you to forward the letter to the person or persons to whom it should be addressed.

Thank you for your anticipated cooperation.

Larry Johnson, Attorney for CSEE

Larry G. Johnson, WSBA #5682
8505 129th Ave SE
Newcastle, WA 98056
tel.: [425 228-3786](tel:4252283786)
[email: larry.ede@gmail.com](mailto:larry.ede@gmail.com)

Law Office of Larry G. Johnson

8505 129th Ave. SE
Newcastle, WA 98056
tel.: 425 227-3352
larry.ede@gmail.com

January 17, 2019

Ms. Heidi M. Bedwell
Energize Eastside EIS Project Manager
P.O. Box 90012
Bellevue, WA 98009-9012

Sent by email to info@EnergizeEastsideEIS.org and HBedwell@bellevuewa.gov

Dear Ms. Bedwell,

I represent Citizens for Sane Eastside Energy (CSEE), an Eastside citizens' group opposed to PSE's "Energize Eastside" project ("EE").

On behalf of myself and CSEE I have in recent years submitted a number of public comments regarding the flaws and deficiencies in the EIS for EE as it worked its way through various iterations. The EIS drafts culminated in the FEIS where only some, but by no means all of the document's defects and omissions were addressed and corrected.

I assumed the EIS comments I submitted would suffice equally as comments relevant to PSE's Bellevue CUP and CALUP applications, without my redundantly having to resubmit them. But based on emails you sent a CENSE member, Karen Esayian, in 2017, of which I only recently obtained copies, it appears my assumptions are not correct.

Specifically, please see as Attachment A to this letter the complete text of those emails, with key text highlighted in yellow. One can fairly conclude from these emails that there is a potential invisible "gotcha" that can exclude from the permit hearings citizen comment made in the EIS process. Citizens who believe their EIS comments would logically qualify as evidence in the permit application hearings will be surprised to learn they may have no standing at all as a party, and their EIS-related comments and evidence will not be included in the record.

Or, who knows? Maybe they will be heard. You indicate that for some lucky people a Catch-22 exclusion will not apply if their EIS-related comments are deemed "most appropriate" for consideration in the permitting process:

"Please note that the above-described land use process does not necessarily mean all comments submitted previously as part of the EIS process need to be resubmitted as part of the permit review process. In fact, the most appropriate comments during the permit review process would address PSE's specific permit applications, the current proposal, and the city codes and standards applicable to the permit applications."

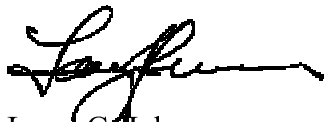
This statement begs the question: Who decides which comments are “the most appropriate” — you? Other staff? Counsel for Bellevue? I submit that the only person who should decide which EIS-related comments are “appropriate” and which are not is the hearing officer. Bellevue staff has no right to put its thumb on the scale. I suspect Bellevue is heavily influenced by its powerful neighbor across the street, PSE, but Bellevue should at least try to maintain the appearance of neutrality and transparency. That much the law requires.

Any concerned citizen who weighed in on the problematic aspects of the EE FEIS obviously did not do so as an academic exercise. The vast majority of their comments are reasons to not allow the needless EE to be permitted. To exclude *any* comment from the hearing officer’s consideration is a denial of due process of law and an impermissible corruption of the hearing process.

I propose that all EE EIS comments (which exist as electronic PDF files that are kept in one place on a server) be copied onto a portable USB hard drive and handed over to the hearing examiner. That should take about 30 seconds. If you want to make the hearing officer’s work easier, I would have no objection to your putting a population of comments in one folder you can call “relevant,” and others into another folder you can label “irrelevant.” Then the hearing officer can either agree or disagree with you. But at least he or she will be the one to make the final determination.

In any event, I hope I have made it clear that I expect all comments CSEE and I have hitherto made regarding the EIS for EE are to be deemed as comments for the PSE EE CUP and CALUP applications. CSEE also expects to be party of record in all future hearings in each affected city.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry G. Johnson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Larry G. Johnson
Attorney at Law, WSBA #5682

cc: City councils for Bellevue, Newcastle, Renton and Kirkland; CENSE

Appendix A

1. Email text from Heidi M. Bedwell, Energize Eastside EIS Project Manager, City of Bellevue, to Karen Kesayian, November 2017:

Good morning Karen,

Thank you for getting in touch regarding your questions. Comments provided on the Draft EIS (both Phase I and II) are included and considered as part of the Final EIS preparation. Specifically, the Final EIS will include copies of the comments that were submitted during the EIS comment periods and will also include responses to those comments. As I mentioned in my presentation at the public meeting on Tuesday evening, we are anticipating the Final EIS will be completed and available in February, 2018.

Regarding the two current permit applications under review with the City of Bellevue- comments that address PSE's Conditional Use Permit (CUP) or Critical Areas Land Use Permit (CALUP) should be submitted as part of the City's permit review land use process. This is because individuals or groups who wish to comment on PSE's permit applications will need to submit comments and contact information (i.e., your name and address) in order to be a party of record for the CUP/CALUP applications. Prior submission of comments concerning the EIS during the EIS comment periods does not automatically make the EIS commenter a party of record regarding the City's subsequent review of PSE's specific permit applications.

Please note that the above-described land use process does not necessarily mean all comments submitted previously as part of the EIS process need to be resubmitted as part of the permit review process. In fact, the most appropriate comments during the permit review process would address PSE's specific permit applications, the current proposal, and the city codes and standards applicable to the permit applications.

Finally, I want to correct an error in the statement that Norm Hansen made during his comments at the November 14, 2017 public meeting. My contact information (including email) was in fact listed as part of the permit page and noticing information on the City's webpage. Norm appears to have overlooked this information when he made his public comment at the meeting, and I want to clear up any confusion caused by his incorrect statement regarding the availability of my contact information. As I explained at the public meeting, any comments concerning PSE's permit applications and the City's processing of those applications can be sent to me.

Hope this additional information provides you with the answers you needed. I will be working with our communications staff to add this information to our permitting page as well since I'm sure you're not the only person who may be asking the question.

Have a great day.

-Heidi

2. Email text from Heidi M. Bedwell, Energize Eastside EIS Project Manager, City of Bellevue, to Karen Kesayian, December 2017:

Hi Karen,

I appreciate your concern as it relates to timing your comments. As you acknowledge there is no definite deadline in the land use code for the City to issue the Director's Recommendation. The City will accept comments at any time prior to the close of the public hearing. Therefore, even after the City issues the Director's Recommendation, interested parties will still be able to participate in the public hearing and submit comments during that process too.

However, although the City will accept comments through the public hearing, the City strongly encourages interested parties to submit comments on PSE's CUP and CALUP as early as possible. Since September when the application was submitted, the comment period on the permit applications has been open. Interested parties should submit specific comments on the CUP and CALUP now, rather than waiting until the last minute. Submitting comments now does not limit your ability to submit comments on the CUP and CALUP after the FEIS is available, but the comment periods for the EIS are closed. The active comment period concerns the CUP and CALUP, so it is important to remember that **your comments should focus on PSE's permit applications.**

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. However, I would again strongly encourage interested members of the public to **submit comments on PSE's permit applications early,** rather than waiting until the end of the comment period.

I hope that this additional information about the City's process addresses some of your concerns. Thank you for taking the time to participate.
-Heidi

Bedwell, Heidi

From: Rick Aramburu <rick@aramburu-eustis.com>
Sent: Wednesday, January 09, 2019 3:40 PM
To: McFarland, Matthew
Cc: Bedwell, Heidi; Stead, Elizabeth
Subject: RE: Energize Eastside CUP and CALUP
Attachments: 2018-8-31 ORDER to reschedule.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Mr. McFarland:

Thank you for your email regarding a revised schedule for the "Energize Eastside" review and hearings. Regrettably, the hearing date of March 7 presents a conflict for me.

I am scheduled to begin trial in King County Superior Court in a case entitled *Dempcy v. Avenius et al* King County Case Number 13-2-37292-4 SEA on March 4, 2019 before Judge Donahue in downtown Seattle. The "Order to Reschedule Trial Date" to March 4, 2019 entered by a previous judge on August 31, 2019 is attached. The Court specifically stated that: "The parties should not expect more continuances."

The case is currently scheduled for three days, but with four parties, and with the commencement of trial frequently mes delayed, I am concerned that I may be required to be in trial on March 7 and accordingly will be unable to attend the hearings for the "Energize Eastside" hearing.

I have hearings previously set in Sammamish on March 11 and 13 and would need to avoid those dates. I am currently available on any day the week of March 18 or March 25 for a hearing before the Bellevue Hearing Examiner on this matter. Though not part of the current schedule, please also be advised I am not available from April 11 to 22, 2019.

I think all parties would appreciate firming up the pre-hearing conference as well; I have no current conflict on February 11, 12 or 13, 2019.

Thank you again for the City's continued attention to the schedule of interested parties in this matter. Should you have any questions, please let me know.

Law Offices of J. Richard Aramburu, PLLC
720 Third Avenue
Pacific Building Suite 2000
Seattle, WA 98104-1860
Telephone (206) 625-9515
Facsimile (206) 682-1376

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From: McFarland, Matthew [mailto:MMcfarland@bellevuewa.gov]
Sent: Wednesday, January 09, 2019 8:57 AM
To: Rick Aramburu
Cc: Bedwell, Heidi; Stead, Elizabeth
Subject: RE: Energize Eastside CUP and CALUP

Mr. Aramburu,

Consistent with our conversation below, I have some updates for you and your clients regarding the schedule for publication of the Staff Report and the anticipated hearing date(s) in connection with the Energize Eastside South Bellevue Segment Conditional Use Permit (CUP), along with the Director's Decision for the Critical Areas Land Use Permit (CALUP). DSD now anticipates that it will publish the Staff Report on Thursday, **January 24, 2019**. DSD also anticipates that it will notice the public hearing on the Process I CUP for Thursday, **March 7, 2019**, with a pre-hearing conference before the Hearing Examiner calendared for either February 11, 12 or 13th. We do not know the exact date for the pre-hearing conference yet, but I will provide you with that date as soon as it is finalized. However, we do anticipate that the pre-hearing conference will occur on either February 11, 12 or 13th.

Please note that the revised schedule identified above will provide six (6) weeks between publication of the Staff Report and the Process I public hearing, rather than the three (3) week time period under the original schedule I provided to you. In addition, this revised schedule will provide over two (2) weeks between publication of the Staff Report and the pre-hearing conference, rather than the six (6) days under the original schedule. I apologize for the change in schedule, but I hope that the extended time period between the anticipated publication date and the hearing date(s) addresses some of the concerns you voiced in your December 17th email to me.

DSD is providing you with this information as a courtesy and per your request, so that you can plan your schedule around these new dates accordingly. If anything changes regarding the anticipated schedule noted above, then I will continue to provide you with updates.

Sincerely,

Matt McFarland

Assistant City Attorney

City of Bellevue

450 110th Avenue NE

P.O. Box 90012

Bellevue, WA. 98009

Phone: 425-452-5284

mmcfarland@bellevuewa.gov

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From: McFarland, Matthew

Sent: Tuesday, December 18, 2018 11:04 AM

To: 'Rick Aramburu' <rick@aramburu-eustis.com>

Cc: Bedwell, Heidi <HBedwell@bellevuewa.gov>; Stead, Elizabeth <estead@bellevuewa.gov>

Subject: RE: Energize Eastside CUP and CALUP

Mr. Aramburu,

Thank you for your comment, which DSD will include in the Department file that will be lodged with the Hearing Examiner prior to the public hearing. Also, I appreciate your advanced notice that your clients intend to bring a Motion before the Hearing Examiner to change, continue, or dismiss the Process I public hearing date. As explained below, DSD anticipates the January 10th (publication), January 16th (pre-hearing conference), and January 31st (Process I public hearing) dates provided below, but I will let you know if these anticipated dates change so that you and your clients can plan accordingly.

Best regards,

Matt McFarland

Assistant City Attorney

City of Bellevue

450 110th Avenue NE

P.O. Box 90012

Bellevue, WA. 98009

Phone: 425-452-5284

mmcfarland@bellevuewa.gov

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

Sent: Monday, December 17, 2018 10:23 AM

To: McFarland, Matthew <MMcfarland@bellevuewa.gov>

Cc: Bedwell, Heidi <HBedwell@bellevuewa.gov>; Stead, Elizabeth <estead@bellevuewa.gov>

Subject: RE: Energize Eastside CUP and CALUP

Mr. McFarland:

We strongly object to the timeframe that is outlined in your letter.

As you know, this matter has been pending for about five years. The staff recommendation is a critical element in these proceedings and to allow only six days between that recommendation and a prehearing conference is highly prejudicial and inappropriate, as well as only 21 days between the recommendation and the public hearing. We note that the staff has had years to work on its report and the public should have a reasonable time for review of that document. We request a minimum of sixty days between the recommendation and the public hearing to allow for reasonable preparation for a hearing and review of the staff recommendation. Because the staff report will apparently only analyze the south segment of the project, there is certainly no reason for a rush in decision making.

In addition, please be advised that as soon as the Hearing Examiner takes jurisdiction of this matter we will be making a motion to dismiss or for continuance because the current proposal only includes one segment of the project and not the whole proposal as discussed in over four years of review. We have made this objection continuously for the past sixteen months without reply from the City.

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

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From: McFarland, Matthew [<mailto:MMcfarland@bellevuewa.gov>]

Sent: Monday, December 17, 2018 9:46 AM

To: rick@aramburu-eustis.com

Cc: Bedwell, Heidi; Stead, Elizabeth

Subject: Energize Eastside CUP and CALUP

Mr. Aramburu,

In response to your November 21, 2018 email correspondence with Heidi Bedwell, please note that the City of Bellevue's Development Services Department (DSD) anticipates that it will publish the Staff Report and Director's Recommendation for the Energize Eastside South Bellevue Segment Conditional Use Permit (CUP), along with the Director's Decision for the Critical Areas Land Use Permit (CALUP), on Thursday, January 10, 2019. DSD also anticipates that it will notice the public hearing on the Process I CUP for Thursday, January 31, 2019, with a pre-hearing conference before the Hearing Examiner calendared for Wednesday, January 16, 2019 at 10:00 a.m. Official notice of both the pre-hearing conference and the public hearing will be provided upon publication of the Director's Recommendation/Decision.

DSD is providing you with this information as a courtesy and per your request, so that you can plan your schedule around the above-listed dates accordingly. If anything changes regarding the anticipated schedule noted above, then I will provide you with an update.

Sincerely,

Matt McFarland

Assistant City Attorney
City of Bellevue
450 110th Avenue NE
P.O. Box 90012
Bellevue, WA. 98009
Phone: 425-452-5284
mmcfarland@bellevuewa.gov

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Hon. Chad Allred

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

BIRNEY DEMPCY and MARIE DEMPCY,
husband and wife, and their marital
community,

Plaintiffs,

v.

CHRIS AVENIUS and NELA AVENIUS,
husband and wife, and their marital
community, JACK SHANNON, an
individual, and RADEK ZEMEL, an
individual,

Defendants.

No. 13-2-37292-4 SEA

ORDER TO RESCHEDULE TRIAL
DATE

CLERK'S ACTION REQUIRED

II. ORDER

Based on the "Parties' Stipulation to Reschedule Trial Date", and otherwise being
fully advised, the Court orders as follows:

a) The trial date for this matter, currently set for December 3, 2018, is changed to
March 4, 2019.

Court will issue

b) ~~The parties are directed to confer and submit a proposed~~ a new case schedule.

ck

ORDER TO RESCHEDULE TRIAL
DATE - 1

ARAMBURU & EUSTIS, LLP

720 Third Avenue, Suite 2000
Seattle, WA 98104
Tel. 206.625.9513 • Fax 206.682.1376

1 c) The parties should not expect more continuances. (CA)

2 to the Court within twenty days of the date of this order.

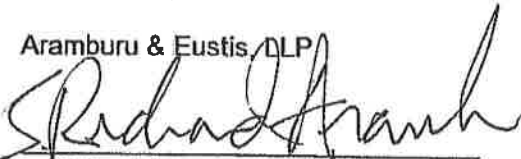
3 Done in open court this 31st day of August, 2018.

4 

5 Judge Allred

6 Presented by:

7 Aramburu & Eustis, LLP

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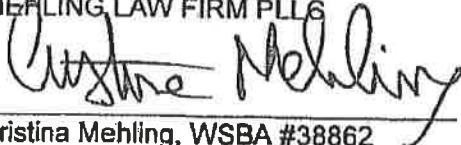
9 J. Richard Aramburu, WSBA #466
10 Attorney for Defendant Shannon

11 Jeppesen Gray Sakai P.S.

12 

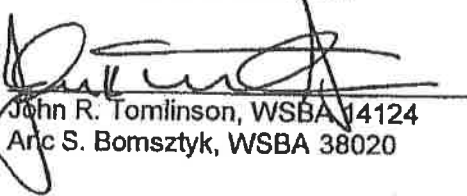
13 Allen R. Sakai, WSBA #11953
14 Attorney for Defendants Avenius

15 MEHLING LAW FIRM PLLC

16 

17 Cristina Mehling, WSBA #38862
18 Attorney for Defendant Zemel

19 Barokas Martin & Tomlinson

20 

21 John R. Tomlinson, WSBA 14124
22 Arc S. Bomszyk, WSBA 38020

23
24 ORDER TO RESCHEDULE TRIAL
DATE - 2

ARAMBURU & EUSTIS, LLP

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

**SUPERIOR COURT OF THE STATE OF WASHINGTON
KING COUNTY**

DEMPCY ET ANO
Plaintiff/Petitioner

vs

AVENIUS ET AL
Defendant/Respondent

NO. 13-2-37292-4 SEA

Order Amending Case Schedule

Clerk's Action Required

The trial date is reset, and the Court amends the case schedule as shown below:

Case Events	Amended Due Date
Disclosure of Possible Primary Witnesses	10/1/2018
Disclosure of Possible Additional Witnesses	11/13/2018
Change of Trial Date	11/26/2018
Filing Jury Demand	11/26/2018
Discovery Cutoff	1/14/2019
Deadline for Engaging in Alternative Dispute Resolution	2/4/2019
Exchange of Witness & Exhibit Lists & Documentary Exhibits	2/11/2019
Deadline to file Joint Confirmation of Trial Readiness	2/11/2019
Advise Court on Settlement	2/12/2019
Inspect Exhibits	2/19/2019
Deadline for hearing Dispositive Pretrial Motions	2/19/2019
Joint Statement of Evidence	2/25/2019

CK

Trial Brief	2/25/2019
Jury Instructions	2/25/2019
Proposed Findings of Fact & Conclusions of Law	2/25/2019
Use of Discovery/Depositions at Trial	2/25/2019
Trial	3/4/2019

Pursuant to King County Local Rules, IT IS ORDERED that the parties shall comply with the schedule listed above. Penalties, including but not limited to sanctions set forth in the King County Local Rules, may be imposed for failure to comply.

Dated : 8/31/18



Honorable Judge Chad Allred

Bedwell, Heidi

From: hansenp@aol.com
Sent: Tuesday, January 08, 2019 2:35 PM
To: Bedwell, Heidi
Subject: Energize Eastside Permit Phase 1 Comments
Attachments: LUC 20.20.255.rtf

January 7, 2019

Energize Eastside Permit Phase 1 Comments From Norman Hansen, 3851 136th Ave. NE, Bellevue, Wa 98005. based on Bellevue Land Use Code 20.20.255 Requirements.

Project Need: The electrical facility location is not a consequence of needs or demands from customers located within the residential district or area. Current data does not show residential areas of need. A load usage and forecast needs to be provided for those residential areas impacted.

ALTERNATIVE SITING ANALYSIS: PSE never did an underground preferred route analysis even though requested multiple times during the Community Advisory Group Process (CAG). CAG members were a handpicked select group determined by PSE in 2013 to examine a preferred route.

As a member of this group it seemed like it was commissioned to verify the PSE existing route. The existing route will overburden current private easements and allow PSE to be unjustly enriched at the expense of current residents.

This overhead route cannot fully mitigate the view.

ENVIRONMENTAL IMPACT: VIEW MITIGATION; The only way to completely mitigate an overhead line and preserve beautiful views is to place the project underground in a selected preferred underground route.

Although requested multiple times, an underground preferred route was never analyzed and reviewed by the CAG Advisory Group. This certainly is not in the public interest.

Undergrounding of 230,000 volt transmission lines are economically and technically feasible. San Diego Power and Light recently completed undergrounding a 230,000 volt double circuit 11 miles long to improve reliability and minimize environmental impact.

Many other projects both domestic and international jurisdictions are utilizing new technology to provide economically doable undergrounding especially as modern cities develop.

Overhead wiring is no longer a modern solution, in fact the best reliability is obtained by undergrounding.

OTHER ENVIRONMENTAL IMPACT: The city of Bellevue's Tree Canopy Goal is 40% tree canopy. Current inventory indicates a tree canopy of 38%. Energize Eastside overhead lines will not support or help to achieve a 40% tree canopy goal. It takes 40 to 50 years for newly planted

small trees to achieve existing 80 foot plus tree maturity. A substantial number of significant trees will be lost with overhead wires. Many neighborhoods highly value the character of the tree canopy.

INDEPENDENT TECHNICAL REVIEW: BELLEVUE TECHNOLOGICAL EXPERTISE; Bellevue needs to require PSE to obtain EE Project review from the Washington State Energy Facility Energy Site Evaluation Council (EFSEC) to provide an unbiased project review to protect the public interest (see efsec.wa.gov). Bellevue struggles with technical understanding of electrical complex issues such as EE. This is even true when trying to hire unbiased consultants. The Exponent Report in 2011 page 147 Recommendation "Bellevue's ability to be a knowledgeable stakeholder will require an assignment of an engineer knowledgeable in the electrical power system to foster interaction with stakeholders". However, this recommendation has been consistently ignored by Bellevue.

The Washington Utilities and Transportation Commission PSE Integrated Resource Plan is scheduled shortly to review transmission lines such as EE South and EE North. It is appropriate and prudent for Bellevue and other Eastside Cities to be aware of the report data prior to permit approval.

SUMMARY: Bellevue must preserve and protect the public interest through full knowledge being provided by the UTC and other recent studies regarding load forecasting by other entities. It is unacceptable to agree with PSE recommendations without transparency of load analysis and practical peer load forecasting.

Norm Hansen Bio: BSEE Michigan State University 1962, Bellevue resident 46 years, CAG Member and current UTC PSE Integrated Resource Plan Technical Advisory Member.

20.20.255 Electrical utility facilities.

A. Purpose.

The purpose of this section is to regulate proposals for new or expanding electrical utility facilities and to minimize impacts associated with such facilities on surrounding areas through siting, design, screening, and fencing requirements.

B. Applicability.

This section applies to all proposals for new or expanding electrical utility facilities as defined in LUC [20.50.018](#). Additional requirements applicable to electrical utility facilities located within the Shoreline Overlay District are provided in Part [20.25E](#) LUC.

C. Required Review.

For new or expanding electrical utility facilities proposed on sensitive sites as described by Figure UT.5a of the Utilities Element of the Comprehensive Plan, the applicant shall obtain Conditional Use Permit approval under Part [20.30B](#) LUC. For expansions of electrical utility facilities not proposed on sensitive sites as described by Figure UT.5a, the applicant shall obtain Administrative Conditional Use Permit approval under Part [20.30E](#) LUC.

1. Conditional Use Permit. In addition to the requirements set forth in Part [20.30B](#) LUC and Part [20.25B](#) LUC (if applicable), the applicant shall:
 - a. Complete the alternative siting analysis as set forth in subsection [D](#) of this section;
 - b. Hold an informational public meeting prior to the public hearing required by LUC [20.35.137](#) and in addition to the informational public meeting required in LUC [20.35.127](#); and

c. Comply with all applicable decision criteria and design standards set forth in this section.

2. Administrative Conditional Use. In addition to the requirements set forth in Part [20.30E](#) LUC and Part [20.25B](#) LUC (if applicable), the applicant shall comply with all decision criteria and design standards set forth in this section, provided the applicant is not required to complete the alternative siting analysis set forth in subsection [D](#) of this section.

D. Alternative Siting Analysis.

In addition to the requirements set forth in Part [20.30B](#) LUC, Part [20.25B](#) LUC (if applicable), and the decision criteria and design standards set forth in this section, the applicant shall identify alternative sites, provide required content showing analysis relating to identified sites, describe technologies considered, and describe community outreach conducted for proposals relating to new or expanding electrical utility facilities on sensitive sites as described in this section.

1. Alternative Sites Analyzed. Prior to submittal of the application for Conditional Use Permit required pursuant to subsection [C](#) of this section, the applicant shall identify not less than three alternative site options to meet the system needs for the proposed new or expanding electrical utility facility. At least one of the alternative sites identified by the applicant shall be located in the land use district to be primarily served by the proposed electrical utility facility.

2. Content of Alternative Siting Analysis. Upon submittal of the Conditional Use Permit application required pursuant to subsection [C](#) of this section, the applicant shall submit results of the siting analysis which:

a. Describe the sites identified in subsection [D.1](#) of this section and the land use districts within which the sites are located.

- b. Map the location of the sites identified in subsection [D.1](#) of this section and depict the proximity of the sites to Neighborhood Business Land Use Districts, Residential Land Use Districts, and Transition Areas.
- c. Describe which of the sites analyzed are considered practical or feasible alternatives by the applicant, and which of the sites analyzed are not considered practical or feasible, together with supporting information that justifies the conclusions reached. For sites located within a Neighborhood Business Land Use District, Residential Land Use District, and/or Transition Area (including the BelRed Office/Residential Transition (BR-ORT), the applicant shall:
- i. Describe whether the electrical utility facility location is a consequence of needs or demands from customers located within the district or area; and
 - ii. Describe whether the operational needs of the applicant require location of the electrical utility facility in the district or area.
- d. Identify a preferred site from the alternative locations considered for the proposed new or expanding electrical utility facility. The following location selection hierarchy shall be considered during identification of the preferred site alternative: (i) nonresidential land use districts not providing transition, (ii) nonresidential Transition Areas (including the BelRed Office/Residential Transition (BR-ORT), and (iii) residential areas. The applicant may identify a preferred site alternative in a Residential Land Use District or Transition Area (including the BelRed Office/Residential Transition (BR-ORT) upon demonstration that the location has fewer site compatibility impacts than a nonresidential land use district location.

3. Technology Considered for the Preferred Site Alternative. Upon submittal of the Conditional Use Permit application required pursuant to subsection [C](#) of this section, the applicant shall:

- a. Describe the range of technologies considered for the proposed electrical utility facility;
- b. Describe how the proposed electrical utility facility provides reliability to customers served;
- c. Describe components of the proposed electrical utility facility that relate to system reliability; and
- d. Describe how the proposed facility includes technology best suited to mitigate impacts on surrounding properties.

4. Community Outreach Conducted. Upon submittal of the Conditional Use Permit application required pursuant to subsection [C](#) of this section, the applicant shall provide a description of all methods of community outreach or involvement conducted by the applicant prior to selecting a preferred site for the proposed electrical utility facility.

E. Decision Criteria.

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 electrical utility facilities shall comply with the following:

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

3. The applicant shall demonstrate that an operational need exists that requires the location or expansion at the proposed site;
4. The applicant shall demonstrate that the proposed electrical utility facility improves reliability to the customers served and reliability of the system as a whole, as certified by the applicant's licensed engineer;
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;
 - b. Where feasible, the preferred site alternative identified in subsection [D.2.d](#) of this section is located within 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;
6. The proposal shall provide mitigation sufficient to eliminate or minimize long-term impacts to properties located near an electrical utility facility.

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](#);

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 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;
3. Required Setback. The proposal (including required fencing) shall conform to the setback requirement for structures in the land use district; and
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 that:
 - a. The requested increase is the minimum necessary for the effective functioning of the electrical utility facility; and
 - b. Impacts associated with the electrical utility facility have been mitigated to the greatest extent technically feasible.

G. Mitigation Measures.

The City may impose conditions relating to the location, development, design, use, or operation of an electrical utility facility to mitigate environmental, public safety, or other identifiable impacts. Mitigation measures may include, but are not limited to, natural features that may serve as buffers, or other site design elements such as fencing and site landscaping as provided for in subsection [E](#) of this section.

H. Independent Technical Review.

The City may require the applicant pay for independent technical review by a consultant retained by the City for review of materials submitted by the applicant to demonstrate compliance with the requirements of the alternative siting analysis contained in subsection [D](#) of this section, the decision criteria contained in subsection [E](#) of this section and the design standards contained in subsection [E](#) of this section. (Ord. 6417, 5-21-18, § 16; Ord. 5876, 5-18-09, § 11; Ord. 5805, 3-3-08, § 8)

The Bellevue Land Use Code is current through Ordinance 6425, passed October 1, 2018.

Disclaimer: The City Clerk's Office has the official version of the Bellevue Land Use Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.bellevuewa.gov](http://www.bellevuewa.gov)

City Telephone: (425) 452-6800

[Code Publishing Company](#)

Bedwell, Heidi

From: Lori E <ljdemail@comcast.net>
Sent: Friday, January 04, 2019 4:42 PM
To: Bedwell, Heidi
Subject: Comments on PSE's Energize Eastside permit application

Dear Ms. Bedwell,

I am writing to ask that the city NOT approve PSE's application to build Energize Eastside.:

1. It is unnecessary and wasteful of ratepayer funds. The city of Bellevue has failed to independently determine the need. CENSE paid for a Load Flow Study. Energize Eastside is way overscale.
2. It is risky to install tall power poles within feet of two half-century-old petroleum pipelines. The easement is narrow between homes. The DNV GL study does not determine Energize Eastside to be SAFE. The city of Bellevue must be accountable to the safety of its citizens. PSE has demonstrated it is not a safe company most recently in Greenwood, and before that with false safety records.
3. It damages communities and the environment by removing thousands of valuable urban trees. The value of TREES to the health and well being of the city and citizens is undervalued. The city of Bellevue "city in a park" is jeopardized by not following the city comprehensive plan for tree canopy.
4. There are less costly ways to enhance the reliability and resiliency of the Eastside power grid. Look at the smart technologies being used. Going into the future Bellevue should be cutting edge with energy solutions that can be added incrementally. Upgrading is not pole and wire technology.

Please notify me when any Bellevue public hearing for this project is announced.

Sincerely,

Lori Elworth
8605 129th Ct SE
Newcastle, WA 98056

Bedwell, Heidi

From: Loretta Lopez <llopez@mstarlabs.com>
Sent: Tuesday, January 08, 2019 9:34 PM
To: Bedwell, Heidi
Subject: EE Permit and Concurrent Critical area Permit

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Heidi,

I have submitted many comments throughout this process on behalf of the Bridle Trails Community Club, as a member of CENSE, and as individual.

I continue to object that PSE has not met its burden of proof as set forth in 20.20. 255.

1. PSE has not proved that there is a need for the project.
2. PSE assertions about increased demand is not supported by evidence.
3. PSE has not provided sufficient analysis of alternative solutions.
4. The proposed transmission line is primarily through residential areas which is not consistent with 20.20.255.

In addition, PSE decided late in the process to segment the project into a North section and a South section. I object.

We have spent years following the project as a single project. Neither PSE nor the City informed the public that this project would be segmented. This PSE project should only proceed to a Hearing as one project not as two.

Loretta Lopez
13419 NE 33rd Lane
Bellevue WA 98005

Bedwell, Heidi

From: Cheryl Jordan <cj@orijunate.com>
Sent: Thursday, January 03, 2019 7:38 PM
To: Bedwell, Heidi
Subject: Energize Eastside

I am writing to ask that the city NOT approve PSE's application to build Energize Eastside because:

1. It is unnecessary and wasteful of ratepayer funds.
2. It is risky to install tall power poles within feet of two half-century-old petroleum pipelines.
3. It damages communities and the environment by removing thousands of valuable urban trees.
4. There are less costly ways to enhance the reliability and resiliency of the Eastside power grid.
5. It is way too close to schools, exacerbating the danger

Please notify me when any Bellevue public hearing for this project is announced.

Sincerely,
Cheryl Jordan
2200 135th PI SE

Bedwell, Heidi

From: Kesayian <kesayian@aol.com>
Sent: Thursday, January 17, 2019 2:29 PM
To: Bedwell, Heidi
Cc: rick@aramburu-eustis.com; carol@aramburu-eustis.com; loretta@mstarlabs.com
Subject: Fwd: Confirmation for inclusion: PSE's CUP and CALUP Application
Attachments: 2018-3-9 Bellevue-permit bifurcation.pdf; 2018-1-17 CENSE re PSE Segmentation.pdf; 2017-8-31 CENSE comment re bifurcation.pdf; 2017-4-13AttA2016-6-9EPFReviewtoBellevue.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Heidi,

We wanted to be certain that these letters written by Rick Aramburu on behalf of CENSE will be included with all other documents and reports available for the Administrative Hearing.

Thank you.

Karen Esayian

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.

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.

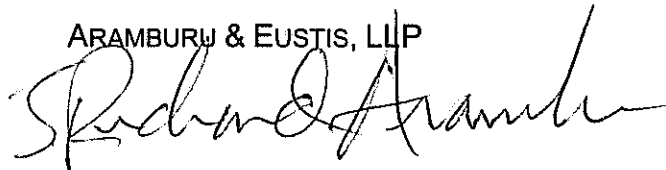
When the original bifurcation proposal was made by PSE, it indicated that the application for the northern segment would be submitted in later 2018. However, recent information from Carol Helland (an email of February 23, 2018) indicates that PSE anticipates the application for that segment will be made 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 printed name below.

J. Richard Aramburu

JRA:cc
cc: CENSE

DSD 005352

ARAMBURU & EUSTIS, LLP

Attorneys at Law

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

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January 17, 2018

Carol Helland
Development Services Land Use Director
City of Bellevue
P.O. Box 90012
Bellevue 98009

Via Email:
CHelland@BellevueWA.gov

Heidi Bedwell
Energize Eastside EIS Program Manager
450 110th Ave. NE
P.O. Box 90012
Bellevue, WA 98009

Via Email:
HBedwell@bellevuewa.gov
info@EnergizeEastsideEIS.org

Steve Osguthorpe, AICP
Community Development Director
City of NewCastle
12835 Newcastle Way, Suite 200
Newcastle, WA 98056

Via Email:
SteveO@NewcastleWA.gov

Jennifer Henning
Planning Director
Renton City Hall
1055 S. Grady Way
Renton, WA 98057

Via Email:
JHenning@RentonWA.gov

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:

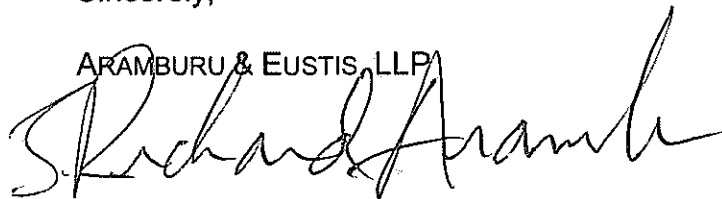
First, defer any further review of the application for the South Bellevue Segment until applications have been received for the other Bellevue segments as well as the Renton, Newcastle and Redmond segments.

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



J. Richard Aramburu

JRA:cc
cc: CENSE

ARAMBURU & EUSTIS, LLP

Attorneys at Law

J. Richard Aramburu
rick@aramburu-eustis.com
Jeffrey M. Eustis
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January 17, 2018

Carol Helland
Development Services Land Use Director
City of Bellevue
P.O. Box 90012
Bellevue 98009

Via Email:
CHelland@BellevueWA.gov

Heidi Bedwell
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Via Email:
SteveO@NewcastleWA.gov

Jennifer Henning
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1055 S. Grady Way
Renton, WA 98057

Via Email:
JHenning@RentonWA.gov

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

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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:

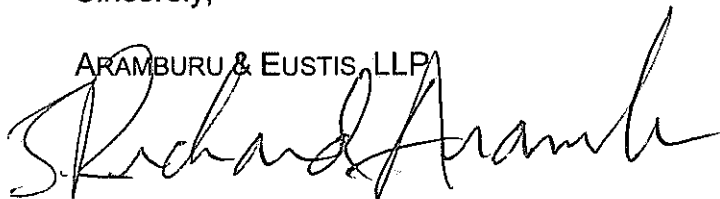
First, defer any further review of the application for the South Bellevue Segment until applications have been received for the other Bellevue segments as well as the Renton, Newcastle and Redmond segments.

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



J. Richard Aramburu

JRA:cc
cc: CENSE

ARAMBURU & EUSTIS, LLP

Attorneys at Law

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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.

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.

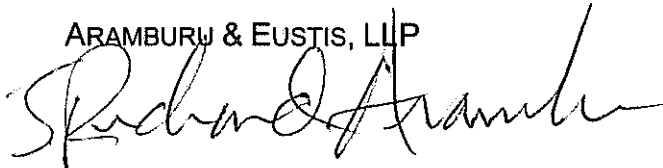
When the original bifurcation proposal was made by PSE, it indicated that the application for the northern segment would be submitted in later 2018. However, recent information from Carol Helland (an email of February 23, 2018) indicates that PSE anticipates the application for that segment will be made 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 printed name below.

J. Richard Aramburu

JRA:cc
cc: CENSE

ARAMBURU & EUSTIS, LLP

Attorneys at Law

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June 9, 2016

Carol Helland
Development Services Land Use Director
City of Bellevue
PO Box 90012
Bellevue, WA 98009

Via Email:
CHelland@bellevuewa.gov

Re: Essential Public Facilities / Talbot to Sammamish 230kV Transmission Line

Dear Ms. Helland:

This office represents the Coalition of Eastside Neighbors for Sensible Energy (CENSE), a Washington nonprofit corporation concerned with proposals for electric transmission in Bellevue and other Eastside communities. CENSE has provided comments on Puget Sound Energy (PSE) proposal to construct new 230 kV electric transmission lines between Renton and Redmond.

Recently, PSE has announced its “preferred alternative” for the construction of these lines, as described in attached Exhibit A hereto. This announcement was made after issuance of the Phase 1 Draft Environmental Impact Statement prepared by the City of Bellevue for the “Energize Eastside” project on January 26, 2016.

In the DEIS, page 10-6 (attached as Exhibit B) briefly discusses “Essential Public Facilities” (EPF) as defined in the Growth Management Act, RCW chap. 36.70A. The last sentence of this section reads as follows:

A determination of whether the Energize Eastside Project qualifies as an EPF would be made by the permitting agency at the time of permit preparation or submittal.

After careful review, CENSE believes that the PSE “Preferred Alternative” is not an EPF under the Growth Management Act or under Part 20.30K of the Bellevue Land Use Code (LUC). The basis for our analysis is set forth below.

2017-4-18
Attachment A

1. EPF DESIGNATION IN THE GROWTH MANAGEMENT ACT.

When the Growth Management Act was adopted in 1991, the Legislature included a provision for the “Siting of Essential Public Facilities” in RCW 36.70A.200. The legislature’s definition is as follows:

Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

The statute provides that local comprehensive plans and development regulations (zoning) cannot preclude the siting of EPFs. RCW 36.70A.200(2). Note that neither electrical generation nor transmission are included within the statutory definition. The state Department of Community Development (WSDCD) adopted additional regulations regarding EPFs in WAC 365-196-550 that identified specific transportation facilities of statewide significance. WSDCD’s regulations also do not include electric generation or transmission facilities, because they are already regulated (see Paragraph 3 below).

Under the GMA, local governments were to independently identify EPFs as a part of their comprehensive planning process as follows:

(2) Each county and city planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process, or amend its existing process, for identifying and siting essential public facilities and adopt or amend its development regulations as necessary to provide for the siting of secure community transition facilities consistent with statutory requirements applicable to these facilities.

RCW 36.70A.200.

2. EPF REGULATION IN THE CITY OF BELLEVUE.

As noted above, each local government, including the five jurisdictions through which the “Energize Eastside” facilities will travel if approved, must have a process for identifying and siting EPFs.

The City of Bellevue Comprehensive Plan has set forth in its Glossary the definition of an EPF:

20.50.018 E definitions.

Essential Public Facility (EPF). An EPF includes any facility meeting the definition of EPF set forth in RCW 36.70A.200(1), now or as hereafter amended, any facility identified on the statewide list maintained by the Office of Financial Management as required pursuant to RCW 36.70A.200(4), now or as hereafter amended, and any facility identified on the countywide list of essential public facilities. (Ord. 5457, 7-21-03, § 8)

As noted, the City of Bellevue has chosen not to expand the list of EPFs within its Comprehensive Plan and it does not include energy generation or transmission as an EPF. Neither electric transmission lines in general, nor specifically the PSE proposed transmission line, are listed on the “statewide list” or the “countywide list” as an essential public facility. Nor to our knowledge has PSE ever requested that any facility needed for its “Energize Eastside” proposal be listed as an EPF on either list.

The Bellevue Land Use Code is consistent with the comprehensive plan. As required by the GMA, the City has enacted provisions for EPFs in the Land Use Code at Section 20.20.350. However, that section only applies to EPFs that are not regulated by the use charts in the code. In the “applicability” provision of the EPF section, the code says:

This section applies to each essential public facility (EPF) within the City except where a specific use is otherwise identified and regulated in the use charts in LUC 20.10.440 and Chapter 20.25 LUC.

(Emphasis supplied.) Of course, the Land Use Code does regulate “Electrical Utility Facilities” in Section 20.25.255, without mentioning them as actual or possible EPFs. As mentioned above, the Comprehensive Plan also regulates electric facilities, but, similarly, does not mention them as EPFs. See Bellevue Comprehensive Plan, Utilities Element, page 154. Under GMA: “No local comprehensive plan or development regulation may preclude the siting of essential public facilities.” RCW 36.70A.200(5). At no time during the 2015 Comprehensive Plan Update was it indicated that the City was “precluded” from denying the PSE proposed transmission line if it was inconsistent with the provisions of LUC 20.20.255.

In summary, in neither its comprehensive plan nor in its development regulation has the Bellevue City Council established “Energize Eastside” or any other electric generation or transmission facilities as EPFs.

3. APPLICATION OF THE EFSEC STATUTE UNDER GMA.

As described above, there are no energy facilities found in any list of EPFs under the GMA. The same is true of administrative regulations (statewide or countywide) and the Bellevue Land Use Code and Comprehensive Plan. The principal reason energy

facilities are missing is that a separate process exists for approval of energy facilities.

In the late 1960s there was an extraordinary push for nuclear power plants in the Pacific Northwest, based on predictions of accelerating demand for electric power. Based on problems with developing nuclear plants in Skagit County, the Washington legislature decided to allow permitting for new power plants to be removed from local zoning laws. This was based on concern that local governments would succumb to parochial interests concerning energy plants and not recognize the broader public interest.

Thus in 1970, the Energy Facilities Siting Evaluation Act, RCW chap. 80.50 created the Energy Facilities Site Evaluation Council (EFSEC). EFSEC provide “one stop” siting and permitting for energy facilities, centralizing review of these projects into a single state agency. EFSEC preempts other regulations under RCW 80.50.110(2):

The state hereby preempts the regulation and certification of the location, construction, and operational conditions of certification of the energy facilities included under RCW 80.50.060 as now or hereafter amended.

Objectives of EFSEC include:

(2) To preserve and protect the quality of the environment; to enhance the public's opportunity to enjoy the esthetic and recreational benefits of the air, water and land resources; to promote air cleanliness; and to pursue beneficial changes in the environment.

RCW 80.50.010.

EFSEC's jurisdiction is substantial. It includes approval authority over construction and modification of large natural gas and oil pipelines, thermal electric power plants (350 MW or larger), electric transmission lines, new or expanded oil refineries, underground gas storage fields and all alternative energy facilities (wind, solar, biomass, and wave/tidal). RCW 80.50.060. EFSEC does not license hydroelectric plants or smaller thermal plants (producing less than 350 MW). It also makes recommendations for electric transmission lines under the regulation of FERC.

For local transmission lines, transmission proponents can “opt in” to EFSEC jurisdiction for transmission lines of 115 kV or more which are “located in more than one jurisdiction that has promulgated land use plans or zoning ordinances; . . .” RCW 80.50.060. This applies to modifications that make a “significant change” in the facility.

EFSEC consists of designees from the state departments of Ecology, Fish and Wildlife, Commerce, Utilities and Transportation, and Natural Resources. Each city through which a transmission line runs is entitled to have a designee on the EFSEC

Board during decision-making on that project, as does the affected county. RCW 80.50.030(4) and (5).

The Council also hires independent consultants to review proposals under its jurisdiction. WAC Chapter 463-50. Public hearings are held as well as evidentiary hearings. EFSEC has the authority to supercede local regulations as described above, following a land use consistency hearing. A unique feature of the EFSEC process is the "Counsel for the Environment", appointed by the Attorney General, who "shall represent the public and its interest in protecting the quality of the environment." RCW 80.50.080. EFSEC makes recommendations to the Governor, who makes the final decision.

The GMA was adopted in 1991, some 21 years after the Energy Facilities Siting Evaluation Act was passed. While arguments have been made that GMA provisions for EPFs supercede EFSEC authority, the Supreme Court has ruled that the GMA's provisions for EPFs do not repeal or supercede EFSEC authority. See *Residents Opposed to Kittitas Turbines v. State Energy Facility Site Evaluation Council (EFSEC)*, 165 Wn.2d 275, 310, 197 P.3d 1153 (2008):

The GMA provides that the State maintains "authority to site any other essential public facility under RCW 36.70A.200 in conformance with local comprehensive plans and development regulations adopted pursuant to chapter 36.70A RCW." RCW 36.70A.103. RCW 36.70A.200(1) requires a county's comprehensive plan to include a process for siting "essential public facilities," which it refers to as airports, schools, transportation, correctional, waste, inpatient, substance abuse, mental health, group home, and transitional facilities. The GMA makes no mention of an energy facility nor gives any express indication that the legislature intended to repeal EFSEC's preemption power to site energy facilities.

Accordingly, EFSEC remains the authority to decide on energy facilities.

Obviously many applicants, such as PSE, may prefer to exercise their political influence in local communities like Bellevue and other eastside cities instead of dealing with less politicized and more technically oriented agencies such as EFSEC.

Nor is it necessary to have a permit application to resolve these matters. An EPF is a generic facility, not a specific use.

CONCLUSION

The 230 kV transmission lines proposal by PSE is not considered an EPFs under the GMA. Bellevue and other eastside jurisdictions have not chosen to regulate transmission lines as EPFs in their comprehensive plans or zoning ordinances. Accordingly, the 230 kV Talbot to Sammamish transmission line proposal is not an

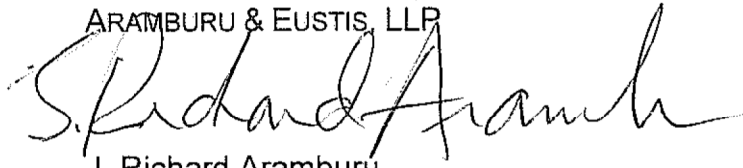
June 9, 2016
Page 6

EPF. If PSE wants review by a state agency of its transmission lines, it may apply to EFSEC.

Thank you in advance for your attention to this letter. Please provide your confirmation that a PSE transmission line is not an EPF. If you disagree with the contents of this letter, please provide us with a response outlining the reasons for your disagreement.

Sincerely,

ARAMBURU & EUSTIS, LLP



J. Richard Aramburu

JRA:cc

cc: CENSE

Lori Riordan, City Attorney (LRiordan@bellevuewa.gov)

Tim McHarg, Director of Community Development, City of Newcastle
(timm@ci.newcastle.wa.us)

DSD 005371

ENVIRONMENTAL IMPACT STATEMENT (EIS)

The Phase 1 Draft EIS has been published
For more information, visit EnergizeEastsideEIS.org

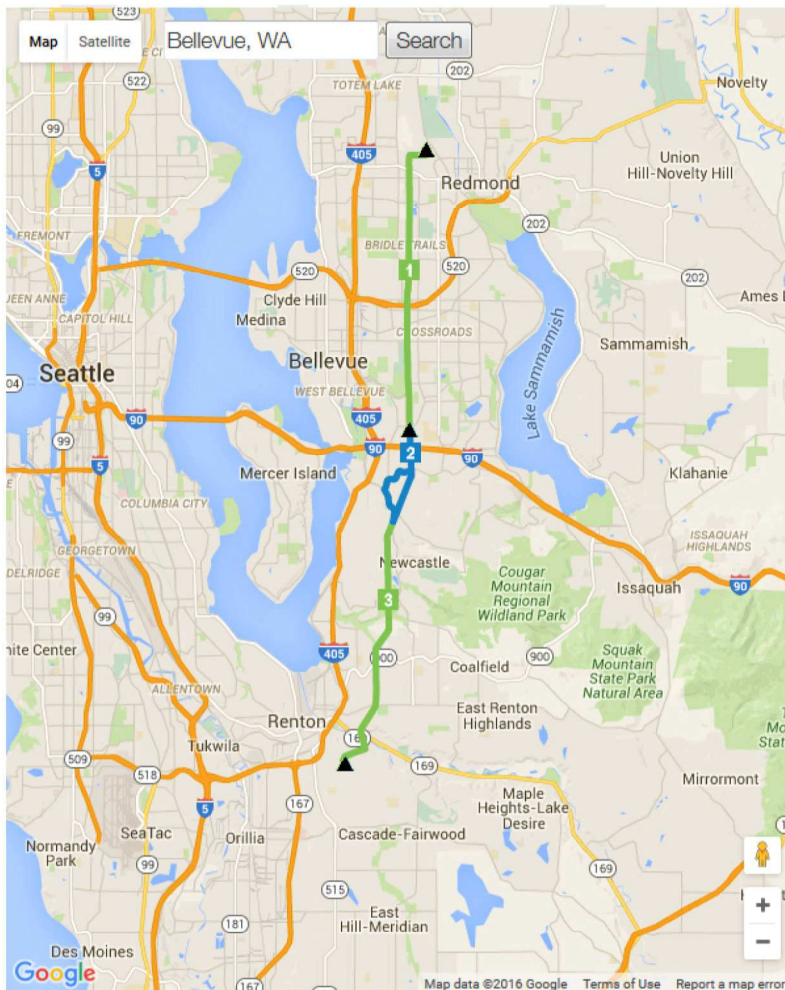
(<http://www.energizeeastsideeis.org/>)

Check the boxes above to view the routes PSE is currently considering, as well as photo simulations of the preferred route, Willow 2.

PSE is currently considering multiple route options: Oak 1, Willow 1, Oak 2 and Willow 2. PSE's preferred route is Willow 2 (<http://energizeeastside.com/news/pse-announces-preferred-route-for-energize-eastside>). PSE also submitted two 'bypass' route options (<http://energizeeastside.com/news>) to be evaluated in the EIS. These routes were developed in order to minimize the risk of a potential project delay due to permitting.

PSE prefers to use the existing transmission line corridor. However, it's our responsibility to keep the lights on and we must measure and address permitting risks to the project in an effort to keep Energize Eastside on schedule.

Route options undergoing additional analysis	
<input type="checkbox"/> Willow 1	<input type="checkbox"/> Simulations
<input checked="" type="checkbox"/> Willow 2	<input type="checkbox"/> Bypass Route 1
<input type="checkbox"/> Oak 1	<input type="checkbox"/> Bypass Route 2
<input type="checkbox"/> Oak 2	<input type="checkbox"/> Existing substations
<input type="button" value="Reset"/>	<input type="checkbox"/> Proposed substitution



DISCLAIMER: This interactive map is for illustrative purposes only and search results depicted on it are approximate. It is not used for project planning or engineering purposes. If you have questions about the interactive map, please contact the project team at energizeeastside@pse.com (<mailto:energizeeastside@pse.com>).

CENSE Exhibit A

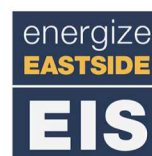


Energize Eastside Project

Phase I Draft Environmental Impact Statement

January 28, 2016

Prepared for the Cities of Bellevue, Kirkland, Newcastle,
Redmond, and Renton



CENSE 2016-6-7 Exhibit B

4. **Protection of community or neighborhood character and safety** - Goals and policies generally support siting and designing utilities to minimize conflicts with community character and maintain safety.
5. **General utility coordination regarding location and service provision** - Goals and policies generally support coordination between the utility purveyors and government to ensure safe, efficient, and reliable service provision consistent with land use regulations.
6. **Ensuring compatibility of land uses** - Goals and policies generally encourage locating, designing, and screening infrastructure to ensure compatibility with the surrounding land use pattern and, where feasible, siting within the area requiring additional service.
7. **Undergrounding of utility lines** - Goals and policies support undergrounding existing and new or expanding lines where safe, practical, and in accordance with rules, regulations, and other utility- and site-specific factors.
8. **Shoreline management** – Goals and policies generally discourage locating non-water-related utilities in the shoreline jurisdiction, particularly in-water. Uses that negatively impact ecological functions are generally prohibited.
9. **Adequate infrastructure for development** – Goals and policies generally acknowledge that electrical service and infrastructure should be available to serve development.

Each comprehensive plan is required to establish a process for identifying and siting essential public facilities (EPFs). State, regional, county, and local agencies are also required to coordinate in determining the location of these facilities. EPFs are facilities that are typically difficult to site, such as airports, state education facilities, and state or regional transportation facilities (RCW 36.70A.200). A determination of whether the Energize Eastside Project qualifies as an EPF would be made by the permitting agency at the time of permit preparation or submittal.

Essential Public Facilities (EPF) are defined by state law (RCW 36.70A.200 and WAC 365-196-550) as necessary facilities that are typically difficult to site. The GMA requires planning so that such facilities can be placed appropriately.

10.2.2 Shoreline Planning Framework

In 1971, the State of Washington adopted the Shoreline Management Act (SMA) to foster reasonable and appropriate land uses along Shorelines of the State (simply referred to as “shorelines” in this document). A goal of the SMA is to protect shorelines and adjacent shorelands from incompatible development as well as “to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines” (Chapter 90.58 RCW, 1971). Ecology oversees management of the shoreline resources in the State of Washington. The SMA applies to all 39 counties and more than 200 towns and cities that have shorelines (RCW 90.58.030(2)) within their boundaries.

CENSE 2016-6-7 Exhibit B

ARAMBURU & EUSTIS, LLP

Attorneys at Law

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June 9, 2016

Carol Helland
Development Services Land Use Director
City of Bellevue
PO Box 90012
Bellevue, WA 98009

Via Email:
CHelland@bellevuewa.gov

Re: Essential Public Facilities / Talbot to Sammamish 230kV Transmission Line

Dear Ms. Helland:

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2017-4-18
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When the Growth Management Act was adopted in 1991, the Legislature included a provision for the “Siting of Essential Public Facilities” in RCW 36.70A.200. The legislature’s definition is as follows:

Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

The statute provides that local comprehensive plans and development regulations (zoning) cannot preclude the siting of EPFs. RCW 36.70A.200(2). Note that neither electrical generation nor transmission are included within the statutory definition. The state Department of Community Development (WSDCD) adopted additional regulations regarding EPFs in WAC 365-196-550 that identified specific transportation facilities of statewide significance. WSDCD’s regulations also do not include electric generation or transmission facilities, because they are already regulated (see Paragraph 3 below).

Under the GMA, local governments were to independently identify EPFs as a part of their comprehensive planning process as follows:

(2) Each county and city planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process, or amend its existing process, for identifying and siting essential public facilities and adopt or amend its development regulations as necessary to provide for the siting of secure community transition facilities consistent with statutory requirements applicable to these facilities.

RCW 36.70A.200.

2. EPF REGULATION IN THE CITY OF BELLEVUE.

As noted above, each local government, including the five jurisdictions through which the “Energize Eastside” facilities will travel if approved, must have a process for identifying and siting EPFs.

The City of Bellevue Comprehensive Plan has set forth in its Glossary the definition of an EPF:

20.50.018 E definitions.

Essential Public Facility (EPF). An EPF includes any facility meeting the definition of EPF set forth in RCW 36.70A.200(1), now or as hereafter amended, any facility identified on the statewide list maintained by the Office of Financial Management as required pursuant to RCW 36.70A.200(4), now or as hereafter amended, and any facility identified on the countywide list of essential public facilities. (Ord. 5457, 7-21-03, § 8)

As noted, the City of Bellevue has chosen not to expand the list of EPFs within its Comprehensive Plan and it does not include energy generation or transmission as an EPF. Neither electric transmission lines in general, nor specifically the PSE proposed transmission line, are listed on the “statewide list” or the “countywide list” as an essential public facility. Nor to our knowledge has PSE ever requested that any facility needed for its “Energize Eastside” proposal be listed as an EPF on either list.

The Bellevue Land Use Code is consistent with the comprehensive plan. As required by the GMA, the City has enacted provisions for EPFs in the Land Use Code at Section 20.20.350. However, that section only applies to EPFs that are not regulated by the use charts in the code. In the “applicability” provision of the EPF section, the code says:

This section applies to each essential public facility (EPF) within the City except where a specific use is otherwise identified and regulated in the use charts in LUC 20.10.440 and Chapter 20.25 LUC.

(Emphasis supplied.) Of course, the Land Use Code does regulate “Electrical Utility Facilities” in Section 20.25.255, without mentioning them as actual or possible EPFs. As mentioned above, the Comprehensive Plan also regulates electric facilities, but, similarly, does not mention them as EPFs. See Bellevue Comprehensive Plan, Utilities Element, page 154. Under GMA: “No local comprehensive plan or development regulation may preclude the siting of essential public facilities.” RCW 36.70A.200(5). At no time during the 2015 Comprehensive Plan Update was it indicated that the City was “precluded” from denying the PSE proposed transmission line if it was inconsistent with the provisions of LUC 20.20.255.

In summary, in neither its comprehensive plan nor in its development regulation has the Bellevue City Council established “Energize Eastside” or any other electric generation or transmission facilities as EPFs.

3. APPLICATION OF THE EFSEC STATUTE UNDER GMA.

As described above, there are no energy facilities found in any list of EPFs under the GMA. The same is true of administrative regulations (statewide or countywide) and the Bellevue Land Use Code and Comprehensive Plan. The principal reason energy

facilities are missing is that a separate process exists for approval of energy facilities.

In the late 1960s there was an extraordinary push for nuclear power plants in the Pacific Northwest, based on predictions of accelerating demand for electric power. Based on problems with developing nuclear plants in Skagit County, the Washington legislature decided to allow permitting for new power plants to be removed from local zoning laws. This was based on concern that local governments would succumb to parochial interests concerning energy plants and not recognize the broader public interest.

Thus in 1970, the Energy Facilities Siting Evaluation Act, RCW chap. 80.50 created the Energy Facilities Site Evaluation Council (EFSEC). EFSEC provide “one stop” siting and permitting for energy facilities, centralizing review of these projects into a single state agency. EFSEC preempts other regulations under RCW 80.50.110(2):

The state hereby preempts the regulation and certification of the location, construction, and operational conditions of certification of the energy facilities included under RCW 80.50.060 as now or hereafter amended.

Objectives of EFSEC include:

(2) To preserve and protect the quality of the environment; to enhance the public's opportunity to enjoy the esthetic and recreational benefits of the air, water and land resources; to promote air cleanliness; and to pursue beneficial changes in the environment.

RCW 80.50.010.

EFSEC's jurisdiction is substantial. It includes approval authority over construction and modification of large natural gas and oil pipelines, thermal electric power plants (350 MW or larger), electric transmission lines, new or expanded oil refineries, underground gas storage fields and all alternative energy facilities (wind, solar, biomass, and wave/tidal). RCW 80.50.060. EFSEC does not license hydroelectric plants or smaller thermal plants (producing less than 350 MW). It also makes recommendations for electric transmission lines under the regulation of FERC.

For local transmission lines, transmission proponents can “opt in” to EFSEC jurisdiction for transmission lines of 115 kV or more which are “located in more than one jurisdiction that has promulgated land use plans or zoning ordinances; . . .” RCW 80.50.060. This applies to modifications that make a “significant change” in the facility.

EFSEC consists of designees from the state departments of Ecology, Fish and Wildlife, Commerce, Utilities and Transportation, and Natural Resources. Each city through which a transmission line runs is entitled to have a designee on the EFSEC

Board during decision-making on that project, as does the affected county. RCW 80.50.030(4) and (5).

The Council also hires independent consultants to review proposals under its jurisdiction. WAC Chapter 463-50. Public hearings are held as well as evidentiary hearings. EFSEC has the authority to supercede local regulations as described above, following a land use consistency hearing. A unique feature of the EFSEC process is the "Counsel for the Environment", appointed by the Attorney General, who "shall represent the public and its interest in protecting the quality of the environment." RCW 80.50.080. EFSEC makes recommendations to the Governor, who makes the final decision.

The GMA was adopted in 1991, some 21 years after the Energy Facilities Siting Evaluation Act was passed. While arguments have been made that GMA provisions for EPFs supercede EFSEC authority, the Supreme Court has ruled that the GMA's provisions for EPFs do not repeal or supercede EFSEC authority. See *Residents Opposed to Kittitas Turbines v. State Energy Facility Site Evaluation Council (EFSEC)*, 165 Wn.2d 275, 310, 197 P.3d 1153 (2008):

The GMA provides that the State maintains "authority to site any other essential public facility under RCW 36.70A.200 in conformance with local comprehensive plans and development regulations adopted pursuant to chapter 36.70A RCW." RCW 36.70A.103. RCW 36.70A.200(1) requires a county's comprehensive plan to include a process for siting "essential public facilities," which it refers to as airports, schools, transportation, correctional, waste, inpatient, substance abuse, mental health, group home, and transitional facilities. The GMA makes no mention of an energy facility nor gives any express indication that the legislature intended to repeal EFSEC's preemption power to site energy facilities.

Accordingly, EFSEC remains the authority to decide on energy facilities.

Obviously many applicants, such as PSE, may prefer to exercise their political influence in local communities like Bellevue and other eastside cities instead of dealing with less politicized and more technically oriented agencies such as EFSEC.

Nor is it necessary to have a permit application to resolve these matters. An EPF is a generic facility, not a specific use.

CONCLUSION

The 230 kV transmission lines proposal by PSE is not considered an EPFs under the GMA. Bellevue and other eastside jurisdictions have not chosen to regulate transmission lines as EPFs in their comprehensive plans or zoning ordinances. Accordingly, the 230 kV Talbot to Sammamish transmission line proposal is not an

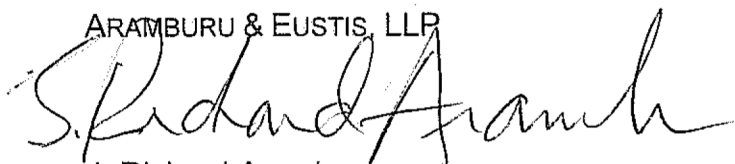
June 9, 2016
Page 6

EPF. If PSE wants review by a state agency of its transmission lines, it may apply to EFSEC.

Thank you in advance for your attention to this letter. Please provide your confirmation that a PSE transmission line is not an EPF. If you disagree with the contents of this letter, please provide us with a response outlining the reasons for your disagreement.

Sincerely,

ARAMBURU & EUSTIS, LLP



J. Richard Aramburu

JRA:cc

cc: CENSE

Lori Riordan, City Attorney (LRiordan@bellevuewa.gov)

Tim McHarg, Director of Community Development, City of Newcastle
(timm@ci.newcastle.wa.us)

WEBSITE: <http://energizeeastside.com/interactive-map>

Search

ENVIRONMENTAL IMPACT STATEMENT (EIS) The Phase 1 Draft EIS has been published
For more information, visit EnergizeEastsideEIS.org

(<http://www.energizeeastsideeis.org/>)

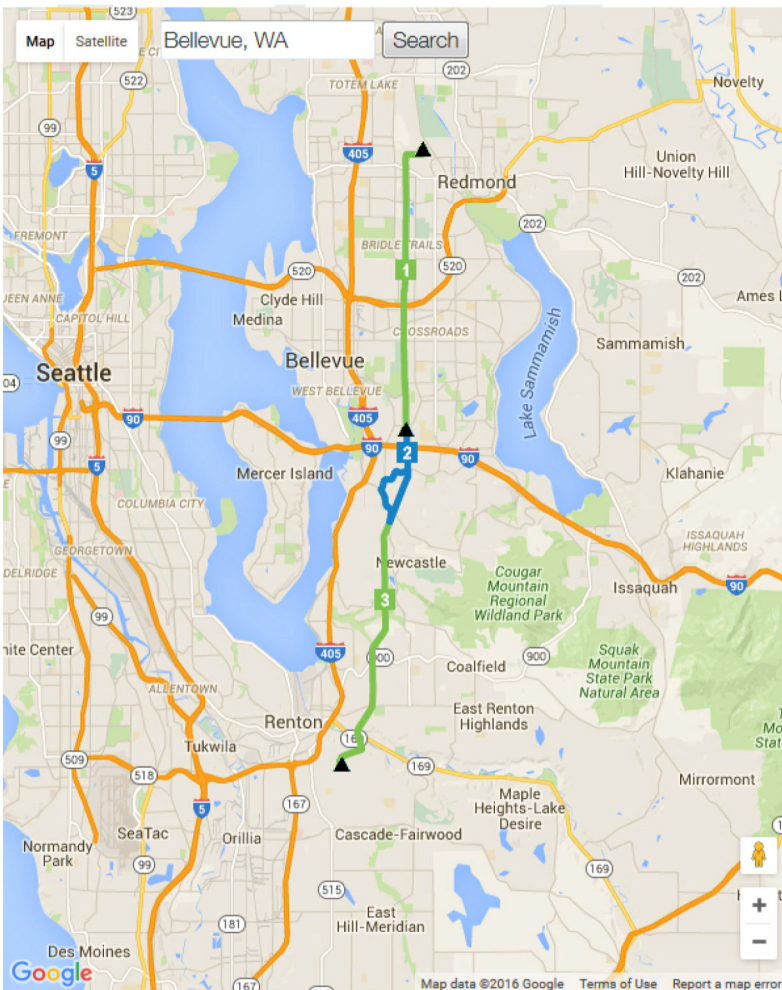
Check the boxes above to view the routes PSE is currently considering, as well as photo simulations of the preferred route, Willow 2.

PSE is currently considering multiple route options: Oak 1, Willow 1, Oak 2 and Willow 2. PSE's preferred route is Willow 2 (<http://energizeeastside.com/news/pse-announces-preferred-route-for-energize-eastside>). PSE also submitted two 'bypass' route options (<http://energizeeastside.com/news>) to be evaluated in the EIS. These routes were developed in order to minimize the risk of a potential project delay due to permitting.

Route options undergoing additional analysis

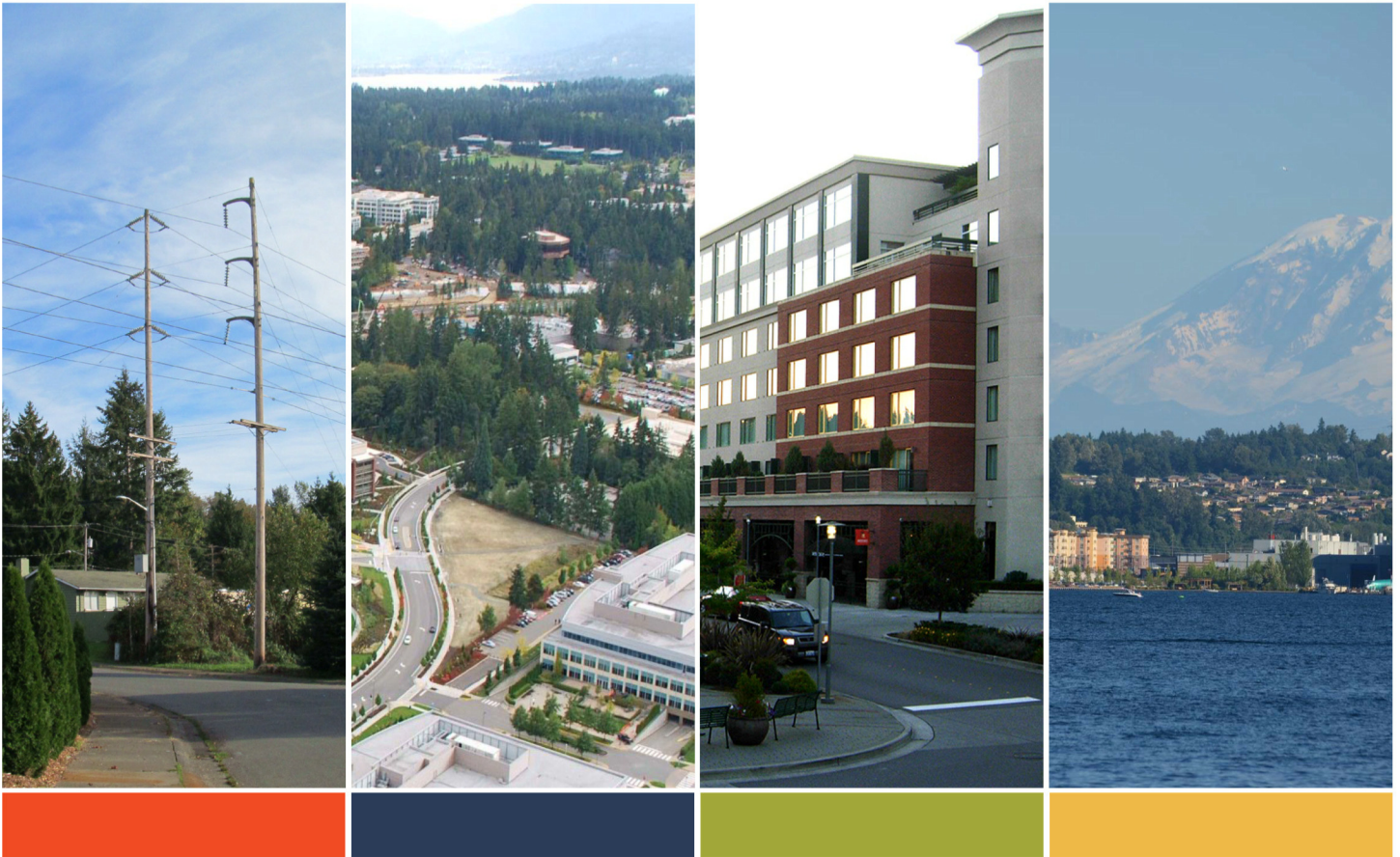
<input type="checkbox"/> Willow 1	<input type="checkbox"/> Simulations
<input checked="" type="checkbox"/> Willow 2	<input type="checkbox"/> Bypass Route 1
<input type="checkbox"/> Oak 1	<input type="checkbox"/> Bypass Route 2
<input type="checkbox"/> Oak 2	<input type="checkbox"/> Existing substations
<input type="button" value="Reset"/>	<input type="checkbox"/> Proposed substation

PSE prefers to use the existing transmission line corridor. However, it's our responsibility to keep the lights on and we must measure and address permitting risks to the project in an effort to keep Energize Eastside on schedule.



DISCLAIMER: This interactive map is for illustrative purposes only and search results depicted on it are approximate. It is not used for project planning or engineering purposes. If you have questions about the interactive map, please contact the project team at energizeeastside@pse.com (<mailto:energizeeastside@pse.com>).

CENSE Exhibit A



Energize Eastside Project

Phase I Draft Environmental Impact Statement

January 28, 2016

Prepared for the Cities of Bellevue, Kirkland, Newcastle,
Redmond, and Renton



CENSE 2016-6-7 Exhibit B

4. **Protection of community or neighborhood character and safety** - Goals and policies generally support siting and designing utilities to minimize conflicts with community character and maintain safety.
5. **General utility coordination regarding location and service provision** - Goals and policies generally support coordination between the utility purveyors and government to ensure safe, efficient, and reliable service provision consistent with land use regulations.
6. **Ensuring compatibility of land uses** - Goals and policies generally encourage locating, designing, and screening infrastructure to ensure compatibility with the surrounding land use pattern and, where feasible, siting within the area requiring additional service.
7. **Undergrounding of utility lines** - Goals and policies support undergrounding existing and new or expanding lines where safe, practical, and in accordance with rules, regulations, and other utility- and site-specific factors.
8. **Shoreline management** – Goals and policies generally discourage locating non-water-related utilities in the shoreline jurisdiction, particularly in-water. Uses that negatively impact ecological functions are generally prohibited.
9. **Adequate infrastructure for development** – Goals and policies generally acknowledge that electrical service and infrastructure should be available to serve development.

Each comprehensive plan is required to establish a process for identifying and siting essential public facilities (EPFs). State, regional, county, and local agencies are also required to coordinate in determining the location of these facilities. EPFs are facilities that are typically difficult to site, such as airports, state education facilities, and state or regional transportation facilities (RCW 36.70A.200). A determination of whether the Energize Eastside Project qualifies as an EPF would be made by the permitting agency at the time of permit preparation or submittal.

Essential Public Facilities (EPF) are defined by state law (RCW 36.70A.200 and WAC 365-196-550) as necessary facilities that are typically difficult to site. The GMA requires planning so that such facilities can be placed appropriately.

10.2.2 Shoreline Planning Framework

In 1971, the State of Washington adopted the Shoreline Management Act (SMA) to foster reasonable and appropriate land uses along Shorelines of the State (simply referred to as “shorelines” in this document). A goal of the SMA is to protect shorelines and adjacent shorelands from incompatible development as well as “to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines” (Chapter 90.58 RCW, 1971). Ecology oversees management of the shoreline resources in the State of Washington. The SMA applies to all 39 counties and more than 200 towns and cities that have shorelines (RCW 90.58.030(2)) within their boundaries.

CENSE 2016-6-7 Exhibit B

Bedwell, Heidi

From: Richard Lauckhart <lauckjr@hotmail.com>
Sent: Tuesday, January 15, 2019 5:11 PM
To: records@utc.wa.gov; ddanner@utc.wa.gov; arendahl@utc.wa.gov;
jay.balabas@utc.wa.gov
Cc: Bedwell, Heidi; steveo@newcastlewa.gov; Dave Van De Weghe; jding@rentonwa.gov
Subject: Informal Submission in Docket U-180680 re: the proposed Settlement Agreement

Records and WUTC Commissioners-

Please file this email in Docket U-180680 as an Informal Submission per WAC 480-07-140 (1)(a).

Changes need to be made to the proposed Settlement Agreement.

Concerns about regulated investor owned utilities trying to pad their rate base to increase their profits are not new. Such concerns have been around ever since the days of Samuel Insull and the formation of the Regulatory Compact. It has become clear that the regulatory tool of disallowing items in rate base in a rate case proceeding is not sufficient. Utilities threatened with denial of recovery of investments they have already made point out that large such disallowances will cause them financial hardship and inhibit their ability to raise money to build needed infrastructure. Macquarie itself ran in to financial problems (for other reasons) and has now had to sell its share of PSE because its financial problems are keeping it from being able to finance investments. But thankfully, in this case, one of the investments they are not able to fully pursue (i.e. funding the cost of field work necessary for preparing remaining required permit applications for Energize Eastside on the northern section of that line) is not a needed investment. The environmental damage done by unneeded investments does not get fixed by disallowing recovery of costs. Integrated Resource Plans (IRPs) are another tool that have been given to regulators in order to protect utility customers.

I have pointed out the problems with foreign owners of PSE trying to pad their rate base to increase profits. I have asked the WUTC staff and Public Counsel to investigate the matter and propose conditions on new owners to stop this practice by foreign owners of PSE. Clearly these groups have the discretion to take on this matter. But for some reason they are not interested in doing so. WUTC staff tells me to bring the matter up in an IRP. But I did that in the last IRP and while the staff slapped PSE's hand for not doing the IRP right, they did not require PSE to fix the IRP. And I have asked WUTC staff in this current IRP to request that ColumbiaGrid study the need for Energize Eastside in a Regional Plan under FERC Order 1000, but WUTC staff has not discussed the matter with me and has not made the needed request. Public Counsel indicates the Commission itself has the discretion to investigate this matter, but for some unknown reason Public Counsel has chosen not to investigate this matter itself. I feel much like Harry Markopolos, the author of the book "No One Would Listen", who had found that Bernie Madoff was running a Ponzi Scheme and tried to get the SEC regulators who are charged with protecting investors to put a stop to it. But the SEC completely dropped the ball. They did not adequately investigate and claimed that Markopolos was mistaken. I would hope that you the Commissioners charged with protecting PSE customers will not similarly drop the ball.

I have provided considerable evidence that foreign owners of PSE are trying to pad the PSE rate base by building unneeded transmission lines in order to increase profits. I have provided suggested conditions that this Commission can place on their approval of new foreign investors to stop this problem. I have provided specific questions that should be asked of the Joint Applicants if regulators are not convinced of my

evidence. All formal parties to Docket U-180680, including WUTC staff and Public Counsel, have seen my evidence and the specific questions I say need to be asked. But there is no evidence that any party asked these specific questions of the Joint Applicants. You the commissioners still have the opportunity to ask these questions. I hope you do not drop the ball.

As a reminder, the specific questions that need to be asked of each of the Joint Applicant witnesses are:

1. When you were looking at the possible need to loop the Lake Tradition – Phantom Lake 115 KV transmission, why did you not study the distribution system as an alternative as suggested by the consultant for the City of Bellevue? If you are considering future similar looping lines, would you still refuse to study using the distribution system as an alternative?
2. When you decided to do a study of the reliability of the transmission system on the east side, why did you use outside consultants rather than your in-house experts (e.g. your lead transmission planner Kebede Jimma) who would have a better understanding of your transmission system? If you are considering studying similar transmission needs on your system in the future, would you still decide not to use your in-house experts?
3. When you decided to include enhanced flows to Canada as a part of your study of east side energy needs, why did you not request that the project be a part of a regional plan since by doing that the FERC rules on cost allocation of the line would have assigned to BPA a proper share of the cost? In the future if your transmission reliability studies include enhancements to the transmission ability of others, would you still refuse to request the line be a part of a regional plan?
4. The current WAC rule on IRPs requires a study of transmission needs in an open and transparent fashion. Why did you not do this in your last IRP? Why would it take new written versions of that requirement for you to do that in future IRPs? What would stop you from continuing to refuse to do your studies in an open and transparent fashion in the IRP in the future even if there are new written versions of that requirement?
5. What caused you to decide to have 6 permit hearings for Energize Eastside (South Bellevue, North Bellevue, Newcastle, Renton, Kirkland, Redmond) rather than a single hearing at EFSEC? Did you prefer to require opponents of that project to spend money on all these hearings rather than giving them the opportunity to focus all their resources on a single hearing? Will you take this problematic multi-jurisdictional approach in the future for similar transmission lines you might decide to propose?
6. You are proposing to build a \$300 Million-dollar transmission line. If that line is built but the WUTC decides it was imprudent to have built it and denies recovery of those costs, will that cause a large financial problem for your company?
7. So far you have spent \$50 Million dollars trying to permit this transmission line. If the line is not permitted and the WUTC denies your ability to recover that \$50 Million, will that cause a large financial problem for your company? Does your agreement with Macquarie adjust the price if you do not get this recovery?

The proposed Settlement Agreement does not include any of the conditions I say need to be added on approval of this new transfer of ownership to foreign owners. WUTC staff and Public Counsel have signed on to this proposed Settlement Agreement without any such conditions. It makes you wonder how serious they are about their role in protecting customers. But clearly you the Commissioners have the discretion to add further conditions to your approval. I look forward to seeing in the transcript of the hearing that you have asked the Joint Applicants the questions above. And after doing that it should seem obvious that you should add some or all of the conditions I have proposed. If you fail to do so it will be a clear message to local permitting agencies and/or EFSEC that they are fully charged with protecting PSE customers from unnecessary environmental damage since you will have failed in your duty to do what you should be doing to protect PSE customers from these inappropriate efforts by PSE foreign owners who are attempting to pad the PSE rate base to increase their profits by building unneeded and environmentally problematic transmission lines.

Richard Lauckhart
Energy Consultant
Former Puget employee and officer
44475 Clubhouse Drive
Davis, California 95618
916-769-6704
lauckjr@hotmail.com

Bedwell, Heidi

From: Rick Aramburu <rick@aramburu-eustis.com>
Sent: Wednesday, January 09, 2019 3:40 PM
To: McFarland, Matthew
Cc: Bedwell, Heidi; Stead, Elizabeth
Subject: RE: Energize Eastside CUP and CALUP
Attachments: 2018-8-31 ORDER to reschedule.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Mr. McFarland:

Thank you for your email regarding a revised schedule for the "Energize Eastside" review and hearings. Regrettably, the hearing date of March 7 presents a conflict for me.

I am scheduled to begin trial in King County Superior Court in a case entitled *Dempcy v. Avenius et al* King County Case Number 13-2-37292-4 SEA on March 4, 2019 before Judge Donahue in downtown Seattle. The "Order to Reschedule Trial Date" to March 4, 2019 entered by a previous judge on August 31, 2019 is attached. The Court specifically stated that: "The parties should not expect more continuances."

The case is currently scheduled for three days, but with four parties, and with the commencement of trial frequently mes delayed, I am concerned that I may be required to be in trial on March 7 and accordingly will be unable to attend the hearings for the "Energize Eastside" hearing.

I have hearings previously set in Sammamish on March 11 and 13 and would need to avoid those dates. I am currently available on any day the week of March 18 or March 25 for a hearing before the Bellevue Hearing Examiner on this matter. Though not part of the current schedule, please also be advised I am not available from April 11 to 22, 2019.

I think all parties would appreciate firming up the pre-hearing conference as well; I have no current conflict on February 11, 12 or 13, 2019.

Thank you again for the City's continued attention to the schedule of interested parties in this matter. Should you have any questions, please let me know.

Law Offices of J. Richard Aramburu, PLLC
720 Third Avenue
Pacific Building Suite 2000
Seattle, WA 98104-1860
Telephone (206) 625-9515
Facsimile (206) 682-1376

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From: McFarland, Matthew [mailto:MMcfarland@bellevuewa.gov]
Sent: Wednesday, January 09, 2019 8:57 AM
To: Rick Aramburu
Cc: Bedwell, Heidi; Stead, Elizabeth
Subject: RE: Energize Eastside CUP and CALUP

Mr. Aramburu,

Consistent with our conversation below, I have some updates for you and your clients regarding the schedule for publication of the Staff Report and the anticipated hearing date(s) in connection with the Energize Eastside South Bellevue Segment Conditional Use Permit (CUP), along with the Director's Decision for the Critical Areas Land Use Permit (CALUP). DSD now anticipates that it will publish the Staff Report on Thursday, **January 24, 2019**. DSD also anticipates that it will notice the public hearing on the Process I CUP for Thursday, **March 7, 2019**, with a pre-hearing conference before the Hearing Examiner calendared for either February 11, 12 or 13th. We do not know the exact date for the pre-hearing conference yet, but I will provide you with that date as soon as it is finalized. However, we do anticipate that the pre-hearing conference will occur on either February 11, 12 or 13th.

Please note that the revised schedule identified above will provide six (6) weeks between publication of the Staff Report and the Process I public hearing, rather than the three (3) week time period under the original schedule I provided to you. In addition, this revised schedule will provide over two (2) weeks between publication of the Staff Report and the pre-hearing conference, rather than the six (6) days under the original schedule. I apologize for the change in schedule, but I hope that the extended time period between the anticipated publication date and the hearing date(s) addresses some of the concerns you voiced in your December 17th email to me.

DSD is providing you with this information as a courtesy and per your request, so that you can plan your schedule around these new dates accordingly. If anything changes regarding the anticipated schedule noted above, then I will continue to provide you with updates.

Sincerely,

Matt McFarland

Assistant City Attorney

City of Bellevue

450 110th Avenue NE

P.O. Box 90012

Bellevue, WA. 98009

Phone: 425-452-5284

mmcfarland@bellevuewa.gov

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From: McFarland, Matthew

Sent: Tuesday, December 18, 2018 11:04 AM

To: 'Rick Aramburu' <rick@aramburu-eustis.com>

Cc: Bedwell, Heidi <HBedwell@bellevuewa.gov>; Stead, Elizabeth <estead@bellevuewa.gov>

Subject: RE: Energize Eastside CUP and CALUP

Mr. Aramburu,

Thank you for your comment, which DSD will include in the Department file that will be lodged with the Hearing Examiner prior to the public hearing. Also, I appreciate your advanced notice that your clients intend to bring a Motion before the Hearing Examiner to change, continue, or dismiss the Process I public hearing date. As explained below, DSD anticipates the January 10th (publication), January 16th (pre-hearing conference), and January 31st (Process I public hearing) dates provided below, but I will let you know if these anticipated dates change so that you and your clients can plan accordingly.

Best regards,

Matt McFarland

Assistant City Attorney

City of Bellevue

450 110th Avenue NE

P.O. Box 90012

Bellevue, WA. 98009

Phone: 425-452-5284

mmcfarland@bellevuewa.gov

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

Sent: Monday, December 17, 2018 10:23 AM

To: McFarland, Matthew <MMcfarland@bellevuewa.gov>

Cc: Bedwell, Heidi <HBedwell@bellevuewa.gov>; Stead, Elizabeth <estead@bellevuewa.gov>

Subject: RE: Energize Eastside CUP and CALUP

Mr. McFarland:

We strongly object to the timeframe that is outlined in your letter.

As you know, this matter has been pending for about five years. The staff recommendation is a critical element in these proceedings and to allow only six days between that recommendation and a prehearing conference is highly prejudicial and inappropriate, as well as only 21 days between the recommendation and the public hearing. We note that the staff has had years to work on its report and the public should have a reasonable time for review of that document. We request a minimum of sixty days between the recommendation and the public hearing to allow for reasonable preparation for a hearing and review of the staff recommendation. Because the staff report will apparently only analyze the south segment of the project, there is certainly no reason for a rush in decision making.

In addition, please be advised that as soon as the Hearing Examiner takes jurisdiction of this matter we will be making a motion to dismiss or for continuance because the current proposal only includes one segment of the project and not the whole proposal as discussed in over four years of review. We have made this objection continuously for the past sixteen months without reply from the City.

J. Richard Aramburu
ARAMBURU & EUSTIS, LLP
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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 destroy the message. Thank you.

From: McFarland, Matthew [<mailto:MMcfarland@bellevuewa.gov>]

Sent: Monday, December 17, 2018 9:46 AM

To: rick@aramburu-eustis.com

Cc: Bedwell, Heidi; Stead, Elizabeth

Subject: Energize Eastside CUP and CALUP

Mr. Aramburu,

In response to your November 21, 2018 email correspondence with Heidi Bedwell, please note that the City of Bellevue's Development Services Department (DSD) anticipates that it will publish the Staff Report and Director's Recommendation for the Energize Eastside South Bellevue Segment Conditional Use Permit (CUP), along with the Director's Decision for the Critical Areas Land Use Permit (CALUP), on Thursday, January 10, 2019. DSD also anticipates that it will notice the public hearing on the Process I CUP for Thursday, January 31, 2019, with a pre-hearing conference before the Hearing Examiner calendared for Wednesday, January 16, 2019 at 10:00 a.m. Official notice of both the pre-hearing conference and the public hearing will be provided upon publication of the Director's Recommendation/Decision.

DSD is providing you with this information as a courtesy and per your request, so that you can plan your schedule around the above-listed dates accordingly. If anything changes regarding the anticipated schedule noted above, then I will provide you with an update.

Sincerely,

Matt McFarland

Assistant City Attorney
City of Bellevue
450 110th Avenue NE
P.O. Box 90012
Bellevue, WA. 98009
Phone: 425-452-5284
mmcfarland@bellevuewa.gov

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