

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF BELLEVUE**

In the Matter of the:)	
)	
Conditional Use Permit Application)	DSD File No. 17-120556-LB
for the South Bellevue Segment of the)	
Energize Eastside Project)	FINDINGS OF FACT,
)	CONCLUSIONS, AND
PUGET SOUND ENERGY, Applicant)	DECISION
)	

I. SUMMARY of DECISION.

The applicant has met its burden of proof to demonstrate that a preponderance of the evidence supports the conclusion that its application for a Conditional Use Permit (CUP) merits approval. Accordingly, the pending Conditional Use Permit application is approved, subject to conditions.

II. BACKGROUND and RELEVANT CODE PROVISIONS.

There is no dispute that a conditional use permit is mandated for this project because the application is for new or expanding electrical utility facilities proposed on sensitive sites described and depicted on Figure UT.5a (revised to Map UT-7) of the Utilities Element of the City of Bellevue Comprehensive Plan. (*LUC 20.20.255.C; Staff Report, pages 7-8, and Attachment F, a copy of Comp. Plan Map UT-7.*)

In this matter, the Hearing Examiner has jurisdiction to conduct an open record public hearing regarding the Conditional Use Permit application at issue. Under applicable City codes, a CUP is a Process I land use decision processed in accord with LUC 20.35.100-140.

**DECISION APPROVING CONDITIONAL USE
PERMIT FOR THE SOUTH BELLEVUE SEGMENT
OF THE ENERGIZE EASTSIDE PROJECT, PUGET
SOUND ENERGY, APPLICANT –
FILE NO. 17-120556-LB**

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1 As explained in LUC 20.35.140.A, the Hearing Examiner *shall approve* a project or
2 approve with modifications if the applicant has demonstrated that the proposal complies with
3 the applicable decision criteria of the Bellevue City Code, and the applicant carries the
4 burden of proof and must demonstrate that a preponderance of the evidence supports the
5 conclusion that the application merits approval or approval with modifications. In all other
6 cases, the Hearing Examiner shall deny the application. The preponderance of the evidence
7 standard is equivalent to “more likely than not.”¹

8 ***Conditional Use Permit Decision Criteria:*** The decision criteria for a Conditional Use
9 Permit is found in LUC 20.30B.140, which explains that the City may approve or approve
10 with modifications an application for a conditional use permit if:

- 11 A. The conditional use is consistent with the Comprehensive Plan; and
- 12 B. The design is compatible with and responds to the existing or intended character,
13 appearance, quality of development and physical characteristics of the subject
14 property and immediate vicinity; and
- 15 C. The conditional use will be served by adequate public facilities including streets,
16 fire protection, and utilities; and
- 17 D. The conditional use will not be materially detrimental to uses or property in the
18 immediate vicinity of the subject property; and
- 19 E. The conditional use complies with the applicable requirements of this Code.

20 ***Additional Criteria for Electrical Utility Facilities:*** Because the proposal is to construct or
21 expand electrical facilities, the provisions of the City’s Land Use Code specifically
22 addressing Electrical Utility Facilities, found in LUC 20.20.255.E, must be satisfied. Prior
23 to submittal of any Conditional Use Permit application, a detailed Alternative Siting Analysis
24 was required. See LUC 20.20.255.D. In addition to the requirements set forth above for a
25 Conditional Use Permit, as detailed in Part 20.30B LUC, all proposals to locate or expand
26 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

¹ *In re Pers. Restraint of Woods*, 154 Wn.2d 400, 414 (2005).

1 applicable guidelines, rules, regulations or statutes adopted by state law, or any
2 agency or jurisdiction with authority;

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

5 4. The applicant shall demonstrate that the proposed electrical utility facility
6 improves reliability to the customers served and reliability of the system as a whole,
7 as certified by the applicant's licensed engineer;

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

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

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

17 6. The proposal shall provide mitigation sufficient to eliminate or minimize long-
18 term impacts to properties located near an electrical utility facility. See LUC
19 20.20.255.E.

20 **III. ASSOCIATED PERMIT.**

21 Given the scale of the project, a Critical Areas Land Use Permit (CALUP), which is
22 a Process II Administrative Land Use Decision, was also required. The Director approved
23 the CALUP as explained in the same Staff Report issued for the pending Conditional Use
24 Permit. The CALUP was not appealed, so it was not on review as part of the Hearing
25 Examiner's public hearing process. Specifically, the City thoroughly reviewed application
26 materials for, duly noticed, sought and considered public feedback for, and issued a Critical
Areas Land Use Permit for aspects of the South Bellevue Segment of the applicant's Energize
Eastside Project, under File No. 17-120557-LO. Under the City's code, the CALUP approval
is subject to appeal before the Hearing Examiner. Again, no appeal was filed, so the Critical
Areas permit stands without modification, as issued, and serves as support for the Conditional

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1 Use permit addressed in this Decision.² All findings, conclusions and conditions of approval
2 in the CALUP are now beyond review. Any appeal of this Decision cannot be used to
3 collaterally attack any aspect of the CALUP or determinations made therein. See *Wenatchee*
4 *Sportsmen Ass'n v. Chelan County*, 141 Wn.2d 169, 182, 4 P.3d 123 (2000), and *Habitat*
5 *Watch v. Skagit County*, 155 Wn.2d 397, 410–11, 120 P.3d 56 (2005).

6 IV. RECORD AND EXHIBITS.

7 Exhibits entered into evidence as part of the record, and an audio recording of the
8 public hearing, are maintained by the City of Bellevue, and may be examined or reviewed by
9 contacting the Clerk in the Hearing Examiner's Office.

10 Throughout the hearing process, some participants were represented by counsel. Matt
11 McFarland and Cheryl Zakrzewski from the Bellevue City Attorney's Office represented city
12 staff who generated the Staff Report and oversaw preparation of environmental review
13 documents included in the record; Erin Anderson and Sara Leverette, from the Van Ness
14 Feldman law firm, represented the applicant, Puget Sound Energy; Richard Aramburu
15 represented CENSE (Coalition of Eastside Neighborhoods for Sensible Energy); and Larry
16 Johnson represented CSEE (Citizens for Sane Eastside Energy).

17 **Exhibits:** The Record includes all pre-hearing orders, motions, and briefs filed or
18 issued prior to the public hearing, copies of which are maintained by the Clerk for the Hearing
19 Examiner's Office, and all exhibits described and numbered on the attached Exhibit List. In
20 sum, the record for this matter is somewhere near 15,000 pages.

21 **Hearing Testimony:** The following individuals presented testimony under oath at the
22 duly noticed public hearing for the underlying application, which spanned several days,
23 beginning on the evening of March 28th, continuing through March 29th, April 3rd, and April
24 8, 2019.

25 *The following individuals provided testimony at some point on March 28th:*

26 For the City of Bellevue:

Heidi Bedwell, Environmental Planning Manager, and Liz Stead, Land Use Director

² As a Process II Decision, the CALUP had a 14-day appeal deadline, which expired on February 7, 2019. See *LUC 20.35.250.A.3*. Any appeals would have been included in the Hearing Examiner's public hearing process for the project. There were none. See *Staff Report for details on relevant dates, including date of issuance and appeal deadline listed on page 2*.

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For the Applicant, PSE:

Dan Koch, PE, Director of Electric Operations; Elizabeth Koch, PE, Director of Planning for PSE; and Jens Nedrud, PE, Manager of Electrical System Planning for PSE.

General Public: Ms. Cofield; Mr. Anderson; Ms. Hirshci; Mr. Bannon; Mr. Alavi; Mr. Dachnahl; Mr. Wallace; Mr. Oleson; Mr. Anderson; Ms. Hansen; Ms. Akiyama; Ms. Smith; Mr. Borgmann; Mr. Funk; Mr. Sutton, Mr. Wagner, Mr. Shay, Mr. Townsend, Mr. Gilchrist, Mr. Yu, Mr. Finkbeiner, Ms. Trescases, Mr. Davis, Mr. Kasner, Dr. Kaner, Ms. Kapela, Ms. Swenson, Ms. Ma, Mr. Fleck, Ms. Talneja.

For CENSE:

Robert McCullough and Dean Apostol.

*The following individuals provided testimony at some point on **March 29th**:*

For the applicant, PSE:

Lowell Rogers, re: pipeline safety issues; and David Kemp, re: effects of transmission lines on adjacent pipelines.

General Public:

Mr. Halverson, Ms. Jacobson, Mr. Woosley, Ms. Sander, Mr. Joe, Mr. O'Donnell, Ms. Kim, Ms. Dean, Mr. Jaeger, Ms. Keller, Ms. Fischer, Mr. Allred, Mr. Davis, Mr. Zimmerman, Mr. Johnson, Mr. Derdowski, Mr. Rumege, Ms. DeMund, Mr. Elworth, Ms. Elworth, Ms. Stronk, Ms. Ossenkop, Mr. Albert, Mr. Cliff, and Ms. Lopez.

For the applicant, PSE:

Tom Priestley, re: visual impacts.

For CENSE:

Mr. Marsh and Karen Esayian, with legal arguments presented by Mr. Aramburu.

For CSEE:

Mr. Lauckhart, with legal arguments presented by Mr. Johnson.

For the City of Bellevue:

Wolfgang Fieltsch, re: pipeline safety issues.

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1 *Testimony on April 3rd provided the applicant and staff the opportunity to offer rebuttal testimony to any*
2 *comments or evidence submitted during the course of the hearing.*

3 Rebuttal testimony from the applicant, PSE:

4 Mr. Nedrud, Ms. Koch, Mr. Rogers, Mr. Thatcher, Mr. Strauch, and Mr. Koch.

5 Rebuttal testimony from City staff:

6 Mr. Johnson, who managed the EIS process from start to finish, Ms. Stead, and Ms. Bedwell,
7 all of whom confirmed that they heard nothing through the course of the hearing that would
8 change their opinions reflected in the EIS and/or Staff Report; and legal arguments from Mr.
9 McFarland.

10 *April 8th was the date used for closing Arguments presented by counsel for the applicant, city staff, CENSE*
11 *and CSEE.*

12 Given the size of the record and the volume of opposition comments received
13 throughout the process, the Examiner sought to read every exhibit with attention and a fair
14 mind. This involved site visits, to better appreciate comments from local residents, research,
15 and reviewing a lengthy record of public outreach and feedback, administrative reviews, and
16 a multi-phase set of environmental documentation that culminated in a Final EIS, which
17 included detailed review on specifics presented in this pending CUP application. This was
18 not a “small and simple” matter. Instead, it required considerable time and focus. All
19 participants were advised at the close of the hearing that generating a Decision for this
20 application would take significant time and attention. Having completed such review and
21 mindful of the legal standards involved, this Decision is now in order.

22 **V. FINDINGS of FACT.**

23 Based on the entire Record, estimated to be around 15,000 pages, the undersigned
24 Examiner issues the following Findings of Fact. Any statements contained in previous or
25 following sections of this Decision that are deemed to be Findings of Fact are hereby adopted
26 as such and incorporated by reference.

1. In September of 2017, Puget Sound Energy, Inc. (PSE) applied to the City of Bellevue
for a Conditional Use Permit and a Critical Areas Land Use Permit for the construction of a
new substation and 230 kilovolt (kV) transmission lines that will be located within the
Bellevue City Limits. (*DSD 000002, 000006, and 000007*).

2. The project elements that are at issue in this application are known as the “South
Bellevue Segment” of PSE’s Energize Eastside Project.

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1 3. The larger “Energize Eastside Project” is the PSE proposal to construct a new
2 substation in Bellevue (the “Richards Creek substation”) and to upgrade 16 miles of two
3 existing 115 kV transmission lines with 230 kV lines running from Redmond to Renton.

4 4. The Staff Report explains that PSE is applying for permits to construct the Energize
5 Eastside Project in two phases. PSE has applied for permits for the first construction phase
6 of the total Project in Bellevue, unincorporated King County, the City of Newcastle, and the
7 City of Renton. (*DSD 000006*).

8 5. The first phase of the Energize Eastside Project in Bellevue (the “South Bellevue
9 Segment”) is fully addressed and analyzed in the 151-page Staff Report, which includes a
10 detailed summary of public comments received (*DSD 000086-000102*), and ten attachments
11 described as follows:

- 12 A. Project Plans
- 13 B. Alternative Siting Analysis
- 14 C. PSE South Bellevue Segment CUP Analysis
- 15 D. Independent Technical Analysis of Energize Eastside (USE2015)
- 16 E. Vegetation Management Plan
- 17 F. Comprehensive Plan, Map UT-7
- 18 G. Comprehensive Plan Policy Analysis
- 19 H. Photo Simulations
- 20 I. Critical Areas Report
- 21 J. Pole Finishes Report-City of Bellevue (South)

22 With all attachment materials included, the “Final Combined Staff Report”, as it labeled in
23 the electronic project files, exceeds 1,500 pages. (*DSD 000001-001510*).

24 6. The South Bellevue Segment includes construction of a new “Richards Creek”
25 substation and upgrading 3.3 miles (the Bellevue portion) of existing 115 kV transmission
26 lines with 230 kV lines between the existing Lakeside substation and the southern city limits
of Bellevue. The remainder of the south portion of the Project continues through Newcastle,
unincorporated King County, and Renton. Bellevue only has permitting authority for work
proposed in its jurisdiction. The Project and PSE’s specific proposal for the South Bellevue
Segment involves the replacement of existing wooden H-frame poles with steel monopoles.
Within the existing utility corridor, the proposed pole locations for the rebuilt lines will
generally be in the same locations as the existing poles. (*DSD 000006*).

7. There is no credible dispute that the 3.3 miles of transmission line upgrades that will
be part of this South Bellevue Segment are to be constructed within an existing corridor that
was established in the late 1920s and early 1930s, and that current uses, including homes and

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1 various commercial uses, were developed over time after the original utilities (including PSE
2 powerlines) were installed. In the 1960s, the PSE lines were upgraded from 55 kV to 115
3 kV, which included replacement of original poles with H-frame poles. (*DSD 000232, part*
4 *of Attachment B to Staff Report, Alternative Siting Analysis*). Maintenance has occurred over
5 time, and in 2007, PSE replaced or reframed approximately 200 H-frame structures on the
6 existing corridor. (*Final EIS, at Sec. 2.2.1.2.2 re: Overview of the New 230 kV Transmission*
7 *Lines, included in the Record at DSD 005445-5446*). As part of the proposed Energize
8 Eastside Project, the existing, H-frame structures would be replaced primarily with a
9 combination of single-circuit and double-circuit steel monopoles, with some wood poles
10 remaining, particularly near substations. *Id.* The applicant notes that it identified the need
11 to upgrade the lines within the same corridor to the next higher transmission voltage (230
12 kV) in the early 1990s, and that the 230 kV upgrade concept has been included in the Bellevue
13 Comprehensive Plan since such time period. (*DSD 000233; Testimony of PSE witnesses*).

8. The Richards Creek substation, which is needed to step down voltage from 230 kV to
9 115 kV, will be constructed directly south of PSE's existing Lakeside switching station. The
10 new substation will be located on parcel 102405-9130 (13625 SE 30th Street), currently used
11 as a PSE pole storage yard. The parcel is 8.46 acres in size and contains critical areas (steep
12 slopes, wetlands, and streams). Access to the substation site is from SE 30th Street. (*DSD*
13 *000006*).

9. Despite some comments, arguments, and requests to the contrary, the City of Bellevue
14 only has jurisdiction over segments of the Energize Eastside Project that lie within the
15 Bellevue City Limits. And, the Hearing Examiner only has jurisdiction to review this pending
16 application, not possible, future applications for other segments in the City that have not been
17 filed. Accordingly, the Examiner's review has been limited to the 3.3 miles of transmission
18 line upgrades and the new Richards Creek Substation that are proposed within the City of
19 Bellevue, collectively known as the South Bellevue Segment.

17 ***Purpose and Need for project.***

18 10. The Staff Report credibly explains that the purpose of the Energize Eastside Project
19 is to meet local demand growth and to protect reliability in the Eastside of King County,
20 roughly defined as extending from Redmond in the north to Renton in the south, and between
21 Lake Washington and Lake Sammamish. There is no dispute that it is PSE's responsibility
22 to plan and operate the electrical system while complying with federal standards and
23 guidelines. (*DSD 000008-11; Testimony of Ms. Koch, PSE's Director of Planning, and Ex.*
24 *A-7, copy of Ms. Koch's written remarks provided at the public hearing*). Ms. Koch
25 thoroughly explained current federal, regional, and state mandates and regular system audit
26 requirements that electric utilities must meet.

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1 11. PSE defines its broad objectives for the Energize Eastside Project as follows:

- 2 • Address PSE’s identified deficiency in transmission capacity.
- 3 • Find a solution that can be feasibly implemented before system reliability is impaired.
- 4 • Be of reasonable Project cost.
- 5 • Meet federal, state, and local regulatory requirements.
- 6 • Address PSE’s electrical and non-electrical criteria for the Project. (*DSD 000008*).

7 12. Electricity is currently delivered to the Eastside area through two 230 kV/115 kV bulk
8 electric substations – the Sammamish substation in Redmond and the Talbot Hill substation
9 in Renton – and distributed to neighborhood distribution substations using 115 kV
10 transmission lines (*see Staff Report, Figure II-1*). Although numerous upgrades have been
11 made to PSE’s 115 kV systems (including new transmission lines), the primary 115 kV
12 transmission lines connecting the Sammamish and Talbot Hill substations have not been
13 upgraded since the 1960s, and no 230 kV-to-115 kV transformer upgrades have been made
14 at these substations. (*DSD 000008-11*).

15 13. Since then, the Eastside population has grown from approximately 50,000 to nearly
16 400,000. Both population and employment growth are expected to continue, but at a slower
17 pace of around 2% per year, according to Puget Sound Regional Council (PSRC) estimates.
18 A report prepared for PSE projects that electrical customer demand on the Eastside will grow
19 at a rate of approximately 2.4% per year through 2024. (*Id.*).

20 14. As required by federal regulations, PSE performs annual electric transmission
21 planning studies to determine if there are potential system performance violations
22 (transformer and line overloads) under various operational and forecasted electrical use
23 scenarios. These studies are generally referred to as “reliability assessments.” (*Id., and
24 Testimony of PSE witnesses*).

25 15. The need for additional 230 kV-to-115 kV transmission transformer capacity and 230
26 kV support in the Eastside was identified in the 1993 annual reliability assessment, and has
been included in PSE’s Electrical Facilities Plan for King County (System Plan) since that
time. In 2009, PSE’s annual reliability assessment found that if one of the Talbot Hill
substation transformers failed, it would significantly impair reliability on the Eastside. (*DSD
000010*).

16. Replacement of a failed 230 kV transformer can take weeks, or even months, to
complete depending on the level of failure and other site-specific parameters. Since 2009,
other reliability deficits have been identified. These include concerns over the projected
future loading on the Talbot Hill substation and increased use of Corrective Action Plans

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1 (CAPs) to manage outage risks to customers in this portion of the PSE system. (DSD
2 000010).

3 17. Between 2012 and 2015, PSE and the City of Bellevue commissioned three separate
4 studies by two different parties that confirmed the need to address Eastside transmission
5 capacity (DSD 000010):

- City of Bellevue Electrical Reliability Study prepared by Exponent, 2012.
- The Quanta Eastside Needs Assessment Report, 2013.
- The Quanta Supplemental Eastside Needs Assessment Report, 2015.

6 18. The Quanta Eastside Needs Assessment Report and Supplemental Eastside Needs
7 Assessment Report, performed by Gentile (with Quanta Technology) for PSE in 2013 and
8 2015, respectively, confirmed that if growth in demand continued as projected, then the
9 Eastside's existing grid would not meet federal reliability requirements by the winter of
10 2017/2018 and the summer of 2018 without the addition of 230 kV-to-115 kV transformer
11 capacity in the Eastside area. (DSD 000010-11).

12 19. More significantly, and enhancing the credibility of reports submitted by the
13 applicant, the City of Bellevue commissioned a separate study to evaluate PSE's system,
14 which also confirmed the need for the Energize Eastside Project. And, as part of the EIS
15 prepared for the Energize Eastside Project, Stantec Consulting Services Inc. also reviewed
16 PSE's analysis and determined that PSE's approach to the needs assessment determination
17 followed standard industry practice. (DSD 000011; Staff Report, Attachment D, "USE"
18 [Utility System Efficiencies, Inc.] Report, 'Independent Technical Analysis of Energize
19 Eastside for the City of Bellevue, WA', dated April 2015; and Stantec Review Memo on the
20 Eastside Needs Assessment Report, July 2015, included in the Record at DSD 000550-559,
21 and referenced throughout the hearing).

22 20. In June 2018, PSE notified the City of Bellevue that the actual peak demand in the
23 summer of 2017 was equal to the peak demand projected for summer 2018, and warned that
24 during peak summer demand periods CAPs would be in place that include intentional load
25 shedding (rolling blackouts) for Eastside customers. (DSD 000011; Testimony of Mr. Koch,
26 PSE Director of Electric Operations).

27 21. The application materials and materials referenced in the Staff Report provide a more-
28 detailed explanation regarding the use of load shedding. (Quanta, Supplemental Needs
29 Assessment Report, at DSD 000453). PSE recognizes that applicable federal and regional
30 agencies allow dropping "non-consequential" load for certain contingencies, but does not
31 endorse the practice of intentionally dropping load for serious contingencies in order to meet
32 federal planning requirements. (Id.). All electrical loads modeled in the Needs Assessment
33 work performed for PSE was considered "firm load" and PSE does not consider any of its

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1 firm requirements to be non-consequential. This is the practice of most utilities. It is also
2 consistent with the views of virtually all community officials who do not consider
intentionally blacking out segments of customers as a responsible way to operate a modern
electricity delivery system. (*Id.*)

3
4 22a. At the public hearing, several opponents questioned Mr. Koch’s warning, because
5 they haven’t seen any of the rolling blackouts occur. It appeared as though they viewed his
6 concerns about potential blackouts to be idle threats of doom to generate support for the
7 project that they oppose. The Examiner finds that Mr. Koch, Mr. Nedrud, Ms. Koch, and
8 other PSE witnesses appeared credible and forthright during their testimony presented at the
9 public hearing. Even after hearing challenges and dismissive remarks about their opinions
and work related to this project, Mr. Koch, Mr. Nedrud and other PSE witnesses appeared
thoughtful and genuinely concerned that the current PSE system could soon be forced to use
load-shedding (rolling blackouts) to address problems arising from peak demand on existing
substations and powerlines, negatively impacting Bellevue residents and businesses.

10 22b. At the hearing, Mr. Koch provided a personal account of a meeting that he attended
11 in Woodinville on July 24, 2018, with Emergency Management personnel, during which time
12 the PSE transmission system in that location experienced a rapid cascade of events, one
13 planned de-energization for a work-detail, one involving a squirrel that tripped off a line, all
14 followed by a pole-top fire, resulting in what is known in the industry as an “N minus 1 minus
15 1 minus 1” (N-1-1(-1)) situation that forced PSE to “drop load” in order to prevent damage
16 to equipment, i.e. the sequence of events caused PSE to intentionally black-out some
17 customers for a period of time because the transmission system exceeded its limits in the
18 area. While this project will not address the problems up in that part of King County, he
19 offered the example to demonstrate that PSE must plan for many unexpected things, not just
20 an occasional tree falling, but many events that, when happening at the same time, cause
21 undue stress on transmission capacity, resulting in unreliable power supply, and possible
22 blackouts. (*Testimony of Mr. Koch, and Ex. A-3, a copy of his written remarks provided at
23 the public hearing.*)

24 23. Following a request for additional information from the City, PSE explained that it
25 did not perform any analysis on the electrical loads for the August 2017 dates, but that
26 increased air conditioning was a likely contributor. PSE’s planning-level modeling found that
both summer and winter peak customer load were driving the need for additional transmission
capacity. (Additional information regarding PSE’s determination of operational need is
discussed in Section VIII.C of the Staff Report in connection with Electrical Utility Facilities
Decision Criteria LUC 20.20.255.E.3). (*DSD 000011*).

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1 24. At the public hearing, PSE witnesses explained how powerlines lose efficiency when
2 they are overheated, and that when severe overloads/overheating occurs, some loads may
3 need to be lowered or turned off to prevent “sparks”, fire, other substantial failures in the
4 electrical system. This is obviously the case during summer months – when high air
5 temperatures combined with heavy electrical loads needed to power infrequently-used but
6 increasingly-common air conditioners, fans, as well as regular system users – all stress the
7 existing electrical transmission system. PSE witnesses explained how hotter lines cannot
8 carry the same loads as they can during cooler weather, making the system less efficient
9 during such hot weather events. Opposition comments that generally challenged the “project
10 need” because there has not been enough discussion and analysis of system loads during
11 summer months were not as credible or reliable as testimony provided by the applicant
12 witnesses, who have the professional training, education, and background to reasonably
13 ascertain that overheated powerlines can cause serious problems. Common sense supports
14 their concerns that extreme heat in summer months, or even like that experienced recently
15 during the past month with area temperatures in the high 80s and low 90s, poses a very real
16 risk of failure for a system that has not been upgraded for decades to address increased
17 demand caused by significant growth in the Eastside of King County.

18 25. The record includes ample information and evidence to support the need for the
19 pending project. More recent explanations and justifications pointing to risks/overloads that
20 can occur during hot weather only add to the evidence supporting the need for upgraded
21 powerlines in Bellevue and the Eastside. PSE’s planning-level modeling found that both
22 summer and winter peak customer load were driving the need for additional transmission
23 capacity. None of the project opponents provided testimony or evidence of comparable
24 weight or substance as that provided by the applicant or the analysis provided in the Staff
25 Report.

26 26. Arguments and comments challenging the need for the project because most study
information is focused on high demand during cold weather events, and recent winter demand
has not been as high as originally forecasted, were not convincing and do not serve as a basis
to deny the pending application. This is largely because such arguments fail to recognize that
just because the system hasn’t failed yet, does not mean that it cannot at some point in the
near future, and the consequences could be severe for Bellevue residents and businesses. PSE
witnesses credibly described steps they have taken to address peak demand during winter, as
well as summer, to avoid the need to use rolling blackouts. As the applicant has directed
attention throughout the record, prudent planning is required by applicable state and federal
utility system regulations to assure electrical system reliability. Hoping for warmer winters
and cooler summers, or speculating about future battery options, or the generosity of a
neighboring utility to help in a pinch, is not enough. No action is not a reasonable approach.
Not long ago, it was commonly thought that the tolerance for being without power was about

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1 2-3 days. Nowadays, for the vast majority of people, it is little more than the life of a cell
phone battery. (Testimony of Mr. Koch; Ex. A-3).

2 27. Some comments challenged the “need” for the project, arguing that carrying power
3 for loads headed to Canada or other distant locations could be or are already carried by other
4 powerlines; or that simple, local emergency generators could be fired up to produce additional
5 power supply, all somehow clearing up capacity in or generating additional power supply
6 needed for the existing lines, and obviating or delaying the urgency for new lines as proposed
7 in this application. These comments and related arguments run contrary to the City’s
unrebutted, independent consultant report on the topic, which provided the following relevant
and highly persuasive conclusions regarding the existing 115 kV powerlines and facilities
currently located along the Energize Eastside corridor, which specifically includes the South
Bellevue Segment at issue in this matter:

8
9 *[A]n overloaded electrical system overheats. During peak load periods,*
10 *operators use CAPs to turn off (referred to as opening) lines from either*
11 *Sammamish or Talbot Hill substation to reduce heating on certain system*
12 *transformers and lines so that they will not be destroyed. They may be able to*
13 *keep the Eastside area supplied with electricity, but in doing so large areas of*
14 *the Eastside may only be fed from one source. If something happens to that*
15 *source, such as a tree falling into a line, or a car accidentally taking out a pole,*
16 *or a piece of equipment fails due to fatigue, at that moment the last viable*
17 *connection to a power source is gone and the lights go out. Even worse, as load*
18 *continues to grow, or the area hits the coldest winter or hottest summer on*
record, the operator will be left with a decision: who will have power and who
will not. Until the peak period is over, in order to reduce overloads to an
acceptable level, large portions of the Eastside area could be left without power.
A further possible consequence would be that hospitals, nursing homes, fire
departments, police stations and other critical support services must run on
emergency power or are without power. In this situation the event has become
not just an inconvenience but a hazard.

19 *There are a lot of questions surrounding the probability of these events occurring*
20 *on the Eastside. Most people are likely unaware of how many times an outage is*
21 *imminent or narrowly avoided. Attempting to specifically predict these events is*
22 *nearly impossible because of the number of potential scenarios and*
23 *permutations. Is it an extreme peak? Are 100% conservation levels being met?*
24 *Is there a system component out for repair? Has an accident removed a piece of*
25 *equipment from service? Has a natural or man-made disaster occurred that no*
26

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one thought would ever happen? Was the forecast wrong and loads grew faster than expected? The permutations are endless.

Regional electrical reliability is important to local communities. Without a reliable regional backbone, energy generated by a wide variety of sources could not be efficiently delivered to the population areas that need it. All the utilities in the Northwest bear some responsibility to keep the transmission system in working order. However, a local utility’s main role is its customers and each has a legal duty to provide electricity to customers in its service area.

The local utility has two roles to play. On the community level, it needs to provide an adequate infrastructure of facilities and equipment that can reliably deliver energy to its local customers. As a regional player, the utility provides its customers access to the larger interconnected system while making sure its system is as reliable as its regional neighbors’ systems and not a detriment to the whole.

The Energize Eastside Project is designed to bring the needed infrastructure to supply the local need. Any regional benefits that it provides would be added benefits of a stronger regional source, but these are not the primary reasons why the project has been proposed. The transmission capacity deficiency is driven primarily by local rather than regional growth. If the entire region surrounding the Eastside was eliminated or disconnected from Sammamish and Talbot Hill substations, and replaced with an independent 230 kV source of power at both ends, the result would be the same. The Eastside 230 -115 kV system as it exists cannot supply the projected load under all circumstances, with the required levels of reliability that the community and neighboring utilities expect. (Stantec Report, at DSD 000557-558).

28. Mr. Nedrud credibly testified that opposition comments relied too heavily on consumption data instead of peak-demand data, which PSE must plan for. He emphasized that the issue is not just about one or a few “what-if” scenarios, but many, and that the through-put in existing lines is just too small. He described how “peak-generators” intended to provide additional power supply would be of no value if the existing lines are too small to carry the load during peak-demand situations. *(Testimony of Mr. Nedrud on April 3rd).*

29. Responding to challenges and complaints that the data used by PSE to demonstrate “need” for the project is now too old, from 2015 or so, Mr. Nedrud credibly testified that PSE has gone back to review whether deficiencies exist using more current data. He confirmed

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1 that PSE analyzed data again, in December of 2016, 2017, and 2018, and that updated data
2 from each time period showed peak-demand exceeding system capacity. *Id.*

3 ***Environmental Review and Public Engagement.***

4 30. The Staff Report explains, and Department witnesses testified, that the City of
5 Bellevue, in cooperation with the “Partner Cities” of Kirkland, Newcastle, Redmond, and
6 Renton, conducted an environmental review of the entire Energize Eastside Project over the
7 course of several years. The Partner Cities stipulated that the City of Bellevue would act as
8 the SEPA lead agency. The culmination of the environmental review process was the Final
9 Environmental Impact Statement (EIS) issued on March 1, 2018. The Final EIS built upon
10 the previous Phase 1 Draft EIS and Phase 2 Draft EIS, released in January 2016 and May
11 2017, respectively. (*DSD 000074, and DSD 005404*).

12 31. PSE and the Partner Cities agreed to the rigorous two-phase environmental review.
13 (*DSD 000012*). During Phase I of the environmental review, the Partner Cities evaluated a
14 broad range of potential technological alternatives to address the identified transmission
15 facility deficit. Phase I review assessed the feasibility and environmental impacts of wire
16 solutions (i.e., overhead, underground and underwater transmission lines, including using
17 Seattle City Light’s existing corridor in the City of Bellevue) and non-wire solutions (ranging
18 from battery storage, distributed solar and the construction of natural gas peak shaving
19 facilities, among others). *Id.* As PSE witnesses summarized at the public hearing, running
20 high power transmission lines under Lake Washington presents expensive and time-
21 consuming challenges, and using City Light transmission lines is not a viable option for
22 several reasons discussed in the Phase I EIS, including without limitation because it would
23 mean that PSE would have to perform an entire “rebuild” of the existing City Light structures
24 and all conductors along the entire line, and create a new connector-route leading to PSE
25 substations. (*Testimony of Mr. Nedrud; and Ph. I EIS, Sec. 2.3.2.3 discussion of Option B,*
26 *to use Seattle City Light 230kV Overhead Transmission Lines, at DSD 011181*).

32. Following the elimination of Project alternatives that were infeasible or failed to meet
the Project’s purpose and need, Phase II focused on analyzing the potential environmental
impacts of route options for the overhead line alternative. *Id.* The Phase II Draft EIS and
Final EIS analyzed 14 routing alternatives including a north, central and south Bellevue
segment. (*DSD 005435, listing routing alternatives*). The EIS analyzed two central Bellevue
routing alternatives (including two by-pass routes that do not cross the East Bellevue
Community Council’s (“EBCC’s”) jurisdiction) and four routing alternatives for the south
segment. *Id.*

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1 33. The Partner Cities’ analysis confirmed that, of all alternatives and route options
2 analyzed, construction of an upgraded transmission line in the existing corridor best
3 addressed project need while limiting costs and environmental impacts. (*DSD 005472, FEIS*
4 *at 2-45, which reads in relevant part: “At this time, [other than a transmission line upgrade]*
there are no currently known, widely accepted technologies that PSE would employ that
could feasibly and reliably address the transmission capacity deficiency on the Eastside”;
and DSD 000014-15 (describing how siting limits environmental impacts).

5 34. Following the publication of the Phase II DEIS, PSE changed its preferred route
6 alternative from the “Willow 2” route to the “Willow 1” route, the analysis of which provides
7 the basis for this CUP application. PSE explained that it undertook this change in response
8 to data showing that the Willow 1 route, which follows the existing transmission line corridor,
9 was the safest, least impactful route. (*See PSE discussion of its preferred site alternative at*
DSD 000240-41; and PSE Response Brief to Motion to Continue, dated Feb. 11, 2019).

10 35. All of the option routes considered through the EIS and alternate site review process,
11 including Willow 1, traverse residential land use districts, but PSE determined that utilizing
12 the existing corridor would minimize impacts associated with the Project on surrounding
13 areas. As noted in the Staff Report and confirmed by Department and PSE witnesses at the
14 public hearing, PSE’s decision to use the existing corridor minimizes tree removal as
15 compared to establishing a new corridor and allows for better assessment of potential
16 interactions with the co-located Olympic pipeline. The existing corridor also minimizes the
17 creation of new impacts to adjacent uses, including residential uses. As properties adjacent
18 to the transmission line corridor currently have utility facilities in their viewsheds and
19 neighborhoods, the Willow 1 route has lower impacts compared to establishing a new
20 corridor. (*DSD 000044*).

21 36. The Alternative Siting Analysis (included in the Record as Attachment B to the Staff
22 Report) contains sufficient information regarding the methodology employed, the alternative
23 sites analyzed, the technologies considered, and the community outreach undertaken to
24 satisfy the requirements of LUC 20.20.255.D. The Analysis includes numerous appendices
25 addressing Project need, public outreach and input, and tracks the extensive environmental
26 review undertaken in connection with the Project. The Analysis also explains how, by
constructing the proposed transmission line facilities in the existing 115 kV transmission line
corridor and selecting the Richards Creek substation, site compatibility impacts are limited
by this preferred alternative. See LUC 20.20.255.D.2.d. Therefore, PSE’s Alternative Siting
Analysis complies with the provisions of LUC 20.20.255.D. (*See discussion at DSD*
000044).

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1 37. As noted in the Staff Report, an EIS is the most detailed form of environmental review
2 required under SEPA and is prepared when an agency determines that it is probable that a
3 project would have significant environmental impacts. The Phase 1 Draft EIS assessed a
range of impacts and implications associated with broad alternatives for addressing PSE's
objectives in a non-project, or programmatic, EIS. (DSD 000074).

4 38. The environmental review undertaken by the Partner Cities and memorialized in the
5 Phase 2 Draft EIS and Final EIS considered the impacts on the environment of the entire
6 Energize Eastside Project throughout each jurisdiction – extending from Redmond in the
7 north to Renton in the south. The Phase 2 Draft EIS incorporated the Phase 1 Draft EIS by
reference and presented a project-level environmental review. (DSD 000074).

8 39. Based on the results of the Phase 2 Draft EIS analysis, PSE refined the proposed route
9 of the transmission lines and associated Project components. The Final EIS assessed PSE's
10 project level proposed alignment (referenced as "Willow 1") and considered environmental
impacts of the entire Energize Eastside Project in light of this proposed alignment (see
Chapters 1, 2, 4, 7, and 8 of the Final EIS). (DSD 000074).

11 40. While environmental analysis in the Staff Report focused on the impacts reviewed for
12 the portions of the Project currently under consideration in connection with the two Bellevue
13 Permits (specifically this CUP, and the associated, unchallenged Critical Areas permit,
14 identified as Permit Nos. 17-120556-LB and 17-120557-LO), the environmental review in
15 the Final EIS was not limited to any segment or portion of the Energize Eastside Project.
16 Instead, the Final EIS presented a comprehensive environmental assessment of the entire
Energize Eastside Project, including a full analysis of potential impacts and cumulative
impacts associated with the construction and operation of PSE's proposed alignment. (DSD
000074).

17 41. Staff properly found and concluded that the Energize Eastside Project Final EIS and
18 supporting documentation fulfill SEPA requirements for the pending proposal and the larger
19 Energize Eastside Project and, consistent with BCC 22.02.020 and WAC 197-11-635,
20 incorporated such documentation into the Staff Report by reference. (DSD 000074).

21 42. The Examiner concurs. The Final EIS, and the multi-year public outreach process
22 undertaken by the Partner Cities, fulfills applicable SEPA review requirements for the project
23 addressed in this permit.

24 43. The Final EIS reflects analysis of the South Bellevue Segment based on the
25 application details at issue in this matter. Again, it also includes a full analysis of potential
26 impacts and cumulative impacts associated with the construction and operation of the entire

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1 Energize Eastside Project and PSE's proposed alignment. The Final EIS facilitated broad
2 public participation and informed decision-making for both requested permits, the
3 unchallenged CALUP and the Conditional Use Permit addressed herein. The review process
4 for the South Bellevue Segment is the antithesis of any alleged failure to study, failure to
5 disclose, or improper “segmentation” or “piecemealing” as some opponents argued.

6 44. For instance, the Final EIS explains: *“For the Richards Creek substation site and the
7 Bellevue South and Newcastle Segments, the analysis included a review of the project design
8 as presented in the permit applications submitted to Bellevue and Newcastle (PSE, 2017b
9 and PSE, 2017c, respectively). The results below have been revised relative to the Phase 2
10 Draft EIS, incorporating the more detailed information in the permit applications on pole
11 locations and critical areas (including wetlands, streams, and their buffers). The conclusions
12 regarding significant impacts on land use, however, are the same as presented in the Phase
13 2 Draft EIS.” (DSD 005495).*

14 45. Instead of using a “general” study, or guesstimate as to what average impacts on views
15 and other aspects of the environment might be, as one might come to expect from a very
16 broad environmental review document, the impacts on views for the Energize Eastside
17 Project were analyzed by “segment” – which is the level of detail that specific neighborhoods
18 frequently demand. See *Impact Analysis by Segment in the Final EIS, at DSD 005524*, which
19 reads in part: *“The following pages summarize the potential impacts on scenic views and the
20 aesthetic environment for PSE’s Proposed Alignment, presented for the Richards Creek
21 substation and by segment. For the Redmond, Bellevue North, Bellevue Central, and Renton
22 Segments, the analysis included a review of refined project design details for PSE’s Proposed
23 Alignment and updated simulations, with results revised relative to the Phase 2 Draft EIS to
24 reflect the new information. For these segments, the new information and analysis have not
25 altered the conclusions presented in the Phase 2 Draft EIS regarding significant impacts to
26 scenic views and the aesthetic environment.”*

27 46. The Final EIS fully disclosed and discussed how the new transmission line project
28 would be developed in segments or phases. See for example the explanation provided in the
29 Sec. 2-37 of the Final EIS, at DSD 005464, which expressly informs the reader, the public,
30 and decision-makers, as follows:

“Construction Phasing and Schedule. Construction of the transmission lines would typically
take approximately 12 to 18 months (over two construction phases) and would be constructed
concurrently with construction of the Richards Creek substation. Under certain conditions,
construction can be accelerated or slowed down depending on the number of crews working at
the same time. The project is expected to be built in phases, with the south end (from the Talbot
Hill substation to the proposed Richards Creek substation) being the first phase, followed by the
north phase as soon as design, permitting, and energization of the south phase would allow. The
project needs to be built in two construction phases to keep the Lakeside substation energized,

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1 thereby keeping the transmission system on-line to serve customers. During the construction of
2 the south phase, the Lakeside substation will be served from the north and likewise, once the
3 south phase is complete, it will be used to serve the Eastside while the north half is constructed.”

4 47. Opposition arguments that challenged the pending application as improper
5 “segmentation”, “piecemealing”, an undisclosed last-minute change, a strategic surprise, and
6 the like, are factually incorrect. The Final EIS used to inform the public and decisionmakers
7 in reviewing the pending application fully discloses that the South Bellevue Segment can
8 function independently, and that the new transmission line will be developed in phases. It
9 also explains a public benefit rationale for PSE’s proposed phased construction schedule for
10 the Energize Eastside Project – keeping the transmission system on-line to serve customers
11 during construction.

12 48. PSE notes that the public review for its Energize Eastside Project has included the
13 following community outreach efforts (*See DSD 000043-44; DSD 000249-252; and PSE*
14 *Response Brief to Motion to Continue, dated Feb. 11, 2019*):

- 15 • 22 Community Advisory Group-related meetings, including six public open houses,
16 two question and answer sessions, and two online open houses at key project
17 milestones (four CAG meetings, three Sub-Area meetings, and an open house took
18 place in Bellevue);
- 19 • Nearly 650 briefings (~320 in Bellevue) with individuals, neighborhoods, cities and
20 other stakeholder groups;
- 21 • More than 300 comments and questions received, with more than 1,000 from
22 Bellevue residents;
- 23 • 40+ email updates to more than 1,600 subscribers, with 775 residing in Bellevue;
- 24 • 10 project newsletters to 55,000+ households (20,000+ of which are in Bellevue);
- 25 • Ongoing outreach to 500+ property owners, including door-to-door and individual
26 meetings, including approximately 130 parcels in Bellevue; and
- Participation in 16 EIS-related public meetings, five of which took place in Bellevue.

49. The Staff Report includes a detailed listing of public notices and public meetings
conducted over the last few years regarding the construction of a new transmission line to
connect the Talbot Hill and Lakeside substations, including the proposed Richards Creek
substation addressed in this permit. *See DSD 000086-87*. Staff confirmed that public
noticing requirements for the pending application were fully satisfied.

50. About 50 local residents, business owners, community leaders and interested citizens
testified at the public hearing portion regarding the CUP application, and many live in
neighborhoods that already have powerlines in their viewshed if they look at their windows
or drive along streets in their community. Given the size of the crowd in the room when the

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1 hearing opened, the Examiner granted a request to allow Bellevue residents the opportunity
2 to speak first, followed by people from other places. Most people observed the hearing rules.
3 People offered a wide-range of comments, with project supporters focusing on the need for
4 reliable power in the City, and opponents repeating themes and issues raised in written
5 comments analyzed throughout the EIS process and in the Staff Report. Several of the public
6 witnesses spoke twice.

7 51. A large share of the public comments opposing the project focused on pipeline safety
8 concerns. The applicant and staff properly note that pipeline safety issues are some of the
9 most detailed topics addressed in mitigation measures and conditions of approval proposed
10 in the FEIS and the Staff Report. Many of the opposition comments and presentations made
11 during the public hearing focused on the “need” issue, with little pushback given to portions
12 of the Staff Report that address how the project can be designed and conditioned to comply
13 with applicable city standards for such facilities. Many opponents questioned whether any
14 alternatives or routes ever really needed to be studied in the first place, reasoning that if
15 there’s no real need, then there is no reason for the project.

16 52. As noted in previous findings, “need” was analyzed over the past few years, and one
17 thing has not and shows few signs of changing – Bellevue and the Eastside are booming.
18 Even if growth were to grind to a halt, the rapid pace of growth and demand since the 115kv
19 lines along the corridor were last substantially improved, decades ago, makes challenges to
20 “need” and assertions that “demand just does not support the project” problematic.

21 53. Doing nothing, and simply maintaining the status quo, is not a responsible choice.
22 The Phase 2 Draft EIS concluded that “Under the No Action Alternative, PSE would continue
23 to manage its system in largely the same manner as at present. This includes maintenance
24 programs to reduce the likelihood of equipment failure, and stockpiling additional equipment
25 so that in the event of a failure, repairs could be made as quickly as possible. *Implementation
26 of the No Action Alternative would not meet PSE’s objectives for the proposed project, which
are to maintain a reliable electrical system and to address a deficiency in transmission
capacity on the Eastside. Implementation of the No Action Alternative would increase the
risk to the Eastside of power outages or system damage during peak power events.” (Phase
2 DEIS, discussion of No Action Alternative at Sec. 2.1.1, included in the Record at DSD
010246-247, emphasis added).*

54. While thoughtful and caring about their homes, neighborhoods, families, neighbors
and environmental stewardship, the vast majority of comments opposing the project came
from people with personal motivations like potential view impacts they believe will occur if
the project goes forward. While some people complained about the existing powerlines and
stray static events that can make your hair stand up on a misty day, most opposition witnesses

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1 would have to acknowledge that the existing powerlines and utility corridor were already in
2 place when they moved into their homes. Their questions and challenges to details in
3 environmental reviews, load studies, demand studies, and the like, appeared jaded and
4 heavily influenced by their desire to stop the project at any cost, to preserve existing
5 conditions. Some expressed their desire to see all lines removed and the corridor used as a
6 greenway.

7 55. Like other project opponents, CENSE and CSEE representatives voiced concerns but
8 did not offer sufficient, relevant, authoritative, or credible evidence that would rebut the
9 findings and recommendations made in the Staff Report.

10 56. The “need” studies, analysis of alternatives, pipeline safety reports and other
11 substantive materials provided by the applicant were thoroughly reviewed, challenged, and
12 revised by Staff and independent consultants engaged by the City to review applicant
13 submittals for this project. Independent consultants confirmed that PSE studies and reports
14 were conducted in a manner generally accepted by professionals specializing a particular
15 subject matter, like system reliability, pipeline safety, pole design and the like.

16 57a. Again, third-party reviews confirmed the substance of the applicant’s key submittals
17 at issue in this CUP application. At the close of the hearing, attorneys for the two opposition
18 groups, CENSE and CSEE, asked the Examiner to carefully read the Lauckhart and
19 McCullough materials, included in the record, to see how the applicant has failed to satisfy
20 approval criteria, mostly the requirement to show operational need. Having read and re-read
21 the opposition reports and evidence, and the independent studies prepared by Stantec and
22 USE, one finding and conclusion became crystal clear – the applicant reports, forecasts, and
23 data analyses were in compliance with applicable industry standards. The opponents failed
24 to rebut the independent consultant reviews of PSE’s work involved in this application
25 process, all of which concluded that PSE was planning and reviewing data in accord with
26 industry practice and standards.

27 57b. On the other hand, PSE firmly established that several key aspects of opposition
28 reports were defective and simply not credible, because they failed to follow industry
29 practice. Rebuttal testimony from Mr. Nedrud was powerful and credible. He showed how
30 Mr. McCullough’s presentation, which showed far less demand than PSE forecasts, failed to
31 properly account for several considerations required by industry practice and applicable
32 federal electrical system planning mandates (NERC requirements) described by Ms. Koch
33 during her testimony. Mr. Nedrud showed how Mr. McCullough’s research analysis
34 presented at the hearing only considered current loads to make load forecasts. This leads to
35 erroneous results, because such analysis fails to include consideration of weather events (at
36 peaks/extremes), projections of economic activity, population projections, building permits,

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1 and conservation goals. *Testimony of Mr. Nedrud, and his rebuttal slides presented at the*
2 *hearing, included in the record as Ex. A-17.* Further, Mr. Nedrud demonstrated how Mr.
3 Marsh’s illustrations challenging demand data used by PSE were problematic, because the
4 focus was on consumption (use) and not peak demand.

5 57c. Consumption is the amount of electricity that customers use over the course of a year.
6 “Consumption” is also called “use” or “energy”. “Demand” is customer usage at any given
7 moment in time. “Peak Demand” is the maximum amount of electricity that PSE customers
8 will demand at any given time.

9 57d. The City’s consultant addressed the difference of “use versus demand” in its
10 Independent Technical Analysis:

11 *“Bellevue’s Resource Conservation Manager (RCM) program stats on declining energy use are*
12 *reflecting a decline in the average use per customer. The DSM programs, solar, etc. are showing*
13 *success with this decline. **But, that is one piece of the story - the energy piece on a per customer***
14 ***basis. The number of customers continues to increase, and the aggregate peak usage (peak***
15 ***demand), is continuing to increase. Growth in peak demand drives the size and amount of***
16 ***infrastructure required and drives the issue of grid reliability.**” (USE report, included as*
17 *Attachment D to the Staff Report, found at DSD 000663-000739, on page 9 of 76; emphasis*
18 *added).*

19 57e. In October of 2015, the Federal Energy Regulatory Commission (FERC) dismissed a
20 complex challenge to the Energize Eastside Project raised by CENSE, CSEE, Larry Johnson,
21 and others (identified by FERC as “Complainants”), which was supported by sworn
22 testimony from Mr. Lauckhart, CSEE’s principal witness in this matter. The FERC decision
23 includes the following passage, which applies just as well to this Decision: *“Complainants*
24 *discuss alleged flaws in the load flow studies that Puget Sound conducted for the Energize*
25 *Eastside Project. However, Complainants do not demonstrate that the studies violated any*
26 *applicable transmission planning requirements or were otherwise unjust, unreasonable, or*
unduly discriminatory or preferential. Complainants do not cite anything that would require
Puget Sound to use the study inputs and assumptions that Complainants prefer instead of the
inputs and assumptions that Puget Sound used.” (FERC Order Dismissing Complaint by
CENSE, CSEE, et al., issued Oct. 21, 2015, included in the record at DSD 000656, complete
Order at DSD 000630-000659). As in the FERC challenge, in this hearing process Mr.
Lauckhart alleged flaws in the load flow reports that PSE relied upon to demonstrate need
for its Energize Eastside Project, among other things. He did not rebut the favorable reviews
provided by independent consultants engaged by the city regarding PSE’s supporting studies.
Mr. Lauckhart and other project opponents did not demonstrate that the studies used by PSE
violated any applicable transmission planning requirements or were otherwise unjust,
unreasonable, or unduly discriminatory or preferential. Opponents do not cite anything that

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1 would require PSE to use the study inputs and assumptions that they prefer instead of the
2 inputs and assumptions that PSE used.

3 58a. Several opposition speakers directed attention to parts of the city’s code that they read
4 to say to that electrical facilities should be located where the need exists. In response, City
5 staff argued that city codes do not mandate an entirely new utility corridor if fewer site
6 compatibility impacts occur in a residential area than some other zoning district, and that the
7 South Bellevue Segment proposal is the most feasible, lowest-impact option, emphasizing
8 that the existing powerline route has been in the same place for decades, that poles have been
9 in place in the same neighborhoods for many years, and that no new right-of-way is required
10 as part of this project. The Staff Report, at pages 41-47, explains how the route selected by
11 PSE has fewer site-compatibility impacts than other options.

12 58b. Even if the City’s code could be read to require electrical facilities to only locate in
13 areas that benefit or need the new or expanded electrical facility in question, in this situation,
14 that is precisely what is proposed, because “load-shedding” – i.e. rolling blackouts – is
15 currently part of PSE’s corrective action plan (CAP) options in neighborhoods throughout
16 the Eastside, including residential neighborhoods that are located along the route of the South
17 Bellevue Segment. Given these circumstances, there truly is a critical “need” for the project
18 to prevent such problems going forward in the residential areas located along the route.

19 58c. Pole designs, placement, heights, and wire-connections on poles, were all analyzed to
20 generate conditions that minimize view impacts to the fullest extent reasonable, while still
21 achieving the project objectives, including enhancing the reliability and redundancy in the
22 power-transmission system that serves the City of Bellevue, including neighborhoods and
23 businesses in the area affected by this South Bellevue Segment proposal.

24 59. The Examiner adopts and incorporates the City of Bellevue’s administrative decision
25 approving the associated Critical Area Land Use Permit (CALUP) issued for this project,
26 under File No. 17-120557-LO, which was not appealed, as unchallenged findings,
conclusions, and conditions of approval, that all provide support for the requested
Conditional Use Permit, including without limitation:

- Findings and Conclusions re: Critical Areas Report Decision Criteria – General
Criteria, LUC 20.25H.255.A.4, on page 104 of the Staff Report, which reads as
follows:

The resulting development is compatible with other uses and development in the same land use
district.

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1 *Finding:* The project involves the replacement of an existing transmission line; therefore, no change
2 in land use proposed. The proposed substation is located adjacent to an existing substation and
3 other light industrial uses and non-residential development. PSE's proposal is anticipated by and
4 included in Bellevue's Comprehensive Plan (see Attachment F [Map UT-7] to this Staff Report).
5 The proposal is limited to the existing corridor, and the Project, as modified, is compatible with
6 and responds to the uses and development that has been built up around the transmission line
7 corridor for decades.

- 8 • Findings and Conclusions re: Critical Areas Land Use Permit Decision Criteria – item
9 4 re: LUC 20.30P.140.D, on page 106 of the Staff Report, which reads as follows:

10 4. The proposal will be served by adequate public facilities including street, fire protection, and
11 utilities.

12 *Finding:* The proposed transmission lines will not impact any existing public facility service level.
13 The Phase 1 Draft EIS and Final EIS concluded that the Energize Eastside Project would not
14 significantly increase the demand for public services, or significantly hinder the delivery of
15 services. Refer to Technical Reviews conducted by the Fire, Utilities, and Transportation in
16 Section V of this Staff Report.

- 17 • Findings and Conclusions re: Critical Areas Land Use Permit Decision Criteria – item
18 6, re: LUC 20.30P.140.F, on page 107 of the Staff Report, which reads as follows:

19 6. The proposal complies with other applicable requirements of this code.

20 *Finding:* As discussed in Section IV of this Staff Report, PSE's proposal complies with
21 all other applicable requirements of the Land Use Code.

22 60. Section IV.A of the Staff Report analyzes and explains how the pending proposal is
23 consistent with applicable Land Use Code and Zoning Requirements, specifically PSE's
24 obligation to comply with the Alternative Siting Analysis and design requirements found in
25 LUC 20.20.255.D and 20.20.255.F, which apply to Electrical Utility Facilities. (See Staff
26 Report at page 41). Given that the Critical Areas Land Use Permit was not appealed, any
arguments or opposition to the requested Conditional Use Permit that are based on challenges
to the Alternative Siting Analysis or design requirements found in the Land Use Code must
fail. All findings, conclusions and conditions of approval in the CALUP are now beyond
review. Any appeal of this Decision cannot be used to collaterally attack any aspect of the
CALUP or determinations made therein. (See *Wenatchee Sportsmen Ass'n v. Chelan
County*, 141 Wn.2d 169, 182, 4 P.3d 123 (2000), and *Habitat Watch v. Skagit County*, 155
Wn.2d 397, 410–11, 120 P.3d 56 (2005)).

61. City staff appropriately relied upon the Final EIS in its review of the requested CUP,
and in crafting proposed conditions of approval for the South Bellevue Segment project. The

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1 potential impacts studied in the EIS included a comprehensive set of worst-case scenarios
2 and detailed mitigation measures for the larger project as well as this specific portion of the
3 larger Energize Eastside Project, all of which should serve to adequately avoid, minimize,
4 rectify, reduce, or eliminate adverse impacts associated with the South Bellevue Segment
5 proposal. Several items in the conditions of approval require monitoring and data collection
6 as part of the project, to assure that powerline/pipeline conflicts do not result in adverse
7 impacts. (See *Conditions of Approval, including without limitation No. 17, mandating that
8 PSE must file a mitigation and monitoring report with the City documenting consultations
9 held with Olympic Pipeline to address pipeline safety related issues at least quarterly during
10 construction, and post start-up monitoring to ensure that mitigation measures related to
11 operational issues are followed, at DSD 000144*).

8 ***Olympic Pipeline System.***

9 62. At the public hearing, multiple local residents expressed their genuine and legitimate
10 concerns with hazards posed by existing electrical lines spanning over the Olympic petroleum
11 pipeline though the City of Bellevue. Similar concerns were already provided in written
12 comments summarized in the Staff Report, including without limitation at DSD 000093.

13 63. The Olympic Pipeline system is an underground petroleum pipeline system that is co-
14 located with the existing PSE 115 kV transmission line corridor throughout the entire
15 Energize Eastside Project area, except in the central portion of the Renton Segment. The
16 Olympic Pipeline system is a 400-mile interstate pipeline system that runs from Blaine,
17 Washington to Portland, Oregon. The system transports gasoline, diesel, and jet fuel through
18 two pipelines – one 16 inches and one 20 inches in diameter. In the Energize Eastside Project
19 area, the pipelines are generally co-located with PSE’s transmission line within all of the
20 segments, although in the Renton Segment it only co-located in the north portion of the
21 segment (although it crosses the corridor in the southern portion of the segment). (*DSD
22 005451*).

23 64. The PSE transmission line corridor predates the pipeline by approximately three
24 decades. (*Id.; Testimony of PSE witnesses*).

25 65. In most of the segments, the pipeline system is along either the east or west side of
26 the PSE right-of-way, crisscrossing the right-of-way from east or west in numerous locations.
In parts of the corridor (especially the Newcastle Segment), however, the pipeline system is
buried in the center of the right-of-way. BP is the operator of the Olympic Pipeline system,
and partial owner of the Olympic Pipe Line Company, with Enbridge, Inc. (Olympic Pipe
Line Company, 2017). Typically, the proposed poles would be located at least 13 feet from

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1 the Olympic Pipeline system where it is co-located with the transmission lines to reduce the
2 need for additional arc shielding protection. (DSD 005451).

3 66. Due to the level of public concern expressed during scoping for both Phase 1 and
4 Phase 2 regarding the potential risk of a leak, fire, or explosion that could occur as a result of
5 constructing or operating the transmission lines in the same corridor as the Olympic Pipeline
6 system, the pipeline safety issue is addressed specifically as one of two environmental health
7 issues. Information on pipeline safety, both during construction and operation, is presented
8 in the Final EIS, at Sections 4.9 and 5.9, re: *Environmental Health – Pipeline Safety*. (DSD
9 005451).

10 67. As the City’s Land Use Director, Ms. Stead, noted during her testimony, the Final
11 EIS concludes that the potential for conflicts/risks involving PSE powerlines and the Olympic
12 Pipeline running beneath most all of the corridor in question will be lower or about the same
13 with the project than with no action.

14 68. The Final EIS provides the following “*Impact Conclusion for PSE’s Proposed*
15 *Alignment*”, which expressly includes the South Bellevue Segment addressed in this permit:

16 Based on the results of the risk assessment, the probability of a pipeline release and fire occurring
17 and resulting in fatalities remains low under PSE’s Proposed Alignment. However, the potential
18 public safety impacts would be significant if this unlikely event were to occur.

19 Under PSE’s Proposed Alignment, including mitigation for corrosion and arc risk incorporated
20 into the design, the probability of a significant pipeline safety incident would likely be the same
21 or lower than the No Action Alternative. Because of the variability of soils, it is possible that the
22 arcing risk could be slightly higher in some locations when compared with the No Action
23 Alternative. In these areas, testing, monitoring, engineering analysis, and implementation of
24 mitigation measures would lower these risks. See Section 4.9.8, *Mitigation Measures* for
25 measures that would lower the risks.

26 The individual and societal risks described in Section 3.9.5.2 of the Phase 2 Draft EIS would be
similar across all segments of PSE’s Proposed Alignment. The risk would be proportional to the
distance that the transmission lines are co-located with the Olympic Pipeline system. For PSE’s
Proposed Alignment, the Renton Segment has the lowest number of co-located miles. Table 4.9-
1 lists the length of the Olympic Pipeline system (both the 20-inch and 16-inch diameter
pipelines) collocated with the transmission lines in each segment.

As described above, the lack of available data for existing fault and arc distance conditions
required the risk assessment to use certain assumptions for the No Action Alternative condition
that would allow for a worst-case analysis of the proposed 230 kV lines. Using these assumptions
likely understates the existing risk (No Action), thereby possibly overstating the actual difference
in risk between the No Action Alternative and PSE’s Proposed Alignment. The likelihood of a
pipeline rupture and fire would remain low, with no substantial change in risk. As a result, the
potential impact on environmental health with regard to pipeline safety is not considered

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significant. With implementation of the mitigation described in Section 4.9.8 of this Final EIS, conditions related to potential for fault damage due to coating stress and arc distances would likely improve under PSE’s Proposed Alignment over the existing operational baseline condition (No Action Alternative) (*DNV GL, 2016 – A Detailed Approach to Assess AC Interference Levels Between the Energize Eastside Transmission Line Project and the Existing Olympic Pipelines, OLP16 & OPL20. Memo to Puget Sound Energy, dated September 9, 2016. Note 15 on page 15 of the Staff Report [DSD 000015] explains that the entire DNV GL 2016 report is included in the Phase 2 Energize Eastside Project EIS materials, and is included in the DSD official files for Permit Nos. 17-120556-LB and 17-120557-LO*). For additional details about the analysis of risks under Alternative 1, see the *Pipeline Safety Technical Report* (EDM Services, 2017).

(*FEIS, Chapter 4.9 Re: “Environmental Health – Pipeline Safety”, at DSD 005699. Full discussion and thorough analysis of Pipeline Safety topics provided on pages DSD 005676-005715. Proposed mitigation measures re: pipeline safety issues are addressed on pages DSD 005714-15*).

69. Wolfgang Fieltsch is a qualified expert on issues regarding pipeline safety, particularly when pipelines are located in corridors near powerlines such as the case presented in this matter. During the public hearing, Mr. Fieltsch testified within his area of expertise. His testimony was credible.

70. At the public hearing, the City called Mr. Fieltsch, a recognized expert in the field of pipeline corrosion and safety issues where pipelines are co-located near powerlines, which he testified is very common. Mr. Fieltsch was retained by the City to serve as its independent expert on pipeline safety issues. He verified that he reviewed the DEN GL report (submitted by the applicant) and summarized some of his work performed to address pipeline safety issues discussed in the Environmental Impact Statement. He explained how mitigation measures proposed in the EIS should result in a powerline/pole design that will include “optimal phase arrangement” among other things, to cancel much of the potential AC interference problems that could occur.

71. Mr. Fieltsch’s written report illustrates how the environmental review process for this project has resulted in design changes and strict mitigation requirements that make the proposal less likely to cause adverse impacts, particularly with respect to pipeline safety. His professional opinion on the subject served as the basis for additional mitigation measures addressed in the Final EIS, and the specific pipeline safety related conditions of approval proposed in the Staff Report. The Fieltsch Report, identified as the *TECHNICAL REVIEW re: ENERGIZE EASTSIDE AC INTERFERENCE ANALYSIS, dated May 2, 2017, prepared by Wolfgang Fieltsch, P. Eng. Team Lead – CP and AC Mitigation, for Stantec Consulting Services*, which was prepared for the Energize Eastside EIS review team, is included in the Record at DSD 004532-4539, and provides the following detailed “Opinion” and recommendations:

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1 The primary objective of the AC interference study performed by DNV GL was to perform a
2 sensitivity analysis to determine the optimal route and powerline configuration to minimize the
3 AC interference risks on the two collocated pipelines.

4 An optimal route, phasing, and conductor orientation was selected to minimize the steady-state
5 induced AC voltages on the paralleling pipelines. Shield wires were recommended to minimize
6 the conductive coupling and arcing risks due to a phase -to -ground fault on the powerline
7 structures.

8 Based on Stantec's experience and industry standards, it is our opinion that the technical
9 approach used to achieve this objective in the subject AC interference study is consistent with
10 industry practice.

11 The report concluded that the modeling indicated that selection of the recommended optimal
12 route and configuration would result in no AC mitigation requirements on the pipelines. The
13 report further recommends that final mitigation design should be based on field data collected
14 after system energization.

15 In Stantec's opinion, although the study and modeling performed is sufficient as a sensitivity
16 analysis, it cannot be used to determine the mitigation requirements for the pipelines related to
17 the final design of the powerlines. Furthermore, mitigation based on field testing after
18 energization is also not an acceptable approach, as measurements can only be taken at test
19 stations, which are not necessarily located at locations with highest induced AC voltages and at
20 greatest AC corrosion risk. Additionally, it is not possible to assess safety and integrity risks
21 under powerline fault conditions in the field. DSD 004537

22 As such, we recommend the following be performed in the detailed design stage of the project
23 prior to energization of the new powerline:

- 24 • Perform an AC interference study incorporating the final powerline route, configuration,
25 and operating parameters.
- 26 • Obtain and incorporate all of the pipeline parameters required for detailed modeling and
study (i.e., locations and details of above-grade pipeline appurtenances/stations, bonds,
anodes, mitigation, etc.). This should include a review of the annual test post Cathodic
Protection (CP) survey data.
- Fully assess the safety and coating stress risks for phase-to-ground faults at powerline
structures along the entire area of collocation. This assessment should include both
inductive and resistive coupling.
- Fully assess the safety and AC corrosion risks under steady-state operating conditions on
the powerline.
- Reassess the safe separation distance to minimize arcing risk based on NACE SP0177 and
considering the findings in CEA 239T817.
- Ensure that the separation distance between the pipelines and the powerline structures
exceeds the safe distance required to avoid electrical arcing.
- Design AC mitigation (as required) to ensure that all safety and integrity risks have been
fully mitigated along the collocated pipelines.
- Design monitoring systems to monitor the AC corrosion risks along the pipelines.
- Install and commission the AC mitigation and monitoring systems prior to energization of

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the 230 kV powerline.

- After energization, perform a site survey to ensure that all AC interference risks have been fully mitigated under steady-state operation of the powerline.

Based on the sensitivity analysis performed by DNV GL, it is Stantec's opinion that any remaining AC interference risks to the pipeline identified in the detailed design stage of the project can readily be mitigated via use of standard mitigation strategies. (DSD 004538).

72. The Fieltsch Opinion is largely mirrored in the mitigation measures recommended in the EIS, at DSD 5712-5715, and the proposed pipeline safety related conditions of approval (which include about 23 subparts) addressed in the Staff Report at pages 78-80, 134-137 and 143-146.

73. Pipeline safety arguments against the requested permit were not persuasive, as most all opposition comments based on pipeline coordination and the like are fully addressed in specific conditions of approval that should serve to improve the overall safety and oversight of the Olympic pipeline that runs beneath most portions of the existing powerlines. Opponents did not present any expert testimony to rebut evidence included in the Staff Report, the FEIS, or witness testimony, which established that specific conditions of approval can be included as part of this permit to prevent/avoid/mitigate/minimize potential adverse impacts that could arise due to construction and operation of the powerlines over the Olympic Pipeline.

74. The pipeline risk analyses provided in the record consistently explain that some of the highest risks of pipeline ruptures/emergency incidents occur when people are digging or performing construction work in close proximity to a petroleum pipeline. The Conditions of Approval recommended for the requested permit should serve to enhance and hopefully improve public safety by reducing current risks, as the pipeline corridor will be the subject of strict oversight by city officials and greater public awareness, compared with the complacency or inattention by residents and regulators that often accompanies conditions that have gone unchanged for many years, i.e. where an aging petroleum pipeline runs through neighborhoods beneath high transmission power lines.

Discussion.

75. The Staff Report explains that, with the exception of comments from various agencies and tribes, virtually all written comments submitted before its issuance opposed or challenged the pending permit. (DSD 000087). At the public hearing, and in written comments submitted as part of the public hearing process, the balance of comments was more balanced. About twenty speakers expressed support for the CUP application, while about thirty people expressed their opposition. In any event, land use decisions may not be based solely upon

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1 community displeasure. *Maranatha Mining v. Pierce County*, 59 Wn. App. 795, at 804 (Div.
2 II, 1990). In *Maranatha*, the court overturned denial of a permit, because the local agency
3 disregarded the record before it, basing its decision instead "on community displeasure and
4 not on reasons backed by policies and standards as the law requires." *Maranatha*, 59 Wn.
5 App. at 805.

6 76. The record in this hearing process includes a reflection of broad support for reliable
7 and consistent electric service throughout the City of Bellevue.

8 77. The themes and topics raised in opposition comments from concerned citizens were
9 fully vetted and analyzed by Staff and consultants who aided in preparation of the multi-year
10 effort to generate the Final Environmental Impact Statement. Speculation about alternatives
11 and skepticism about PSE's study data used to demonstrate "need" for the project is healthy,
12 and it led to a thorough analysis of almost every substantive comment or suggestion made by
13 topic throughout the review process. In the end, the City's independent consultant verified
14 "need", and the thorough EIS lays out specific mitigation measures that should apply to the
15 project, leading Staff to recommend approval, subject to lengthy and detailed conditions of
16 approval. Written comments about potential view impacts, especially those in the Somerset
17 neighborhood, were thoroughly analyzed in the Staff Report. Many speakers reiterated their
18 aesthetic/viewshed concerns at the public hearing, even though the project includes design
19 changes and conditions of approval intended to address such issues. (*See Staff Report, at*
20 *page 119, and Finding 83(B) below*).

21 78. Several public comments expressed opposition to the project without reservation, and
22 discounted all studies, reports, or proposed conditions to the contrary. Again, community
23 displeasure alone cannot be the basis of a permit denial. *Kenart & Assocs. v. Skagit Cy.*, 37
24 Wn. App. 295, 303, 680 P.2d 439, *review denied*, 101 Wn.2d 1021 (1984). Multiple studies
25 regarding "need" and alternative site analysis are included in the Record. Substantial
26 evidence in the Record – far more than the preponderance needed – establishes that the
requested permit satisfies all applicable approval criteria. Accordingly, the city code
mandates that the permit shall be approved, subject to conditions.

79. While opposition testimony, presentations, and materials were thoughtful and well-
organized for the most part, none of the individuals testifying at the hearing or submitting
written comments opposing the project offered any persuasive expert reports, studies or other
compelling environmental analysis that would rebut the expert reports, certifications and/or
environmental analyses provided by the applicant, staff, or independent consultants engaged
by the City.

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1 80. The findings, recommendations and conclusions provided in the environmental
2 documentation submitted on behalf of the applicant, as well as the City’s reviewing
3 consultant reports, are credible and well-reasoned summaries of complicated regulations,
4 conditions, possible impacts and appropriate mitigation measures associated with the South
5 Bellevue Segment proposal. No person or organization presented comparable expert
6 witnesses or evidence with power transmission system planning, engineering, pipeline safety,
7 urban planning, design, or other relevant credentials to support opposing views.

8 81. The Staff Report includes a number of specific findings and conditions that establish
9 how the pending CUP application satisfies provisions of applicable law and/or can be
10 conditioned to comply with applicable codes and policies. Except as modified in this
11 Decision, all Findings contained in the Staff Report for the pending Conditional Use Permit
12 are incorporated herein by reference as Findings of the undersigned hearing examiner.³

13 82. In sum, city staff review was robust, thorough, and challenging to the applicant – as
14 it should be in a project of this scale and impact on local residents. As shown above, real,
15 substantive changes that will benefit affected parties, the city, and even the applicant, have
16 been made to the project from its initial conceptual notion to the present as a result of public
17 feedback, staff review, and exhaustive studies on various aspects of the project.

18 ***The application satisfies the City’s decision criteria for a Conditional Use Permit.***

19 83. As noted above, the City’s decision criteria for the pending conditional use permit is
20 found in LUC 20.30B.140. Unlike the decision criteria specifically applied to electrical
21 facilities in LUC 20.20.255, the general conditional use permit requirements are the same as
22 would be applied to any conditional use permit decision. Applying facts and evidence in the
23 record to the decision criteria for a Conditional Use Permit (found in LUC 20.30B.140.A-E),
24 the Examiner finds and concludes as follows:

25 **A. The conditional use is consistent with the Comprehensive Plan.** *Staff Report,*
26 *Attachment G, detailed review of Comprehensive Plan – Policy Analysis, addressing more*
than 59 Comp. Plan Policies, at DSD 000892-000918; Staff Report, analysis provided on
pages 113-119; Application materials at DSD 000600-617; EIS at DSD 005495, 005502-3;
Testimony of

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

³ For purposes of brevity, only certain Findings from the Staff Report are highlighted for discussion in this Decision, and others are summarized, but any mention or omission of particular findings or analysis provided in the Staff Report should not be viewed to diminish their full meaning and effect, except as modified herein.

1 **and immediate vicinity.** *Staff Report, pages 119-120, and pages 133-134, mandating “pole*
2 *finishes” to reduce aesthetic impacts, implementing recommendations set forth in Pole*
3 *Finishes Report, Attachment J to Staff Report, at DSD 001465-001510; EIS at DSD 005502-*
4 *03, 005520, 005525, 005540-5546, 005495, 010303, 010325-26; and application materials*
5 *at DSD 000617-618. Because so much testimony came from speakers with concerns about*
6 *potential impacts on views in the Somerset neighborhood, the following excerpt from page*
7 *119 of the Staff Report is incorporated as findings supporting this decision as it provides a*
8 *detailed summary of site-specific changes that have been made in the design to address such*
9 *concerns, in addition to a thorough consideration of trees, pole-heights, and pipeline safety*
10 *in the Somerset neighborhood:*

7 PSE’s proposal is designed to respond to the existing and intended character appearance, quality
8 of development, and physical characteristics of the subject property and the immediate vicinity.
9 Because the Project is sited in an existing corridor shared with another utility (the Olympic
10 Pipeline system), the Project will not introduce a change in land use. It will consolidate the lines
11 onto fewer poles, which, although larger, will not increase visual clutter and could reduce it in
12 some areas. Various pole treatments will be employed to complement the natural environment,
13 and vegetation management will maintain the general appearance of landscaping in a similar
14 manner as the present. Although a number of trees will be removed, the remaining and proposed
15 trees will partially screen views of the taller poles. Likewise, the proposed substation will be
16 screened by a slope and native vegetation. Reinstallation of telecommunications facilities on the
17 same transmission facilities following construction will ensure that there will not be an increase
18 in the number of telecommunications facilities to the maximum extent feasible.

13 The City’s Comprehensive Plan states that electrical utility facilities should be designed,
14 constructed, and maintained to minimize the impact on surrounding neighborhoods (UT-8). The
15 Somerset neighborhood developed around the transmission line corridor, so the increase in height
16 of the current transmission line is not a new use. In the portion of the existing corridor within the
17 Somerset neighborhood where the Project will significantly impact neighborhood character (see
18 Figure 4.2-12 in the Final EIS), the pole design was modified to reduce the necessary height,
19 using dual monopoles instead of single monopoles preferred in other locations within the corridor.
20 These modifications to pole design respond to the existing physical characteristics of the
21 Somerset neighborhood, which has lower building and vegetation heights than other areas of the
22 corridor. The visual impacts in this area, while considered significant, will not cause blight, as
23 defined in the Revised Code of Washington (RCW) 35.81.015, or cause substantial dilapidation
24 or deterioration in this portion of the Somerset neighborhood.

19 Further modifications to necessary pole heights within the Somerset neighborhood would
20 increase the number of poles in the neighborhood and result in additional impacts to the character
21 and appearance of the immediate vicinity. For example, the City requested that PSE provide
22 additional information regarding pole heights in the Somerset neighborhood as part of the land
23 use process. The analysis provided in response by PSE indicates that pole heights in the Somerset
24 neighborhood could, on average, be reduced by around 16 feet. In order to facilitate this further
25 reduction in pole height, however, the number of poles would more than double (approximately
26 24 additional poles) and poles would be sited on properties that do not have poles currently
(approximately 17 poles sited on new properties). (PSE 9-21-18).

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An increase in the number of poles in the Somerset neighborhood would also impact the physical characteristics of the corridor and the immediate vicinity because the quantity of excavation would more than double due to the increased number of poles. Similarly, additional vegetation impacts, including additional tree removal and fewer replanting options, would occur in the immediate vicinity of the shorter poles. With taller poles, the conductors are installed with more sag (i.e., they curve more), so the conductor attachment poles are farther from the ground, which allows for taller vegetation options. Thus, the increase in pole number required for shorter poles would result in increased excavation, more tree removal to accommodate the additional poles, and fewer screening options for both the existing and new pole locations within the corridor.

Shorter poles (or a significant increase in the number of poles) may also increase the potential for interaction with the co-located Olympic pipeline. While increased EMF levels and potential interaction with the pipeline are unrelated to the visual impacts to the Somerset neighborhood identified in the Final EIS, this information does suggest that the current proposal strikes a better balance.

The Comprehensive Plan lacks policies to protect private residential views. Nevertheless, because building and vegetation heights are lower in the Somerset neighborhood than other areas of the corridor due to private covenants, viewer sensitivity in portions of Somerset is higher than in other areas of the corridor. It is recognized that the contrast between the taller poles proposed by the Project and the current pole heights in Somerset, combined with high viewer sensitivity, could cause some Somerset residents to choose to move. However, the entire residential community surrounding the transmission line has been built next to the existing corridor, and the Project, as modified, is consistent with and responds to the existing or intended character, appearance, quality of development, and physical characteristics the Somerset community. Despite the visual impacts identified in the Final EIS, the Somerset neighborhood will continue to be a healthy, vibrant, and unique community. With the Conditions of Approval specified below for aesthetic impacts and vegetation management, the Project is consistent with LUC 20.30B.140.B.

C. The conditional use will be served by adequate public facilities including streets, fire protection, and utilities. *On this topic, there was minimal, if any, material dispute that this criterion has been fully satisfied. Staff Report, pages 121-122, and discussion of relevant technical reviews on the subject that appears on pages 70-73; Application materials at DSD 000618-621; EIS at 005420.*

D. The conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property. *Staff Report at 121-122; Application materials at DSD 000618-621; EIS at DSD 005502-3, 005525, 005540-5546, 005495.*

E. The conditional use complies with the applicable requirements of this Code. *As conditioned, the pending Conditional Use Permit application meets the applicable*

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1 performance standards and requirements included in the City's Land Use Code; Staff Report,
2 page 122, and pages 107-113; Application materials at DSD 000621.

3 ***The application satisfies the City's additional criteria for Electrical Utility Facilities.***

4 84. Because the proposal is to construct or expand electrical facilities, the provisions of
5 the City's Land Use Code specifically addressing Electrical Utility Facilities, found in LUC
6 20.20.255, must be satisfied. Prior to submittal of any Conditional Use Permit application, a
7 detailed Alternative Siting Analysis was required. See LUC 20.20.255.D. Applying the facts
8 and evidence in the record to the additional requirements for new or expanding electrical
9 utility facilities, as detailed in LUC 20.20.255.E.1-6 and .F, the Examiner finds and concludes
10 as follows:

11 **A. Re: 255.E.1. The proposal is consistent with Puget Sound Energy's System Plan.**
12 *Testimony of PSE Manager of System Planning, Jens Nedrud; Staff Report at pages 107-108;*
13 *Application materials at DSD 000621, which reads in relevant part as follows: "The need*
14 *for additional 230 kV capacity in the Eastside region was identified, and has been included*
15 *in PSE's Electrical Facilities Plan for King County ("Plan"), since 1993. As explained in*
16 *the Plan, "[t]he 230 kV sources for the 115 kV system in northeast King County are primarily*
17 *the Sammamish and Talbot Hill substation. The loads on the 230-115 kV transformers in*
18 *these stations will be high enough to require new sources of transformation." Additionally,*
19 *the "Lakeside 230 kV Substation project [now referred to as Energize Eastside] will rebuild*
20 *two existing 115 kV lines to 230 kV between Sammamish and Lakeside [where PSE proposes*
21 *the construction of the Richards Creek substation], and between Lakeside and Talbot Hill."*

22 **B. Re: 255.E.2. The design, use, and operation of the electrical utility facility complies**
23 **with applicable guidelines, rules, regulations or statutes adopted by state law, or any**
24 **agency or jurisdiction with authority.** *Staff Report at pages 108-109; Application*
25 *materials at DSD 000621-622; Testimony of Ms. Koch.*

26 **C. Re: 255.E.3. The applicant demonstrated that an operational need exists that**
requires the location or expansion at the proposed site. *Staff Report at pages 109-111,*
noting that between 2012 and 2015, PSE and the City commissioned three separate studies
confirming the need to address Eastside transmission capacity. The Staff Report relies on
the analysis in the USE Report verifying operational need, and the entire USE Report, and
the other studies commissioned by PSE on the subject of need, are attached to the Staff Report
and included in the Record for this matter. See DSD 000663-739, the "USE" Report,
commissioned by the City. The review on "need" went further, as an independent electrical
system planning and engineering consultant (Stantec) reviewed PSE's needs assessment as

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1 part of the EIS process and found PSE's assessment "very thorough" and concluded that
2 PSE had followed standard industry practice. See DSD 004521-4531, the Stantec Report.
3 The Staff Report explains that the City's Comprehensive Plan shows a potential need to
4 expand both the transmission line and the Lakeside substation [the "Richards Creek
5 substation"), which are the two parts of the pending CUP application. See Comp. Plan Map
6 UT-7, at DSD 000891, showing general locations and conceptual alignments for PSE's
7 planned facilities in the City of Bellevue. See Finding 84(F), below.

8 **D. Re: 255.E.4. The applicant demonstrated that the proposed electrical utility facility
9 improves reliability to the customers served and reliability of the system as a whole, as
10 certified by the applicant's licensed engineer. Same as item C, above; Testimony of Mr.
11 Nedrud, a Washington State licensed engineer and PSE's Manager of System Planning; Mr.
12 Nedrud's July 20, 2017 reliability certification letter to Ms. Bedwell, the City's
13 Environmental Planning Manager, referenced at page 111 of the Staff Report, included in
14 the record at DSD 000661-662; Staff Report discussion on page 111; Application materials
15 at pages 000623-626; EIS at DSD 005438, 005413-15, 011102-5, and 011168-70.**

16 **E. Re: 255.E.5.a. Because the proposal is located on sensitive sites as referenced in
17 Figure UT.5a (now Map UT-7) of the Utility Element of the Comprehensive Plan, the
18 applicant fully complied with the Alternative Siting Analysis requirements of LUC
19 20.20.255.D. Staff Report, pages 41-44 and 111-113; Application materials at DSD 000623
20 and 626; DSD 011049-747, Ph. 1 Draft EIS, evaluating technological alternatives; DSD
21 010205-11048, Ph. II Draft EIS, evaluating siting alternatives. See entire Alternative
22 Sighting Analysis included as Attachment "B" to the Staff Report, at DSD 000222-597. See
23 Findings 59 and 60 above, and Finding and Conclusion No. 6 in the CALUP issued for this
24 proposal.**

25 **F. Re: 255.E.5.b. Where feasible, the preferred site alternative is located within the land
26 use district requiring additional service and residential land use districts are avoided
when the proposed new or expanded electrical utility facility serves a nonresidential
land use district. As explained in the five separate studies performed by four separate
parties confirming the need to address Eastside transmission capacity – 1) Electrical
Reliability Study by Exponent, 2012 (City of Bellevue); 2) Eastside Needs Assessment Report
by Quanta Services, 2013 (PSE); 3) Supplemental Eastside Needs Assessment Report by
Quanta Services, 2015 (PSE); 4) Independent Technical Analysis by Utility Systems
Efficiencies, Inc. ("USE"), 2015 (City of Bellevue); and 5) Review Memo by Stantec
Consulting Services Inc., 2015 (EIS consultant), all of which are provided in the Alternative
Siting Analysis – PSE's proposed transmission line upgrade is responsive to projected
growth in the Eastside generally and the City of Bellevue specifically. Even if the City's code
could be read to require electrical facilities to only locate in areas that benefit or need the**

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1 new or expanded electrical facility in question, in this situation, that is precisely what is
2 proposed, because “load-shedding” – i.e. rolling blackouts – is currently part of PSE’s
3 corrective action plan (CAP) options in neighborhoods throughout the Eastside, including
4 residential neighborhoods that are located along the route of the South Bellevue Segment.
5 Given these circumstances, there truly is a critical “need” for the project to prevent such
6 problems going forward in the residential land use districts located along the route.

7 **G. Re: 255.E.6. The proposal, as conditioned, will provide mitigation sufficient to**
8 **eliminate or minimize long-term impacts to properties located near an electrical utility**
9 **facility.** *Staff Report, at page 113, and Conditions of Approval on pages 124-146. Mitigation*
10 *measures and conditions include requirements to address impacts related to visual impact,*
11 *tree and vegetation removal, pipeline safety, historic and cultural resource protection,*
12 *among other things. See full discussion of mitigation measures, conditions and requirements*
13 *provided in Sections III, IV, V, VI, VIII, and X of the Staff Report. DSD 000626, 001745-*
14 *3477,003528-3541 (re: vegetation and trees); DSD 003582-3626 (re: pole color); DSD*
15 *003629-63 (re: cultural resources); DSD 003664-72 (re: substation mitigation plan); EIS at*
16 *DSD 005424-33 (re: impact summary and mitigation options), and DSD 005696 (re:*
17 *proposed AC interference mitigation).*

18 **H. Re: 255.F. The proposal, as conditioned, complies with the additional design**
19 **standards that apply to projects to locate or expand electrical utility facilities.** *Staff*
20 *Report, pages 44-47, describing how project has been designed or can be conditioned to*
21 *comply with specific design standards, including without limitation those addressing site*
22 *landscaping, fencing, setbacks, and height; application materials at DSD 000626-628.*

23 85. The Conditions of Approval included as part of this Decision are reasonable,
24 appropriate, fully supported by testimony and evidence in the record, and capable of
25 accomplishment.

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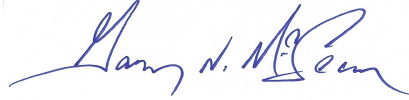
VI. CONCLUSIONS of LAW.

1. As explained above, the record includes credible, un rebutted, and substantial proof that the Conditional Use Permit application satisfies all applicable decision criteria specified in applicable city LUC 20.30B.140, as conditioned herein.
2. Similarly, the record includes credible, un rebutted, and substantial proof that the proposal satisfies the additional criteria for Electrical Utility Facilities, set forth in LUC 20.20.255, as conditioned herein.
3. Based on the record, and all findings set forth above, the applicant established that more than a preponderance of the evidence supports the conclusion that its permit application merits approval, meeting its burden of proof imposed by LUC 20.35.340(A).
4. Any finding or other statement contained in this Decision that is deemed to be a Conclusion of Law is hereby adopted as such and incorporated by reference.

VII. DECISION.

Based on the record, and for the reasons set forth herein, the requested Conditional Use Permit for the South Bellevue Segment of the Energize Eastside Project should be and is hereby approved, subject to the following conditions of approval, which are incorporated herein by reference.

ISSUED this 25TH Day of June, 2019



Gary N. McLean
Hearing Examiner

Attachments: Conditions of Approval, 20 pages; and Exhibit List.

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**NOTICE OF RIGHTS
TO REQUEST CLARIFICATION OR RECONSIDERATION,
AND TO APPEAL**

This Decision has been issued by the Hearing Examiner who has specific authority to address Type I quasi-judicial matters following a public hearing. *See LUC 20.35.100.*

REQUEST FOR CLARIFICATION OR RECONSIDERATION – As provided in Rule 1.25 and 1.26 of the Bellevue Hearing Examiner Rules of Procedure, a party may file a written request for clarification or reconsideration of this Decision within five (5) working days after the date of issuance. Additional requirements and procedures concerning Requests for Clarification or Reconsideration are found in Rule 1.25 and 1.26 of the Hearing Examiner Rules of Procedure.

RIGHT TO APPEAL – TIME LIMIT – Persons and entities identified in Land Use Code (LUC) 20.35.150, may appeal a Process I decision of the Hearing Examiner to the Bellevue City Council by filing a written statement of the Findings of Fact or Conclusions of Law which are being appealed, and paying a fee, if any, as established by ordinance or resolution, no later than 14 calendar days following the date that the decision was mailed. The written statement must be filed together with an appeal notification form, available from the City Clerk. The written statement of appeal, the appeal notification form, and the appeal fee, if any, must be received by the City Clerk no later than **5:00 p.m. 14 calendar days following the date that the decision was mailed.** (*Because this Decision has been mailed on June 25, 2019, the appeal deadline is July 9, 2019.*)

TRANSCRIPT OF HEARING – PAYMENT OF COST – An appeal of the Hearing Examiner’s decision requires the preparation of a transcript of the hearing before the Hearing Examiner. Within thirty (30) days of the decision which is appealed from, the appellant shall order from the City Clerk, on a form provided by the Clerk, a full transcript of the hearing before the Hearing Examiner. At the time the order for transcription is placed, the appellant shall post security in the amount of One Hundred Dollars (\$100.00) for each hearing hour to be transcribed. If appellant fails to post security, the appeal shall be considered abandoned.

Additional requirements and procedures concerning appeals filed with the Council are found at Resolution 9473 and in the City of Bellevue Land Use Code.

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