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To: Brian Rybarik, Chair,
Washington Utilities and Transportation Commission
Attorney General Nick Brown

November 10, 2025

Cc: Commissioner Ann Rendahl
Commissioner Milt Doumit
David Postman, Office of the Attorney General
Robert Sykes, Public Counsel,
Office of the Attorney General

General Brown and Commissioner Rybarik,

I am writing to commend the creation of the new Public Records and Open Government Unit in the Office of the Attorney General. The public's right to know about the operation of their government is enshrined both in our state's constitution and in law.

Washington state's commitment to public openness is based on the philosophy expressed in [RCW 42.56.030](#), "The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know." The creation of this new office is in keeping with that spirit.

I write today to ask the Office of the Attorney General (OAG) and the Utilities and Transportation Commission to extend that spirit of transparency and public information to utility ratemaking.

In 2023, the utilities commissioners, with the support of the Public Counsel in the OAG, approved a rate increase for Puget Sound Energy (PSE), noting that "the tariff revisions are necessary to allow the Company to begin to recover the costs of implementing the CCA [Climate Commitment Act]." However, that ruling contained an odious requirement that runs entirely counter to the spirit of openness and transparency embodied in General Brown's recent announcement.

The ruling prohibited Puget Sound Energy from listing the costs of complying with the CCA on customer bills. The commissioners wrote, "we agree with Public Counsel that PSE should not include the proposed 'carbon reduction charge' as a line item on customer bills. Public Counsel correctly observes that including all program charges on customer bills would quickly result in lengthy and confusing bills." Claiming the public might be confused is a flimsy justification to hide information. It certainly does not supersede the requirements of state law which indicate that public servants do not have "the right to decide what is good for the people to know and what is not good for them to know."

Additionally, the excuse that information about the cause of rate increases would be confusing was contradicted by the commissioners' own logic in that same paragraph. The commissioners wrote that they "require the Company to include the 'carbon reduction credit' on customer bills, which will also signal an economic incentive for consumers to reduce their own carbon emissions." In one sentence they argue that adding lines to utility bills makes them confusing and then immediately require adding another line. That is plainly incoherent.

Unfortunately, the OAG's Public Counsel endorsed this decision. As the web page of the OAG notes, "The Public Counsel Unit of the Attorney General's Office represents the customers of state-regulated investor-owned utility companies." Intentionally hiding information from customers they are supposed to represent is at odds with the very purpose of the Public Counsel.

This ruling and lack of transparency is not only causing harm to residential utility customers but also harming state taxpayers and state-funded universities.

In their recent budget request to the governor and legislature, Washington's community and technical colleges asked for an additional \$14.9 million to cover increased utility costs due, in part, to the cost of complying with the CCA. In the [letter accompanying the request](#), the Washington State Board of Community and Technical Colleges specifically mentioned the decision by utilities commissioners, and the support from the AG's office, to hide the costs, implying it made budgeting more difficult. They wrote, "Utilities are also now allowed to transfer the costs associated with the Climate Commitment Act to their customers, but no more than that cost. PSE was advised by the AG's office not to show those costs as a line-item, Avista is showing those line-item costs." That prohibition makes it difficult for the community and technical colleges to accurately estimate those costs as part of their budget request.

Finally, [a recent federal district court ruling](#) indicates that prohibitions like the one adopted by utilities commissioners are a violation of the U.S. Constitution.

In August, the Fourth Circuit Court of Appeals ruled that hiding the cost of taxes from the public violates the First Amendment to the United States Constitution. The Maryland legislature adopted a tax on internet advertising and included a provision that, as Judge Richardson explained in his ruling, "Companies that make money advertising on the internet must not only pay the tax but avoid telling their customers how it affects pricing: No line items, no surcharges, no fees. If companies pass on the cost of the tax, they must do so in silence—keeping customers in the dark about why prices have gone up and thereby insulating Maryland from political responsibility."

Writing for a unanimous three-judge panel, Judge Richardson ruled the state's gag order violates the First Amendment. He wrote, "As much today as 250 years ago, criticizing the government—for taxes or anything else—is important discourse in a democratic society. The First Amendment forbids Maryland to suppress it."

Similarly, protecting consumers (purportedly) from confusion is not a reason to violate the First Amendment rights of utilities' right to show costs or consumers' right to know about the costs they are paying. To be clear, like the Maryland case, utilities commissioners did not require hiding the costs of the CCA because they feared confusion. They did it because they feared the reaction of customers who fully understood the fact that their costs were increasing due to increased taxes.

The commitment to transparency, the harm done to consumers and state-funded institutions and the clear violation of the First Amendment all demonstrate that it is time for the members of the Utilities Commission, with the support of the Public Counsel in the OAG, to eliminate the prohibition on Puget Sound Energy and commit to reject any such future requests to hide information from consumers, state agencies, and the public.


To be clear, this is a formal request for you to issue a new order or amend or revise Order 1 on Docket UG-230470 served on August 3, 2023 in accordance as follows:

1. Remove the existing restriction on Puget Sound Energy in its August 23, 2023 ruling.
2. Adopt guidelines that allow utilities to itemize costs due to state taxes and regulation, including the Climate Commitment Act, the Clean Energy Transformation Act, and other relevant rules.

I would note that the Commission retained jurisdiction of the subject matter and Puget Sound Energy to effectuate the provision of the Order. My request is that you exercise this discretion in consideration of the legal and factual considerations outlines in this letter. Please be advised that failure to do so may result in a petition for court review under RCW 34.05.570. Please respond in writing to this communication in 30 days. Thank you again for your commitment to transparency.

If you have any questions or wish to discuss this issue further, you may contact me at tmyers@washingtonpolicy.org or at (206) 963-3409.

Thank you.



Todd Myers
Vice President for Research
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