**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PUGET SOUND ENERGY, Respondent.	DOCKET NOS. UE-260005 and UG-260006 (*Consolidated*)

RESPONSE TESTIMONY (NONCONFIDENTIAL)

OF MEGAN E. LARKIN

ON BEHALF OF JOINT ENVIRONMENTAL ADVOCATES

July 28, 2026

JOINT ENVIRONMENTAL ADVOCATES

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TABLE OF CONTENTS

JOINT ENVIRONMENTAL ADVOCATES

PREFILED RESPONSE TESTIMONY (NONCONFIDENTIAL) OF MEGAN E. LARKIN

EXHIBIT LIST

MEL-2	Curriculum Vitae of Megan E. Larkin

I. INTRODUCTION AND SUMMARY

Q. Please state your name, job title, and business address.

A. My name is Megan E. Larkin and I am the Washington Buildings and Electrification Policy Director for Climate Solutions, a clean energy nonprofit organization working to accelerate clean energy solutions to the climate crisis. Our business address is 1809 7th Ave #1212, Seattle, WA 98101.

Q. Please describe your background and expertise.

A. I joined Climate Solutions three and a half years ago in February 2023. I have worked on climate and energy policy at the global, national, and state levels. Prior to this role, I worked for the Climate Action Campaign, Mighty Earth, and Waxman Strategies. I have a Bachelor of Arts in Geography and Environmental Studies from Dartmouth College. My CV is attached as Exh. MEL-2.

Q. Please state your experience with energy regulation and proceedings before public utility commissions.

A. As Washington Buildings and Electrification Policy Director, I lead Climate Solutions' buildings policy advocacy in the legislature and before the Washington UTC. Before the UTC, this includes advocating in utility proceedings for rates and resource plans that support a just energy transition to non-emitting fuels. I currently serve on PSE's Resource Planning Advisory Group, where I advise the development of its first-ever integrated system plan (ISP). I also have participated in PSE's 2023 Gas Integrated Resource Plan (Docket No. UG-220242) and 2023 Electric Integrated Resource Plan Progress Report (Docket No. UE-200304) by drafting comments that were submitted by Climate Solutions. In addition, I have participated in rulemakings such as Docket U-240281 determining the rules to implement Integrated System Plans under Engrossed Substitute House Bill 1589.

Q. What is the purpose of your testimony, and how is your testimony organized?

A. My testimony seeks to evaluate whether PSE's gas system is in compliance with the Climate Commitment Act, and whether its compliance appropriately balances risk between shareholders and customers. My testimony is divided into five sections. In Section II, I will explore the Climate Commitment Act and generally define how gas utilities are required to comply as covered entities. Next, I will assess PSE's compliance with the Climate Commitment Act to date, as well as the impact to PSE's customers. In Section IV, I will explain how PSE's compliance strategy with the Climate Commitment Act has placed a disproportionate level of risk, and therefore financial burden, on its customers. I also detail a risk-sharing proposal that will correct this balance, especially in a rate case that proposes increased rates for customers yet excludes the important context of PSE's CCA compliance. Finally, in the fifth section (conclusion), I will summarize and conclude my argument.

II. STRUCTURE AND INTENT OF THE CLIMATE COMMITMENT ACT (CCA)

Q. What is the Climate Commitment Act?

A. Passed by the Washington legislature in 2021, the CCA requires and provides pathways for covered entities to meet Washington's ambitious statewide emissions reduction goals.[1] The statewide cap decreases every three years, with the eventual requirement of net-zero carbon footprint and a 95% reduction from 1990 emissions levels by 2050.[2]

[1] ESSB 5126, 67th Leg. 316 (Wash. 2021).
[2] RCW 70A.45.020.

The CCA directs the Governor to establish an implementing governance structure to ensure accountability, coordinated climate resilience approaches, equity and inclusivity in the clean energy economy, clear policy directives, and financial mechanisms to achieve the CCA's goals.[3]

The CCA also directs the Department of Ecology (Ecology) to implement a greenhouse gas (GHG) emissions cap and invest program to reduce GHG emissions from covered entities pursuant to the statewide emissions goals.[4] Entities that emit 25,000 or more metric tons of carbon dioxide equivalent are "covered entities" that are required to register to participate in the cap and invest program.[5] The CCA requires that Ecology determine an emissions baseline that establishes the covered entities' share of GHGs in proportion to the total GHG emissions of the state. Ecology must then adopt annual allowance budgets for covered entities for each four-year compliance period. Ecology must distribute these allowances through auctions.[6] Ecology must also revisit the program in certain years to evaluate whether adjustments are needed to ensure that covered entities "achieve their proportionate share" of statutory emissions reduction limits.[7] In addition, the CCA requires that Ecology direct a minimum of 35%,—with a goal of 40%—of cap-and-invest auction revenue to directly benefit vulnerable populations in overburdened communities.

[3] RCW 70A.65.050.
[4] *Id*. at 70A.65.060.
[5] *Id*. at 70A.65.080.
[6] *Id*. at 70A.65.070.
[7] *Id*. at 70A.65.070(3).

Q. Who is covered by the Climate Commitment Act?

A. Covered entities by the CCA include, generally, businesses that emit the equivalent of 25,000 metric tons of carbon-dioxide or more per year. Covered business types include (but are not limited to) fuel suppliers, natural gas and electric utilities, waste-to-energy facilities (starting in 2027), and railroads (starting in 2031). Some emissions are exempted, including those from fuels used for agricultural purposes, aviation fuels, and marine fuels combusted outside of Washington. Emissions from fuels exported out of Washington also are excluded.

Q. What are the responsibilities of covered entities under the Climate Commitment Act?

A. Covered entities are enrolled in the cap-and-trade program and have compliance obligations. As the CCA establishes, the primary goal of the Act is to achieve statewide emissions reduction goals. The cap and invest program that implements the GHG reduction targets is expressly intended to ensure that covered entities reduce their emissions;[8] that is, these emitters are considered "responsible" for meeting the GHG reduction targets.[9] The CCA also includes a price containment mechanism to ensure prices of allowances do not drop too low so as to ensure covered entities have the financial incentives to achieve their proportionate share of emissions reductions.[10]

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[8] *Id*. at 70A.65.060(1).

[9] *Id*. at 70A.65.050(2)(b); *see also* RCW 70A.65.060(2) (annual allowance budget is intended to limit emissions from covered entities).

[10] *Id*. at 70A.65.070(2); *see also* remarks of Sen. Cushing explaining that price containment mechanisms "ensure the price of allowances available for auction remains sufficient to incentivize reductions in greenhouse gas emissions." January 19, 2021 Public Hearing; Senate Environment, Energy & Technology Committee at 00:05:14; available at https://tvw.org/video/senate-environment-energy-technology-committee-2021011336/?eventID=2021011336.

Q. What are the special provisions for natural gas utilities to comply with the CCA?

A. Ecology determines an allocation schedule for natural gas utilities to receive a certain quantity of emission allowances at no cost based on the utility's baseline emissions, for each compliance period. Ecology has established that in the first compliance year, gas utilities receive allowances to cover 93% of their emissions allocation baseline.[11] Utilities receive fewer no-cost allowances over time proportionate to the declining statewide cap, and eventually stop receiving no-cost allowances after 2045.[12]

In addition, beginning in the first compliance period, gas utilities must auction 65% of the no-cost allowances they receive. The percentage required to be auctioned increases by 5% each year until it reaches 100%.[13]

Q. What do the declining statewide emissions cap and provisions for no-cost allowances mean for gas utilities' long-term compliance strategies?

A. Over time, the share of gas utilities' compliance obligations that they must meet without relying on no-cost emissions grows, and the total amount of allowances available statewide decreases. As the clearest example of this, by 2046 utilities will not receive any no-cost allowances, and the total number of available allowances will be around 12 MMt and continuing to decrease.[14] At that point, the costs and risks of relying on allowance purchase instead of emission reductions will be significantly higher than they are now.

[11] WAC 173-446-240(2).
[12] RCW 70A.65.120(d).
[13] RCW 70A.65.130(2)(a).
[14] *See* Wash. Dep't of Ecology, *Washington's Cap-and-Invest Program*, fig. "Projected Allowance Budgets Over Time," available at https://ecology.wa.gov/air-climate/climate-commitment-act/cap-and-invest.

Q. What are the long-term risks to customers of a compliance pathway largely dependent on purchasing allowances?

A. With a compliance pathway largely dependent on purchasing allowances, customers miss out on the many benefits that other compliance pathways—such as investing in decarbonization and electrification programs—would have. These benefits include improved health outcomes, cleaner air, lower utility bills in the long term, and more efficient homes. Purchasing allowances, and passing through the costs to customers, increases energy bills and potentially energy burden for customers that fall just outside PSE's defined low-income customers or have not been identified or enrolled in it yet.

Q. Does the CCA require that customers bear the risk of a utility's CCA compliance cost?

A. Importantly, no. The CCA does not state that customers are solely responsible for the cost of obtaining allowances or the financial risks of the utility's compliance methods. Rather, covered entities are responsible for compliance costs. This Commission recognized that in its order to PSE to develop a risk-sharing mechanism, stating that "CCA costs are imposed *on the utility* and are mandatory."[15]

III. PSE'S COMPLIANCE WITH THE CLIMATE COMMITMENT ACT

Q. Is PSE a covered entity under the CCA?

A. Yes. PSE is a covered entity that produces at least 25,000 metric tons of carbon dioxide per year.

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[15] UTC, Docket No. UG-230470, Order 01, *Allowing Tariff Revisions to Become Effective Subject to Conditions* (Aug. 3, 2023) at ¶ 22.

Q. Is PSE obligated to use allowance auction revenues to recoup the cost of purchasing allowances?

A. No. The language in the Act reflects legislators' practical understanding that compliance with the CCA will require covered entities to spend money to decarbonize. The CCA directs implementation of a program to reduce emissions reduction statewide, on a proportional basis among sectors. Thus compliance by covered entities to meet the CCA's goals is achieved primarily through emissions reductions. As PSE has recognized in public testimony to the Senate Ways and Means Committee in support of the CCA, the "cap will drive deep and swift reductions in natural gas and the current structure ensures those do not harm our customers."[16] In the interim, utilities can meet compliance obligations through obtaining allowances or offsets. But the overall quantity of allowances and the amount of no-cost allowances received decreases significantly each compliance period, a further indicator that compliance is primarily to be achieved through emissions reduction.

Utilities seeking to decarbonize their business may therefore incur various expenses beyond simply purchasing allowances, such as investing in pilot studies, obtaining alternative fuels, spending on energy efficiency or weatherization methods, and so forth. With the passage of House Bill 1589, PSE is under special direction to prioritize allowance auction revenue to the maximum extent possible for electrification programs benefitting residential and small commercial customers after first eliminating the cost burden for low-income ratepayers.[17]

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[16] Janet Kelly, March 15, 2021 Public Hearing, Senate Ways & Means Committee at 01:26:25, available at https://tvw.org/video/senate-ways-means-committee-2021031291/?eventID=2021031291.

[17] 1589-S SL, Wash. Decarbonization Act for Large Util., § 3 (4)(y)(ii).

Some portion of those expenses and capital investments might be recoverable in rates. Those, too, would be costs that could be mitigated through allowance auction revenue. Therefore, it would be wrong to read these provisions of the CCA narrowly as justification for a 100% pass-through of cost and risk of purchasing allowances onto customers.

Q. How can PSE comply with the CCA?

A. As a covered entity, PSE has several compliance pathways available. Covered entities may comply by: Purchasing allowances at auction; purchasing from other entities; obtaining allowances through no-cost allocation; earning or purchasing offset credits (limits apply); reducing greenhouse gas emissions; or a combination of the above. However, those options must be understood in light of the overall objective of the Act to reduce greenhouse gas emissions.

Q. How has PSE primarily chosen to comply with the Compliance Commitment Act?

A. PSE has primarily chosen to comply using their allocation of no-cost allowances and by purchasing the remainder of allowances needed to cover their emissions at auction. As the cost of purchasing allowances is high, PSE has then filed tariffs passing through nearly 100% of the cost of compliance to their customers. These have been technically approved on an interim basis by the UTC and subject to refund while the issue of risk sharing is resolved. However to date none of the tariffs have been revoked and refunded since passed.

Q. What have the rate impacts been for customers?

A. In one example of PSE's tariff to purportedly recover CCA compliance costs—Docket UG-230968 covering the year 2024—a typical residential customer using 64 therms per month would see an increase of $1.91 per month, or 2.43 percent.[18] This amount is likely lower than the total amount customers would see increasing over time, as no-cost allocation decreases, and prices rise, and PSE must buy more allowances at higher cost to comply with the CCA.

Q. Has there been any attempt to share CCA compliance costs between PSE and customers?

A. In 2024 a different group of Joint Environmental Advocates (JEAs) intervened in PSE's initial tariff filing in docket UG-230968. In this docket, the UTC ordered PSE to propose a risk-sharing model and advocates including Public Counsel and the JEAs proposed risk-sharing models in return. Below I elaborate the model that the JEAs proposed.

Q. What was the JEAs' risk-sharing proposal in the prior proceeding?

A. The JEAs' risk-sharing mechanism involves a comparison of compliance instrument unit costs to specific sharing bands, namely the deadband and band alpha. These bands dictate the degree of cost sharing. The "deadband" encompasses unit costs ranging from the auction floor price to one cent below the 97.5 percentile, with customers bearing 100% of the unit costs. The "band alpha" encompasses unit costs from the 97.5 percentile to the ceiling price in the compliance period, with customers bearing 70% of the unit costs and the Company bearing 30%.

All costs charged to the Company will be apportioned over the compliance period for earnings assessment.[19] Once compliance costs are allocated to each year of the compliance period, the earnings test will be established at 50 basis points lower than

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[18] UTC, Docket No. UG-230968, Order 05 (Feb. 21, 2025) at ¶ 22.

[19] For example, suppose PSE was allocated $100,000 in expense in the third compliance period. Assuming a four-year compliance period, each year in the third compliance period would reflect $25,000 in expenses.

PSE's natural gas operations' authorized return on equity. Furthermore, if the compliance period's duration changes under CCA rules, the language in the rate schedule should be flexible to accommodate such changes while maintaining the risk-sharing mechanism.

Q. What did the Commission decide in the prior CCA tariff proceeding?

A. The Commission found that it is within its authority to require a risk-sharing mechanism and that one may be necessary to protect customers. The Commission found that the risk-sharing mechanism proposals put forth by the parties will not adequately share risks and incentivize a least-cost allowance purchasing strategy by PSE. The Commission also found that the discussion should include all impacted parties, and should be considered in the Commission's CCA rulemaking docket.[20]

Q. What has happened in the policy docket, U-230161?

A. On April 15, 2025, the Commission issued a Notice of Opportunity to Comment in Docket U-230161 regarding risk sharing mechanisms. On May 30, 2025, NWEC, Climate Solutions and Washington Conservation Action filed joint comments in response to the Commission's notice. At that time, NWEC, Climate Solutions, and WCA continued to support the proposal we submitted in Docket UG-230968; however, we noted that we purposefully designed that proposal to be conservative, in an effort to make it more palatable to both PSE and the Commission in the hopes of getting a risk-sharing mechanism in place in that docket and perfecting it as we move forward. Since our proposal was based on the specific facts in that case, we remain open to other approaches and designs which might be more generally applicable to all companies. We also acknowledge that one size might not fit all, and we remain open to adopting different

[20] UTC, Docket No. UG-230968, Order 05 (Feb. 21, 2025) at ¶ 22.

risk-sharing mechanism designs for different companies. We remain open to a market performance mechanism, as proposed by Public Counsel in UG-230968.

Q. Did the Commission discuss the need for a risk-sharing mechanism in the policy docket?

A. Yes. On July 15, 2025, the Commission held a workshop on risk sharing mechanisms. Lauren McCloy from NWEC gave a presentation in Docket U-230161 entitled: Risk-sharing Between Shareholders and Customers: A Framework for Fair and Effective Climate Commitment Act Regulation.

Q. Has the Commission determined that a risk-sharing mechanism should be required?

A. Yes, the Commission has already determined that a risk-sharing mechanism should be required in dockets UG-230470 and UG-230968:

> Finally, we require PSE to work with interested parties through the CCA workshop series in Docket U-230161 and with its Low-Income Advisory Group to develop a risk sharing mechanism rather than a cost sharing mechanism. Although we understand the parties' arguments for a cost sharing mechanism, CCA costs are imposed on the utility and are mandatory. *We recognize, however, that the proposed tariff inappropriately places all the risks associated with CCA compliance through allowances on PSE's natural gas customers. Accordingly, we require PSE to work with parties to develop a proposal for a risk sharing mechanism that appropriately balances the compliance risk between the Company and its natural gas customers. The CCA is meant to serve as a price signal to both utilities and their customers, encouraging both to modify their behavior to reduce carbon emissions. The mechanism should share risk such that all parties are encouraged to reduce their emissions, and, in turn, the costs required for CCA compliance*. We require PSE to propose a risk sharing mechanism in its October filing for Commission review.[21]

[21] UTC, Docket No. UG-230470, Order 01 (August 3, 2023) at ¶ 22 (emphasis added).

Q. What did the Commission further determine in UG-230968?

A. The Commission has determined:

- A risk-sharing mechanism for CCA allowance costs should be required;
- A risk-sharing mechanism should balance risks between shareholders and customers;
- A risk-sharing mechanism should incentivize a least-cost allowance purchasing strategy; and
- If the risk-sharing mechanism includes an earnings test, it should still allow for meaningful risk-sharing.

Q. Has the Commission made any determinations about the design of a risk-sharing mechanism?

A. No. The Commission issued interim policy guidance on several other CCA-related issues, but declined to provide guidance on the specific design of a risk-sharing mechanism. The following outstanding questions remain:

- If an earnings test is included, what is an appropriate earnings test?
- If dead bands are included, should they be based on market performance?
- Should the risk-sharing mechanism apply to both gas and electric companies?

Q. Does PSE plan to change its compliance strategy with the CCA?

A. No. PSE continues to pass on nearly 100% of CCA compliance costs for their gas system to customers.

IV. PSE HAS UNREASONABLY PLACED THE COST BURDEN OF CCA COMPLIANCE ON CUSTOMERS

Q. What are your concerns with PSE's CCA compliance?

A. As a regulated utility, PSE's rates must be in the public interest and be just, fair, reasonable, and sufficient. PSE's proposed hefty rate increases, combined with passed-through CCA compliance costs to customers, creates an unreasonable burden that is not in the public interest.

First, the CCA does not direct 100% pass-through of costs. The CCA simply notes that costs for customers *may* increase, and revenues from selling allowances must go to alleviate any such cost burden. Costs may increase because of various reasons, as discussed above: costs a utility might incur to reduce its emissions—which can actually lower utility bills for customers—or that it incurs to obtain compliance instruments, which have no long-term value for customers. Recognizing increased costs for a utility and, potentially, its customers does not mean that customers automatically shoulder the entirety or the majority of those costs. And, by extension, it does not mean that customers bear the entire or majority of the risk of their utility's CCA compliance plans.

Second, if PSE's interpretation were correct, there would be no need to require an auction of the no-cost allowances. Utilities could simply be allocated no-cost allowances without requiring the auction of those allowances. But the legislature enacted a more nuanced compliance pathway, requiring that an increasing percentage of the no-cost allowances be auctioned. This indicates that the CCA's provisions are structured to require covered entities: (1) primarily to reduce emissions and, in the interim, (2) to consider the financial logic of covering emissions with allowances that must be purchased from an ever-decreasing supply while being allocated fewer no-cost allowances each year, in comparison to pursuing long-term lower-cost decarbonization options.

Third, utilities are covered entities, customers are not. PSE is one of the state's largest emitters covered by the program. A large emitter like PSE has capital, technological, organizational, and human resources at its disposal to enact complex plans to reduce its emissions. If covered entities can avoid any sort of financial effect of avoiding emissions reductions because they can foist those risks onto customers, then the purpose of the CCA is nullified. The CCA was intended to reinvest in decarbonization and send price signals to *covered entities* to promote decarbonization, not to allow business as usual funded by utility customers. This Commission agreed as much when it ordered PSE to develop a risk sharing mechanism proposal, stating that the CCA is "meant to serve as a price signal to both utilities and their customers, encouraging both to modify their behavior to reduce carbon emissions."[22] PSE claims that it would be unfair to impose risk-sharing because various factors that might affect the cost of compliance are not within PSE's direct control, but that ignores the fact that decarbonization is typically not within many customers' control (particularly residential customers) and thus these customers should *also* not bear the entire risk.

The text, structure, and purpose of the CCA undermine PSE's position on how risks of compliance pathways are to be shared between the utility and the customer. The fact that PSE is largely proposing a status quo approach to maintaining the gas system,

[22] UTC, Docket No. UG-230470, Order 01 (August 2, 2023) at ¶ 22.

rather than aggressively seeking to transition gas customers to electricity, highlights the importance of getting this question right.

V. CONCLUSION

Q. What is your recommendation to the Commission?

A. This testimony explains how PSE has not fairly balanced risk amongst shareholders and ratepayers to ensure rates are in the public interest. It further underscores the need for the Commission to adopt the JEAs' recommendations put forth by Bradley T. Cebulko and Lauren C. McCloy that will put PSE on a path to complying with the CCA by reducing the exposure of its gas customers to CCA costs.

Q. Should the Commission adopt a specific risk-sharing mechanism in this docket?

A. Not necessarily. The Commission has previously stated that these issues should be resolved in a generally applicable manner rather than in a specific rate case, and we have taken that admonition to heart. However, the issue must be resolved in the near future and in a way that applies to this rate period.

Q. What should the Commission do with regard to risk-sharing mechanisms?

A. The Commission should issue policy guidance on the design of risk-sharing mechanisms in Docket U-230161 and require all utilities to file risk-sharing mechanisms consistent with the Commission's guidance. If the Commission issues such guidance during the course of this adjudication, it should require PSE to file a risk-sharing mechanism proposal consistent with the Commission's guidance as a compliance filing in its final order in this docket. If this risk-sharing mechanism is adopted after the case is resolved, it should apply retroactively, in accordance with the Commission's interim approval of PSE's tariffs to collect CCA costs from customers.

Q. Does this conclude your direct testimony?

A. Yes.