

**PUBLIC UTILITY DISTRICT No. 1
of Whatcom County**

Agenda for the Regular Meeting of March 25, 2025
8:15 a.m. at the PUD Office
(Zoom, & Teleconference)

1. Call to Order | Pledge of Allegiance
2. Approval of Agenda (2 minutes)
3. Consent Agenda (5 minutes)
 - a) Approval of the Minutes of the Regular Meeting of March 11, 2025 and the Special Meeting of March 14, 2025
 - b) Approval of Claims for March 25, 2025
4. Public Comment (10 minutes – Individual speakers: 3 minutes)
5. General Manager Report (20 minutes)
6. Operations Report (10 minutes)
7. Old Business (30 minutes)
 - a) Broadband Update
 - b) Adjudication Update
 - c) Geothermal Update
 - d) Strategic Plan Update
8. New Business (30 minutes)
 - a) Report 1: Presentation on New BPA Power Sales Agreement (“Provider of Choice”)
 - b) Report 2: Annual OPMA/PRA Training (30-40 minutes)
 - c) Action 1: Approve Professional Services Agreement (PSA) With Pacific Surveying And Engineering, To Perform Engineering And Surveying Services For The Whatcom PUD And Authorize The General Manager To Sign The Agreement.
 - d) Resolution 1: Resolution 874 Updating The Signatories At Whatcom County
 - e) Resolution 2: Resolution 875 Honoring Assistant General Manager Brian Walters
9. Commissioner Reports (10 minutes)
 - a) Upcoming Per Diem Requests
Commissioner Arnett: None as of publication
Commissioner Ury: None as of publication
Commissioner Deshmane: None as of publication
10. Public Comment (10 minutes– Individual speakers: 3 minutes)
11. Executive Session: (30 Minutes Potential Litigation, No action will be taken)
12. Adjourn (Estimated 10:20 AM)

Notice:

All Commissioners will participate either via Zoom/internet or teleconference.

The public meeting can be accessed;

By internet: <https://us02web.zoom.us/j/82587804152>

NOTE: IF ATTENDING VIA ZOOM WE WOULD APPRECIATE YOUR FULL NAME FOR THE COMMISSION RECORD THOUGH IT IS NOT REQUIRED

<p>Or telephone: Dial 1 (253) 215 8782 or 1 (253) 205 0468 Webinar ID: 825 8780 4152</p>
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Next Commission Meetings

April 08 and April 22, 2025 |8:15 a.m.| Regular Meetings

Meetings to be held at the District Office

1705 Trigg Road, Ferndale, WA 98248

or other location announced

Contact: Chris Heimgartner, General Manager (360) 384-4288 x 119

info@pudwhatcom.org

www.pudwhatcom.org

Attendee Report

Report Generated: 3/11/2025 11:43

Topic	Webinar ID	Actual Start Time	Actual Duration (minutes)	Unique Viewers	Total User: Max Conc	Enable Registration
March 11, 839	1462 1498	3/11/2025 8:00	143	8	18	7 No

Host Details

Attended	User Name (Original Name)	Email	Join Time	Leave Time	Time in Se	Is Guest	Country/Region Name
Yes	Mike M. Whatcom PUD - IT	mikemacomber@pudwhatcom.org	3/11/2025 8:00	3/11/2025 10:23	143	No	United States

Panelist Details

Attended	User Name (Original Name)	Email	Join Time	Leave Time	Time in Se	Is Guest	Country/Region Name
Yes	Paul Siegmund	paulsiegmond@pudwhatcom.org	3/11/2025 8:11	3/11/2025 10:18	127	No	United States
Yes	Brian Walters	brianwalters@pudwhatcom.org	3/11/2025 9:39	3/11/2025 10:23	45	No	United States
Yes	Whatcom PUD	zoom@pudwhatcom.org	3/11/2025 8:00	3/11/2025 10:10	130	No	United States
Yes	Whatcom PUD	zoom@pudwhatcom.org	3/11/2025 10:15	3/11/2025 10:23	8	No	United States
Yes	Aaron Peterson	aaronpeterson@pudwhatcom.org	3/11/2025 8:19	3/11/2025 10:11	113	No	United States
Yes	Aaron Peterson	aaronpeterson@pudwhatcom.org	3/11/2025 10:11	3/11/2025 10:23	12	No	United States
Yes	Chris Heimgartner	chrish@pudwhatcom.org	3/11/2025 8:00	3/11/2025 10:08	128	Yes	United States
Yes	Annette Smith	annettesmith@pudwhatcom.org	3/11/2025 8:17	3/11/2025 10:09	112	No	United States
Yes	Kurt Wank	kurtwank@pudwhatcom.org	3/11/2025 8:11	3/11/2025 10:23	133	No	United States

Attendee Details

Attended	User Name (Original Name)	Email	Join Time	Leave Time	Time in Se	Is Guest	Country/Region Name
Yes	Stephanie Hooper	stephaniehooper@pudwhatcom.org	3/11/2025 8:10	3/11/2025 10:09	119	No	United States
Yes	Michael M. (Michael)		3/11/2025 8:03	3/11/2025 10:23	140	Yes	United States
Yes	Rebecca Schlotterback	rebeccas@pudwhatcom.org	3/11/2025 8:11	3/11/2025 10:09	118	No	United States
Yes	Lisa Moeller		3/11/2025 9:40	3/11/2025 10:23	43	Yes	United States
Yes	Tyler McDevitt		3/11/2025 8:15	3/11/2025 10:23	128	Yes	United States
Yes	garrettl		3/11/2025 9:19	3/11/2025 10:00	41	Yes	United States
Yes	Annette Smith	annettesmith@pudwhatcom.org	3/11/2025 8:13	3/11/2025 8:17	4	No	United States
Yes	Dave Olson		3/11/2025 9:04	3/11/2025 10:16	72	Yes	United States

**MINUTES OF THE REGULAR
MEETING OF THE COMMISSION
March 11, 2025**

1. Call to Order | Pledge of Allegiance

The regular meeting of the Board of Commissioners of Public Utility District No. 1 of Whatcom County was called to order at 8:15 a.m. by Commissioner Atul Deshmane. Said meeting was open to the public and notice thereof had been given as required by law.

Those present at the meeting included:

COMMISSION AND STAFF

Atul Deshmane	Commissioner
Jaime Arnett	Commissioner
Eddy Ury	Commissioner
Jon Sitkin	Legal Counsel
Chris Heimgartner	General Manager
Andrew Entrikin	Director – Broadband and New Power Supply
Annette Smith	Director of Finance
Brian Walters	Assistant General Manager
Garrett Love-Smith	Engineering Manager
Joseph Shay	Clerk of the Board / Records
Kurt Wank	Assistant General Manager
Lisa Moeller	Director – HR & Communications
Mike Macomber	IT/SCADA Technician
Rebecca Schlotterback	Contracts and Regulatory Compliance Manager
Stephanie Hooper	Accountant I

VISITORS

Dave Olson	Citizen
Tyler McDevitt	Citizen

2. Approval of Agenda

ACTION:

Commissioner Arnett made a motion to approve the agenda. Commissioner Deshmane seconded the motion. The motion passed unanimously.

3. Approval of Consent Agenda

a) Approval of the Minutes of Regular Commission Meeting of February 25, 2025 & Approval of the Claims of March 11, 2025:

Commissioner Arnett made a motion to approve the consent agenda as a whole including both the minutes and the claims. Commissioner Ury seconded the motion. The motion passed unanimously.

Claims of March 11, 2025:

AT&T MOBILITY	1,836.22
BAKER SEPTIC TANK PUMPING	1,014.70
BRIM TRACTOR COMPANY	145.84
CENTRAL WELDING SUPPLY	1,510.85
COBB, FENDLEY & ASSOCIATES, INC	2,010.00
COMPLETE DESIGN INC	2,700.00
CORNERSTONE MANAGEMENT, INC.	276.00
CRINA HOYER CONSULTING	585.00
CULLIGAN NORTHWEST	67.86
EAGLE-EYE AERIAL SOLUTIONS, LLC	800.00
EXACT SCIENTIFIC SERVICES INC.	30.00
FEDERAL EXPRESS	16.02

FERNDALE ACE HARDWARE	78.20
FERNDALE AUTO PARTS	131.84
FERNDALE CITY OF	344.42
FOSTER GARVEY PC	19,732.00
GOODWIN, CHRISTOPHER	381.71
HACH COMPANY	104.24
HARDWARE SALES, INC .	23.47
HEALTH PROMOTIONS NORTHWEST	150.00
HEIMGARTNER, CHRIS	2,248.32
HESS, DEVIN	112.82
HOOPER, STEPHANIE	57.49
JOHN DEERE FINANCIAL	386.73
K&L PRESTON GATES & ELLIS	74,000.00
MOTION AND FLOW CONTROL PRODUCTS INC	684.19
NEL/SON DISTRIBUTING DBA NELSON-REISNER	1,181.43
NORTHWEST CASCADE, INC.	165.50
NORTHWEST FIBER DBA ZIPLY FIBER	868.40
PACIFIC POWER BATTERIES	52.25
PARAMOUNT SUPPLY COMPANY	972.83
PITNEY BOWES GLOBAL FINANCIAL SERVICES LLC	99.51
PLATT ELECTRIC SUPPLY CO	5,207.22
PROSCAPES	565.76
PUD #1 OF WHATCOM COUNTY	3.81
PUGET SOUND ENERGY, INC	3,838.50
REGENCE BLUE SHIELD	42,924.58
RICOH USA	184.42
S&P GLOBAL PLATTS	3,612.16
SCHOLTEN'S EQUIPMENT INC	153.73
SSC - SANITARY SERVICE COMPANY	680.10
TEAMSTER LOCAL #231	837.00
ULINE, INC.	60.50
UNITED WAY OF WHATCOM COUNTY	570.00
UTILITIES UNDERGROUND LOCATION	36.45
VALVOLINE	76.92
WAECO CONSTRUCTION LLC	30,925.55
WASHINGTON DENTAL SERVICE	3,153.05
WASHINGTON TEAMSTERS WELFARE	16,048.80
WHATCOM COUNTY TREASURER	852.61
WHATCOM JANITORIAL	1,575.00
WHISTLE WORKWEAR	505.13
GRAND TOTAL	\$ 224,579.13

4. Public Comment – None

5. General Manager’s Report – Chris Heimgartner, General Manager reported that a special commission meeting would be held on Friday March 14, 2025 with Crina Hoyer present to discuss the rolls and responsibilities of the commissioners and the General Manager. Discussion was had amongst the commissioners and it was decided to set the start time for the special meeting at 2:30 PM with an end time of approximately 5:00 PM. The commissioners also decided that as part of the special meeting there would be discussion and possible action in regards to upcoming Washington State legislation that relates to public utility districts.

Mr. Heimgartner also reported to the Commission about his trip to Washington DC and his meetings at APPA and PPC. He noted that the recent tariffs placed on Canada by the US Federal Government and the subsequent Tariffs placed on the United States by Canada were a hot topic of discussion in relation to how they would affect energy rates as Canada has placed and are planning to potential place tariffs on energy sources exported to the United States. Mr. Heimgartner introduces Brian Walters, Assistant General Manager to present to the Commission research he had done related to the possible effects of tariffs on energy rates. Mr. Walters stated

that the full impact to rates of the Canadian tariffs on energy imports was not yet fully known as there are many variables that go into determining power rates. Mr. Waters noted that long term there would likely be an increase in rates due to the tariffs though those amounts can not be determined as yet.

Mr. Heimgartner continued his report to the Commission about his trip to Washington DC. Mr. Heimgartner reported that at the APPA meeting a hot topic of discussion was the impact on the supply of major electrical components IE, transformers, switches, etc. by private tech firms building substations to supply power to server farms. Mr. Heimgartner noted that the ability to supply major electrical components was already limited due to limited suppliers and inventory and that the increased demand from private firms has not only increased scarcity of the components but has drastically driven up costs.

Lastly, Mr. Heimgartner reported on his talks with federal congressmen and senators regarding the Bonneville Power Administration staffing cuts. He noted that the senators and congress people he spoke with were aware of the situation and they along with members of WPUA have been pushing back against the staffing cuts. On that topic Mr. Heimgartner reported that at the PPC meeting he attended it was noted that BPA was given authority to hire back staff that had been cut. Also at that meeting he noted that BPA had issued a draft decision to join SPP's Markets Plus energy market.

6. **Operations Report** – Kurt Wank, Assistant General Manager reported that on April 1, 2025 the PUD will have a contractor out to examine the 115 KV transmission line 3-way switch to determine what needs to be done to repair and stabilize the switch.
7. **Old Business**
 - a) **Broadband Update** – Chris Heimgartner, General Manager and Andrew Entrikin, Director of Broadband and New Power Supply reported to the Commission that Round 2 of the BEAD grant process has been pushed back a week and until Round 2 was opened there will be no information as to what service areas were awarded grants from Round 1.
 - b) **Adjudication Update** – John Sitkin, Legal Counsel updated the commission on the recent developments related to the upcoming adjudication proceedings.
 - d) **Geothermal Update** – No updated information since the previous meeting, still waiting on the final report.
 - e) **Strategic Plan Update** – Chris Heimgartner, General Manager informed the Commission that he will be signing the work order to begin the strategic planning process. Mr. Heimgartner noted that once the work order has been signed strategic planning session meetings will be scheduled.

Due to time constraints Commissioner Arnett made a motion to table agenda item 9 a. Annual OPMA/PRA Training until the March 25, 2025 regular commission meeting. Commissioner Ury seconded the motion. The motion passed unanimously.

8. **New Business**
 - a) Action 1: Approval of Amendment 3 To Work Order No. 2 With Consor For Additional Engineering Services For A Cost Not To Exceed Amount Of Four Million Four Hundred Ninety-Two Thousand Nine Hundred Fifty-Three Dollars (**\$4,492,953**) And Authorize The District's General Manager To Execute The Amendment was considered by the Commission. Commissioner Arnett motioned to approved Action 1. Commission Deshmane seconded the motion. The motion passed unanimously.
 - b) Resolution 1: Approval of Resolution 873 Updating The Target Balance And Signatories On The KeyBank Revolving Checking Account. Commissioner Arnett motioned to approve Resolution 873. Commissioner Ury seconded the motion. The motion passed unanimously.

9. **Commission Reports/Per Diem Requests:**
Commissioner Arnett had nothing to report

Commissioner Ury reported that he will be attending WPUA and discussed the possible attendance of a commissioner at the Whatcom Planning Meeting on Thursday March 13, 2025 to provide input from the PUD related to the County's consideration of what kilovolt level of power

lines they wish to allow in the county. Commissioner Deshmane offered to attend the meeting and present the PUD's position that there should be no restriction on the voltage of the lines.

Commissioner Deshmane reported on his attendance WPUDA and the PPC meeting.

10. Public Comment – None

11. Executive Session

Executive session was had to discuss potential litigation, No action was taken

12. Adjourn

There being no further business Commissioner Deshmane adjourned the meeting at 10:23 a.m.

Atul Deshmane, President/Commissioner

Jaime Arnett, Vice President/Commissioner

Eddy Ury, Secretary/Commissioner

Commission Clerk Note:

Video recordings of the Whatcom PUD Commission Meetings are available online at the following link on the PUD's Website: <https://www.pudwhatcom.org/the-commission/agenda-packets-meeting-minutes-recordings/>

Attendee Report

Report Generated:

3/18/2025 11:21

Topic	Webinar ID	Actual Start Time	Actual Duration (minutes)	Unique Viewers	Total User Max Conc	Enable Registration
March 14, 2025 - Special PUD C 870 7122 7554		3/14/2025 14:17	183	5	12	4 No

Host Details

Attended	User Name (Original Name)	Email	Join Time	Leave Time	Time in Session	Is Guest	Country/Region Name
Yes	Mike M. Whatcom PUD	mikemacomber@pudwhatcom.org	3/14/2025 14:17	3/14/2025 17:19	183	No	United States

Panelist Details

Attended	User Name (Original Name)	Email	Join Time	Leave Time	Time in Session	Is Guest	Country/Region Name
Yes	Kurt Wank	kurtwank@pudwhatcom.org	3/14/2025 14:29	3/14/2025 15:29	60	Yes	United States
Yes	Joseph Shay (Joseph Shay)	josephshay@pudwhatcom.org	3/14/2025 14:25	3/14/2025 17:19	174	Yes	United States
Yes	Whatcom PUD	zoom@pudwhatcom.org	3/14/2025 14:17	3/14/2025 14:19	3	No	United States
Yes	Whatcom PUD	zoom@pudwhatcom.org	3/14/2025 14:23	3/14/2025 17:19	177	No	United States
Yes	Andrew Entrikin	andrewentrikin@pudwhatcom.org	3/14/2025 14:25	3/14/2025 15:09	45	No	United States
Yes	Jon Sitkin	jsitkin@csdlaw.com	3/14/2025 14:27	3/14/2025 17:19	173	Yes	United States

Attendee Details

Attended	User Name (Original Name)	Email	Join Time	Leave Time	Time in Session	Is Guest	Country/Region Name
Yes	Lisa Moeller		3/14/2025 14:31	3/14/2025 17:19	169	Yes	United States
Yes	Brian Heinrich, PSE		3/14/2025 14:30	3/14/2025 15:51	82	Yes	United States
Yes	Whatcom PUD	zoom@pudwhatcom.org	3/14/2025 14:17	3/14/2025 14:17	1	No	United States
Yes	Rebecca Schlotterback	rebeccas@pudwhatcom.org	3/14/2025 14:26	3/14/2025 17:05	160	No	United States
Yes	Michael		3/14/2025 14:27	3/14/2025 17:19	172	Yes	United States

Special

**Public Utility District No. 1 of Whatcom County
Commission Meeting Attendance Sheet**

Date of Meeting: 3-14-2025 Platform: Hybrid In Person Zoom

Start Time: 2:30 PM Adjourn: _____

Adjourn to Executive Session None if applicable

In Attendance:
Initial Please:

- Atul Deshmane, Commissioner
- Jaime Arnett, Commissioner
- Eddy Ury, Commissioner
- Jon Sitkin/Peter Ruffatto, Legal Counsel
- Chris Heimgartner, General Manager
- _____ Aaron Peterson, IT/SCADA Technician
- _____ Andrew Entrikin, Director - Broadband and New Power Supply
- _____ Annette Smith, Finance Director
- _____ Brian Walters, Assistant General Manager
- _____ Devin Crabtree, Chief Water Operator
- _____ Garrett Love-Smith, Engineering Manager
- _____ Jacob Wittmer, Automation Technician
- _____ Jon Littlefield, Electric System Supervisor
- Joseph Shay, Clerk of the Board / Records
- Kurt Wank, Assistant General Manager
- Lisa Moeller, Director - HR & Communications
- Mike Macomber, IT/SCADA Technician
- _____ Paul Siegmund, Automation & Technology Manager
- Rebecca Schlotterback, Contracts & Regulatory Compliance Manager
- _____ Stephanie Hooper, Accountant I

Also in Attendance:

Name/Organization	Name/Organization
<u>Crina Hoyer</u>	
<u>Todd</u>	<u>Lugestee</u>
	<u>Public</u>

**MINUTES OF THE REGULAR
MEETING OF THE COMMISSION
March 14, 2025**

1. Call to Order | Pledge of Allegiance

The special meeting of the Board of Commissioners of Public Utility District No. 1 of Whatcom County was called to order at 2:30 p.m. by Commissioner Atul Deshmane. Said meeting was open to the public and notice thereof had been given as required by law.

Those present at the meeting included:

COMMISSION AND STAFF

Atul Deshmane	Commissioner
Jaime Arnett	Commissioner
Eddy Ury	Commissioner
Jon Sitkin	Legal Counsel
Chris Heimgartner	General Manager
Andrew Entrikin	Director – Broadband and New Power Supply
Joseph Shay	Clerk of the Board / Records
Kurt Wank	Assistant General Manager
Lisa Moeller	Director – HR & Communications
Mike Macomber	IT/SCADA Technician
Rebecca Schlotterback	Contracts and Regulatory Compliance Manager

VISITORS

Crina Hoyer	Crina Hoyer Consulting
Todd Lagestee	Citizen
Brian Heinrich	Puget Sound Energy

2. Informational Session (Roles and Responsibilities of the Commission and General Manager)

The Commission reviewed the rolls and responsibilities of the commission and the general manager. A long work session was had reviewing what the timeline of any major potential project would look like and what the roles and responsibilities of commissioners and staff would be throughout the timeline of the project. Crina Hoyer of Crina Hoyer Consulting worked with the commissioners and the general manager throughout the work session helping to identify key points for potential collaboration and instances where information sharing will be of key importance.

3. Washington State legislation related to public utility districts

The Commission reviewed and discussed some PUD related bills that are currently moving through the Washington State legislative process. No action was taken related to the bills.

4. Public Comment – None

5. Adjourn

There being no further business Commissioner Deshmane adjourned the meeting at 10:23 a.m.

Atul Deshmane, President/Commissioner

Jaime Arnett, Vice President/Commissioner

Eddy Ury, Secretary/Commissioner

Commission Clerk Note:

Video recordings of the Whatcom PUD Commission Meetings are available online at the following link on the PUD's Website: <https://www.pudwhatcom.org/the-commission/agenda-packets-meeting-minutes-recordings/>

Whatcom PUD's New BPA Power Sales Agreement (PSA)

Discuss BPA "Provider of Choice" Agreement
Contract Terms, Decisions, Timeline

March 25, 2025

Power Sales Agreement Definitions and Acronyms

- MWHs – Megawatt Hours; $1 \text{ MW Capacity} \times 1 \text{ Hour} = 1 \text{ MWh}$
- aMWs – Average Megawatts: Average amount of electrical energy consumed during a specified time period; $1 \text{ aMW} = 8760 \text{ MWhs}$
- CHWM - Contract High Water Mark
- RHWM – Rate Period High Water Mark
- Net Requirements – The amount of electric load forecast for a BPA utility customer for which BPA will supply power. Net equals Total Utility Load – Utility Resources
- PSA – Power Sales Agreement
- BPA FY – Fiscal Year is October 1 to September 30

BPA's Current "Regional Dialog" PSA Expires September 30, 2028

- "Regional Dialog" PSA had two foundational purposes:
 1. Full allocation of Federal Power System firm power output to public agency customers via long term bilateral contracts
 2. Implementation of Tiered Rates structure to assure customers' responsibility for their systems' electric load growth
- PSAs were executed during 2008, but the term of performance under the PSA is Oct.1, 2011 thru Sept. 30, 2028.
- Three prototype PSAs were offered to public agency customers
 - Load Following, Block, and Slice
 - WPUD selected the Load Following PSA as "Best Fit", given PUD's system
- All three PSAs allow non-federal power acquisition, along with federal
 - PUD elected BPA Short Term Tier 2 product to cover load above CHWM

POWER SALES AGREEMENT
 executed by the
BONNEVILLE POWER ADMINISTRATION
 and
PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY

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BPA “Provider of Choice” PSA

More Similarities than Differences from Existing PSAs

- Long Term Agreement: FY 2026 - 2044
- Up to Full Net Requirements Commitment by BPA
- Contract High Water Mark (CHWM)- Allocation of Federal System
- Tiered Rates Pricing
 - BPA allocates 100% of federal system firm output to “Public” utility customers
- Energy Efficiency Investment Program
- Prototype Agreement Types
 - Full Requirements, Block, Slice
- Non-Federal Power Supply Procurement is Allowed & Supported

Decisions To Be Made

- What Type Prototype Agreement to Request
 - Load Following, Slice, Block, Block-Slice?
- Whether to Purchase Power from BPA to Cover Above CHWM Load
 - Purchase BPA power to cover load growth?
- What Type and Amount of Non Federal Power to Acquire
 - None, Some, All ? – To cover above CHWM load
- Whether to Develop Owned Generation and/or Acquire Non Federal Power via Contract

Whatcom PUD Electric Load Requirements and Tier 2 Cost Exposure

Current Regional Dialog PSA

- WPUD's CHWM is 27.233 aMWs and the Current RHWM is 26.833 aMWs
- WPUD's *Actual* FY 2023 (Oct '22 thru Sep '23) Electric Load was 26.23 aMWs
- WPUD's *Forecast* Load FY 2025 (thru Sep '25) is 29.61 aMWs
- WPUD's Forecast Load for Next 3 Year Rate Period:
 - FY '26 (starts Oct '25).....29.61 aMWs
 - FY '27 (starts Oct'26)29.61 aMWs
 - FY '28 (starts Oct'27)28.14 aMWs
- WPUD will have Tier 2 Price Exposure the Next 3 Rate Period Years

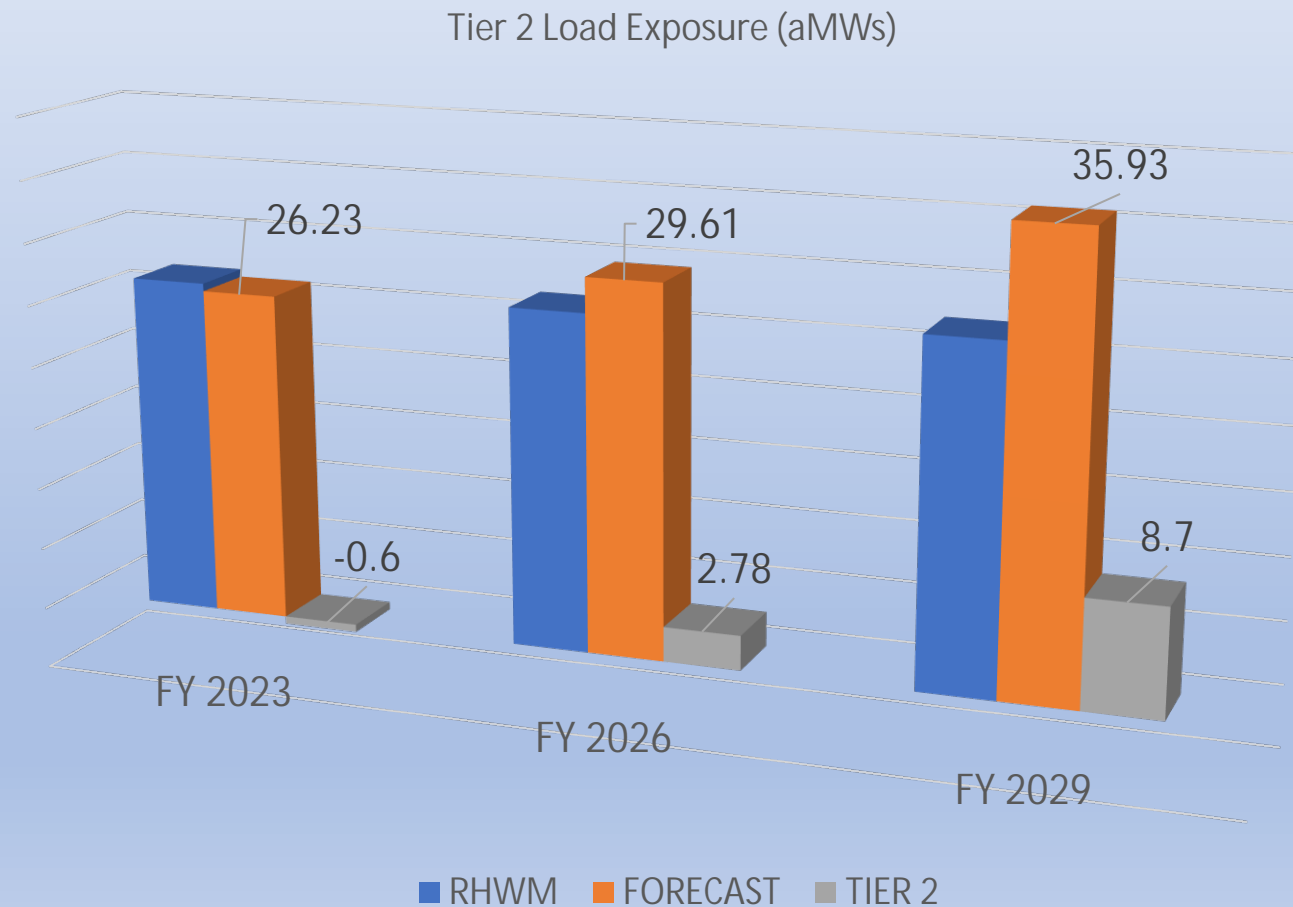
Whatcom PUD Electric Load Requirements and Tier 2 Cost Exposure - Continued

Provider of Choice PSA

- WPUD's CHWM will be ? aMWs; no RHWM amount
- WPUD's *Forecast* FY 2029 (starts Oct 1 '28) Electric Load is 35.93 aMWs
- WPUD will have Tier 2 Price Exposure under the New PSA
 - Amount of Tier 2 Exposure can't be determined until CHWM set

- New Single Large Load (NLSL) (10 aMWs or above) would be Treated Separately and Tier 3 Pricing (New Resource Rate) would Apply if Federal Power is acquired by WPUD to Serve

WPUD Tier 2 Load Exposure

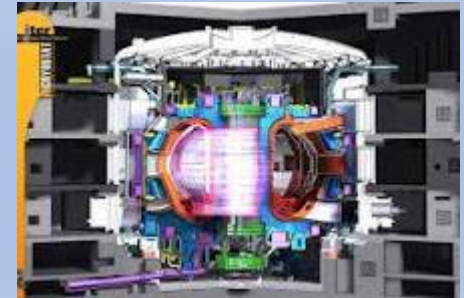
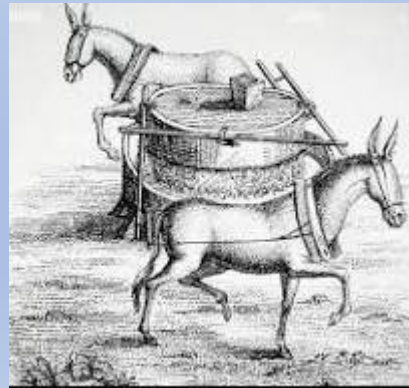


Non Federal Resource Options

Multiple Options

- Whatcom PUD owned generation – i.e. Geothermal
- Market Purchases – Short Term Needs (2 to 5 Years)
- Carbon Free Resource Output Purchases
- Customer Behind the Meter Generation – Looks Like Load Reduction
- Energy Storage Projects – Utility Scale Battery Complex
- Energy Efficiency Projects – Load Reduction

Non Federal Power Supply Options



“Regional Dialog” PSA Timeline

- Currently: BPA is receiving comments on the draft templates for each prototype agreement
- Apr '25: BPA starts engaging individual customers to explain agreement options and assess customers' interest in particular prototype PSA
- Jun '25: Deadline for customers to notify BPA whether they want a power supply agreement and, if so, what type
- Aug-Sep '25: BPA makes final agreement offers to customers & BPA account execs work with customers on exhibits and timing
- Dec '25: Deadline for customers to sign an agreement
- Dec '25: BPA signs and executes the agreement, but implementation doesn't start until October 1, 2028



Provider of Choice Timeline

Last Updated Feb. 2025



Staff Recommendations for New BPA Agreement

- Request a “Load Following” Power Sales Agreement (PSA)
- Elect 100% BPA Tier 2 Product to Cover Electric System Load Growth Above CHWM aMWs for 1st Rate Period under New PSA
- Explore Non-Federal Resource Options to Cover Tier 2 Load Growth for Future Rate Periods, Particularly If Load Growth Becomes Significant (20-50 aMWs)



ATTORNEYS
AT LAW

PUD and OPEN GOVERNMENT TRAINING

Governance, Public Records, and the Open Public Meetings Act

Public Utility District No. 1 of Whatcom County

Jon Sitkin

March 11, 2025

Open Government Training – Why are We Here?

- RCW 42.30.205 and 42.56.152 require members of governing bodies to receive training on Open Public Meetings Act and Public Records Act.
 - Refresher training must occur no later than every 4 years.
 - Training can be taken online, in person, or by other means.
- Training resources, videos, and more information about the Act (a “Q & A”) are available on the Attorney General’s Office Open Government Training Web Page: <http://www.atg.wa.gov/OpenGovernmentTraining.aspx>



OPEN PUBLIC MEETINGS ACT

Purpose

- “The people, in delegating authority, do not give public servants the right to decide what is good for the people to know and what is not good for them to know.”
- “The people insist on remaining informed so they may retain control over the instruments they have created.”
~ *RCW 42.30.010*



OPMA's Fundamental Language

All *meetings* of the *governing body* of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in RCW 42.30.

~ RCW 42.30.030



In General, OPMA Applies To:

- Any time a *quorum* of elected officials *meet* to discuss Agency business, whether or not they are in the same room. Example: telephone conference, video conference, email.
- Quorum:
 - 3-person Board: quorum is two.

OPMA Does Not Apply To:

Social gatherings at which a quorum may be present as long as business is not conducted. For example:

Awards banquet
Attendance at seminar



What is a Meeting?

- “**Meeting**” means meetings at which the public agency takes “**action**”
~ RCW 42.30.020
- Physical presence not required—can occur by phone or email
 - An exchange of email could constitute a meeting if, for example, a quorum of the members participate in the email exchange & discuss agency business. Simply receiving information without comment is not a meeting. *Citizens Alliance v. San Juan County*
- Does not need to be titled “meeting” – OPMA also applies to “retreats,” “workshops,” “study sessions,” etc.
- No meeting occurs if the governing body lacks a quorum



Action

- “**Action**” means the transaction of the official business of the public agency and includes, but is not limited to:
 - All deliberations
 - *Discussions*
 - Public testimony



Final Action

- “**Final action**” is a collective positive or negative decision, or an actual vote, by a majority of the governing body, or by the “committee thereof”
 - Motions, Resolutions, etc.
- Must be taken in public, even if deliberations were in closed session

~ *RCW 42.30.060, RCW 42.30.020*



Travel and Gathering

- A majority of the members of a governing body may travel together or gather for purposes other than a regular meeting or a special meeting, so long as no action is taken
- Discussion or consideration of official business would be considered action, triggering the requirements of the OPMA
- Practical Consideration:

Consider the political impact and appearance

~ *RCW 42.30.070*



“Regular” Meetings

- “**Regular meetings**” are recurring meetings held in accordance with a periodic schedule established by motion or resolution adopted at beginning of the year.



“Special” Meetings

- A “**special meeting**” is ***any*** meeting that is not a regular meeting
- Called by presiding officer or majority of the members
- **Notice / Timing: 24 hours before the special meeting**

Special Meeting Notice Content Requirements

- The special meeting notice must specify:
 - Time
 - Place
 - Business to be transacted (agenda)
 - Final disposition cannot be taken on any other matter not listed on the agenda, but other matters can be discussed



Public Attendance/Comment

- Public comment at regular meetings of a governing body of a public agency where final action is taken is now a requirement.
- Public agencies must allow for the public to orally comment at the meeting or submit written comment prior to or at all regular meetings, except for emergencies and special meetings.
- An agency may not impose conditions on the public to attend meetings subject to OPMA:
 - For example, it cannot require people to register their names or other information, complete a questionnaire, or otherwise fulfill any condition precedent to attendance ~ *RCW 42.30.040*
 - What about sign-up sheets for public comment?

Executive Session

- Part of a regular or special meeting that is closed to the public
- Limited to specific purposes set out in the OPMA
- Purpose of the executive session and the time it will end must be announced by the presiding officer before it begins; time may be extended by further announcement

~ RCW 42.30.110



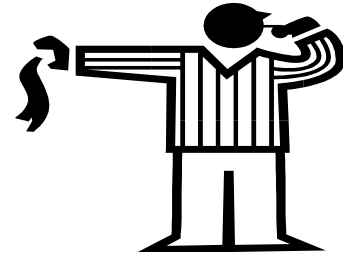
What Happens in Vegas Executive Session . . .

- No municipal officer may
 - Disclose confidential information gained by reason of the officer's position
 - Use such information for his or her personal gain or benefit



Penalties for Violating the OPMA

- Personal liability
 - First offense: \$500
 - Subsequent offenses: \$1,000
- Costs and attorneys' fees
- Action taken at meeting can be declared null and void
- Grounds for forfeiture of office



The Open Public Meetings Act – Commissioner Issues

- Pre/Post meeting discussions
 - Just chatting before the meeting seems innocent enough
 - Can easily be misconstrued by staff, the public, or other Commissioners
- Electronic or “in person” serial meetings
 - Multiple meetings or emails from one Commissioner to everyone else is ok
 - It’s the exchange of information or the email answer that violates the law
 - But what about the “perception” problem?



ATTORNEYS
AT LAW

PUBLIC RECORDS ACT CHAPTER 42.56 RCW

Purpose

- “The people do not yield their sovereignty to the agencies which serve them.”
- “The people, in delegating authority, do not give public servants the right to decide what is good for the people to know and what is not good for them to know.”
- “The people insist on remaining informed so they may retain control over the instruments they have created.”
- The “free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others.”
- The Act is to be “liberally construed.”
~ *RCW 42.56.030; RCW 42.56.550*

Public Records

- “Any writing
 - containing information
 - relating to
 - the conduct of government or
 - the performance of any governmental or proprietary function
 - prepared, owned, used, or retained
 - by any state or local agency
 - regardless of physical form or characteristics.”

“**Writing**” is broadly defined and includes “handwriting, typewriting, printing, photostating, photographing, and **every other means of recording any form of communication** or representation including, but not limited to, letters, words, pictures, sounds, symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.”

~ *RCW 42.56.010*

Public Records Can Include...

- Records stored on home computers, laptops or in non-agency email accounts; e.g., Gmail, Comcast, Hotmail
- Practice Tips:
 - Use District email account
 - Avoid using home computer or personal device

Public Records Procedural Requirements

- Under the Act, agencies must:
 - Appoint a **public records officer**
 - Adopt and comply with Agency **rules/procedures**

Requests for Public Records

- Request must be for **identifiable public records**
- Requester cannot be compelled to use Agency's form
- Requesters can ask to ***inspect*** records, or request ***copies*** of records

District Response to Request

- The District has **five business days** to respond to a public records request
- The District can:
 1. **Acknowledge receipt of the request and provide a reasonable estimate for a further response;** or
 2. **Fulfill the request;** or
 3. **Provide an internet address and link** to the records on the agency's website (which fulfills part or all of the request); or
 4. **Seek clarification;** or
 5. **Deny** the request with an accompanying written statement of the **specific reasons** for denial

Searches for Responsive Records

- Before you even begin searching, make sure you know what to look for
- Conduct an **adequate search** for responsive records
- The search must be **reasonably calculated to uncover responsive records**
- The search must follow **obvious leads** to possible locations where records are likely to be found
- The agency bears the **burden of proof** to show the adequacy of the search

Exemptions

- All public records are presumed open
- Exemptions are “narrowly construed”
- Burden is on the District to justify exemption

Public Records Act Violations Can Be Expensive

- Most claims against agencies are successful
- PRA Claims are *uninsurable*
- The penalty can be up to \$100 per day/per record withheld
- Plaintiff (but not the agency) is entitled to an award of attorneys' fees if successful
- PRA penalties and attorneys' fees continue to accrue through each level of appeal (risk of reversal on appeal)

The Public Records Act - Conclusion

- Writings including texts and Emails
 - If it involves District business, it is a public record
 - Use only a District provided device
- Social Media
 - Blog posts; Twitter/X accounts; Web pages
- Content concerns
 - NY Times test

CSD | ATTORNEYS
AT LAW



Memo

To: Commissioners Arnett, Deshmane, and Ury

From: Garrett Love-Smith, Engineering Manager

Date: March 25, 2025

Re: Approve Professional Services Agreement: Pacific Surveying and Engineering

Requested Action – APPROVE PROFESSIONAL SERVICES AGREEMENT (PSA) WITH PACIFIC SURVEYING AND ENGINEERING, TO PERFORM ENGINEERING AND SURVEYING SERVICES FOR THE WHATCOM PUD AND AUTHORIZE THE GENERAL MANAGER TO SIGN THE AGREEMENT.

Background –Whatcom PUD has continued to use Pacific Surveying and Engineering (PSE) since 2008 to accomplish the surveying and engineering needs for the District. Whatcom PUD staff recommends that Whatcom PUD continues to contract with PSE to provide technical services as directed by the Whatcom PUD. Work will be performed under individual Work Orders as needed and approved by the Whatcom PUD Commission or the General Manager per the Whatcom PUD’s Purchasing Policy.

Fiscal Impact –The PSA has no fiscal impact to the Whatcom PUD. Work Orders associated with the Agreement will have specific budgets and are covered in the 2025 Whatcom PUD Budget.

Recommended Action – APPROVE PROFESSIONAL SERVICES AGREEMENT (PSA) WITH PACIFIC SURVEYING AND ENGINEERING, TO PERFORM ENGINEERING AND SURVEYING SERVICES FOR THE WHATCOM PUD AND AUTHORIZE THE GENERAL MANAGER TO SIGN THE AGREEMENT.

**STANDARD AGREEMENT
FOR PROFESSIONAL SURVEYING AND ENGINEERING SERVICES**

THIS AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2025, by and between the **PUBLIC UTILITY DISTRICT NO. 1 of WHATCOM COUNTY**, 1705 Trigg Road Ferndale, WA 98248, hereinafter called the "Whatcom PUD," and **PACIFIC SURVEYING AND ENGINEERING, INC**, having an address of 909 Squalicum Parkway, Suite 111, Bellingham, WA 98225, hereinafter called "Consultant," for projects generally described as:

To provide Surveying, Engineering, and Environmental services for the purpose of assisting Whatcom PUD in completing Capital Improvement and other maintenance projects.

WHEREAS, Whatcom PUD desires to retain a Consultant to provide professional Surveying, Engineering and Environmental services for Whatcom PUD; and

WHEREAS, the selection of the consultants, and the Consultant herein, were made after the completion of a process that complied with all provisions of Federal, State, and local laws concerning selection of professional services.

WHEREAS, Pacific Surveying and Engineering Inc. does offer to provide such professional Surveying, Engineering and Environmental services.

NOW, THEREFORE, for and in consideration of the promises and the mutual covenants set forth herein, the parties agree as follows:

1. **Scope of Services.** The specific assignments for the Consultant will be identified from time to time by Whatcom PUD. The Consultant will prepare and submit to Whatcom PUD a proposed Work Order which shall include the proposed scope of services and fee estimate for the proposed assignment. If acceptable, Whatcom PUD will execute the Work Order for the specific assignment. The scope of Work Orders is hereinafter referred to as “Work”. Services of the Consultant shall conform with the standard of care applicable to professionals providing similar such services in the State of Washington. All Work Orders must be approved in writing and approved in advance by the Commission and/or General Manager of Whatcom PUD. The terms and conditions of this Agreement shall apply in all Work Orders approved by the Whatcom PUD, unless a Work Order contains terms and conditions different than those provided herein. Any Work Order and this Agreement shall be interpreted to give full meaning to all provisions. In the event that any provision of this Agreement is in conflict with any provision of an approved Work Order, the more specific shall control, and if a conflict still exists, then the Work Order shall control the specific conflicting provision.

2. **Term.** The term of this Agreement shall commence on execution of this Agreement until all tasks associated with the scope of services herein, as may be amended, have been completed by Consultant or December 31, 2028, whichever is sooner, unless terminated earlier

as provided herein. Whatcom PUD holds rights to extent the Agreement in one-year additional increments up to two times.

3. Termination. Whatcom PUD reserves the right to terminate this Agreement at any time by sending written notice of termination to the Consultant. The notice shall specify a termination date at least fourteen (14) calendar days after the date the notice is issued. The notice shall be effective upon the earlier of either actual receipt by the Consultant (whether by fax, mail, delivery or other method reasonably calculated to be received by the Consultant in a reasonably prompt manner) or three (3) calendar days after issuance of the notice. Upon the notice date, the Consultant shall immediately commence to end the Work in a reasonable and orderly manner. Unless terminated for the Consultant's material breach, the Consultant shall be paid or reimbursed for: (a) all hours worked and eligible expenses incurred up to the notice date, less all payments previously made; and (b) those hours worked and eligible expenses incurred after the notice date, but prior to the termination date, that were reasonably necessary to terminate the Work in an orderly manner. The notice shall be sent by the United States Mail to the Consultant's address provided herein, postage prepaid, certified or registered mail, return receipt requested, or by hand delivery. In addition, the notice may also be sent by any other method reasonably believed to provide the Consultant actual notice in a timely manner, such as fax. Whatcom PUD does not by this Section waive, release or forego any legal remedy for any violation, breach or non-performance of any of the provision of this Agreement. At its sole option, Whatcom PUD may deduct from the final payment due the Consultant (a) any damages, expenses or costs arising out of any such violations, breaches, or non-performance and (b) any other back charges or credits.

4. Compensation and Payment. The Consultant shall be compensated on the basis of hours worked and expenses incurred by the Consultant, or on the basis of rates established for specific tasks, all at the rates shown attached hereto as Exhibit A. The Consultant shall obtain the prior written approval of Whatcom PUD for any charges for additional services by the Consultant, the additional services of others retained by Consultant, or the furnishing of additional supplies, materials or equipment. The Consultant shall not be entitled to compensation for any such additional charges incurred in violation of this paragraph.

4.1 The Consultant shall submit monthly statements, including project budget status and a narrative progress description of services rendered in a form and in such detail as requested by Whatcom PUD. Whatcom PUD shall make prompt monthly payments for work completed to Whatcom PUD's satisfaction and billed before the first day of the month. Whatcom PUD shall review and consider for approval all bills submitted one week prior to a regularly scheduled meeting of Whatcom PUD Commissioners. After approval of the Consultant's statement of bill, Whatcom PUD shall forward the approval to the County Treasurer for payment in the normal course of events. In no event shall Whatcom PUD be charged interest on payments due under this Agreement. Whatcom PUD shall not be obligated to pay for services deemed unsatisfactory.

5. Compliance with Laws. All Federal, State and local laws applicable in the rendering of the services by the Consultant shall be in compliance with in all respects by the Consultant, as shall all rules and regulations of Whatcom PUD and any other governmental agency. The

Consultant shall register, as required by RCW 23B.15.010, to do business in the State of Washington and provide proof of the same to Whatcom PUD.

6. Project Management. Whatcom PUD's designated representative may at any time issue written directions within the general scope of this Agreement. If any such direction causes an increase or decrease in the cost of this Agreement or otherwise affects any other provision of this Agreement, the Consultant shall immediately notify the designated representative in writing and take no further action concerning those written directions until such time as the parties have executed a written change order. No additional work shall be performed or charges incurred unless and until Whatcom PUD approves in writing the change order and the increased cost thereof. Any work done in violation of this paragraph shall be at the sole expense of the Consultant.

7. Recordation of Documents Affecting Title. Prior to the execution or recordation of any documents affecting title to any property, the said document shall be reviewed by Whatcom PUD. Whatcom PUD shall be responsible for all costs associated with such review.

8. Conflict of Interest. Consultant covenants that it presently has no interest and shall not acquire an interest, directly or indirectly, which would conflict in any manner or degree with its performance under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by it or any of its subcontractors.

9. Insurance. Consultant shall procure and maintain during the term of this Agreement the following insurance:

a. Comprehensive general liability policy covering all claims for personal injury (including death) and/or property damage arising out of Consultant's services. The limits of liability shall be not less than One Million Dollars (\$1,000,000) for each occurrence and in the aggregate unless Whatcom PUD approves in writing a lesser limit.

b. Automobile Liability Insurance covering all owned and non-owned automobiles or vehicles used by or on behalf of Consultant. The limits of liability shall be not less than One Million Dollars (\$1,000,000) for each occurrence and in the aggregate unless Whatcom PUD approves in writing a lesser limit.

c. Workers Compensation Insurance as required by law.

9.1 The foregoing insurance policies shall name Whatcom PUD as an additional insured. Consultant shall provide two (2) certificates of insurance and, if requested, copies of any policy to Whatcom PUD. Receipt of such certificate or policy by Whatcom PUD does not constitute approval by Whatcom PUD of the terms of such policy. Furthermore, the policy of insurance required herein shall: (i) be written as a primary policy; (ii) expressly provide that such insurance may not be materially changed, amended or canceled with respect to Whatcom PUD except upon forty-five (45) days prior written notice from Consultant to Whatcom PUD; (iii) contain an express waiver of any right of subrogation by the insurance company against Whatcom PUD and Whatcom PUD's elected officials, employees, or agents; (iv) expressly provide that the insurance proceeds of any loss will be payable notwithstanding any act or

negligence of Consultant which might otherwise result in a forfeiture of said insurance; and (v) in regard to physical property damage coverage, expressly provide that all proceeds shall be paid jointly to Whatcom PUD and Consultant.

9.2 If Consultant fails to procure and maintain the insurance described above, Whatcom PUD shall have the right, but not the obligation, to procure and maintain substitute insurance and to pay the premiums. Consultant shall pay to Whatcom PUD upon demand the full amount paid by Whatcom PUD, or Whatcom PUD may offset such premiums against amounts to be paid to Consultant.

10. Indemnification. Consultant shall indemnify and hold Whatcom PUD harmless from and against all costs and losses, and all claims, demands, suits, actions, payments and judgments, arising from personal injury or otherwise, brought or recovered against Whatcom PUD by reason of any negligent act or omission of Consultant, its directors, officers, agents or employees in the performance and execution of the Services hereunder, including any and all expenses, legal or otherwise, incurred by Whatcom PUD or its representatives in the defense of any claim or suit.

11. Confidentiality. Any reports, documents, questionnaires, records, information or data given to or prepared or assembled under this Agreement which Whatcom PUD requests to be kept confidential shall not be made available by the Consultant to any individual or organization without prior written approval of Whatcom PUD, except as may be ordered by a court of competent jurisdiction. The provisions of this section shall survive the expiration or earlier termination of this Agreement. No reports, records, questionnaires, software programs provided by Whatcom PUD or other documents produced in whole or in part by the Consultant under this contract shall be the subject of an application for copyright by or on behalf of the Consultant.

12. Property of Whatcom PUD. All Plans, Reports, Documents, Photographs, Drawings, and Specifications that are generated by the Consultant for Whatcom PUD under this contract are and shall remain the property of Whatcom PUD whether the Project for which they are made is executed or not. The Consultant assumes no liability for any use of the Drawings and Specifications other than that originally intended for this Project. The Consultant shall retain originals during the performance of the Services and reproducible copies shall be provided as requested by Whatcom PUD. Upon completion of the work, the originals of all Plans, Drawings and Specifications shall be delivered to Whatcom PUD.

13. Electronic Transmission. All electronically transmitted output must be compatible with existing Whatcom PUD software and must be accompanied by at least one (1) copy of written reports. Consultant shall check with Whatcom PUD for software application and system compatibility.

14. Contamination. For the purpose of this clause, contamination conditions shall mean the actual or alleged existence, discharge, release or escape of any irritant, pollutant, contaminant, or hazardous substance into or upon the atmosphere, land, groundwater, or surface water of or near the property. Consultant will promptly notify Whatcom PUD of contamination conditions, if identified.

15. **No Employment Relation Created.** Consultant is an independent contractor, who will provide services to Whatcom PUD. The Parties are not “partners” and this Agreement does not create a partnership, joint venture relationship or an employer-employee relationship. The relationship between Whatcom PUD and the Consultant is not and shall not be construed to be an employment relationship under any circumstance, and shall be construed only to be an independent contractor relationship with Whatcom PUD.

16. **Industrial Insurance Act Defense Waiver.** The Consultant expressly waives any claim of defense against Whatcom PUD as may be provided by the Industrial Insurance Act, RCW 51.04.010 *et seq.* for any claim asserted by any person (or relative or estate thereof) for injury or death sustained during the course of the Contract work.

17. **Subconsultants.** Contractor shall notify Whatcom PUD in writing of all subconsultants hired or utilized by Consultant. At the time of project completion, the Consultant agrees to certify to Whatcom PUD that all sub-consultants have been paid in full. Consultant shall be solely responsible for the performance of any sub-consultant. All such subconsultants shall possess all licenses and insurance as required by the laws of the State of Washington.

18. **Discrimination.** In connection with the performance of this Agreement, the Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, marital status, or being handicapped, a disadvantaged person, or a disabled or Vietnam era veteran. The Consultant shall take affirmative action to ensure that the employees are treated during employment without regard to, their race, color, religion, sex, national origin, age, marital status, or being handicapped, or disadvantaged person, or disabled or Vietnam era veteran.

19. **Understanding of Agreement.** Each party acknowledges that such party has read this Agreement and understands its contents, that such party has had the opportunity to have this Agreement reviewed by an attorney of such party’s choice, and that such party either has consulted with an attorney or voluntarily has chosen not to consult with an attorney before signing this Agreement.

20. **Litigation/Arbitration.** In the event either party herein finds it necessary to bring an action against the other party to enforce any of the terms, covenants or conditions hereof or any instrument executed pursuant to this Agreement by reason of any breach or default hereunder or thereunder, the party prevailing in any such action or proceeding shall be paid all costs and attorneys’ fees incurred by the other party, and in the event any judgment is secured by such prevailing party all such costs and attorneys’ fees of collection shall be included in any such judgment. In the event of any dispute arising between the parties to this Agreement, any such dispute shall be submitted to binding arbitration as provided herein. The parties shall select an independent and unbiased arbitrator who is not affiliated directly or indirectly with either party within ten (10) days after any party demands arbitration. If the parties fail to select or cannot agree upon an arbitrator within this time, then they shall make application to the Superior Court of Whatcom County, pursuant to RCW 7.04A *et seq.*, for an order appointing an arbitrator. Such application may be made at any time after the ten (10) day period has expired. Upon application to the court for an arbitrator, the Court shall select an arbitrator who shall render his/her decision no later than sixty (60) days after his/her appointment. If the arbitrator requests a hearing prior to rendering his/her decision, such hearing shall be held in Whatcom County, Washington within

thirty (30) days of the arbitrator's appointment. The arbitrator's decision shall be binding on both parties. Each party shall bear its own expenses associated with the arbitration but shall share equally the costs of the arbitrator. RCW Chapter 7.04A and Rules 5.2 through 5.4 of the Mandatory Arbitration Rules for Superior Court ("MAR") shall govern the arbitration. In the event of any inconsistencies between the Binding Arbitration Clause, RCW Chapter 7.04A, and MAR 5.2 through 5.4, the terms of the Binding Arbitration Clause shall take precedence over RCW Chapter 7.04A and MAR 5.2 through 5.4; and RCW Chapter 7.04A shall take precedence over MAR 5.2 through 5.

21. **Notices.** All notices, demands, requests, consents and approvals which may or are required to be given by any party to any other party hereunder shall be in writing and shall be deemed to have been duly given if delivered personally, sent by facsimile, sent by a nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

Whatcom PUD: Chris Heimgartner, General Manager
Public Utility District No. 1 of Whatcom County
1705 Trigg Road | PO Box 2308
Ferndale, WA 98248

Consultant: Adam Morrow
Pacific Surveying and Engineering Inc.
909 Squalicum Parkway, Suite 111
Bellingham, WA 98225

or to such other address as the foregoing parties hereto may from time-to-time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery. Facsimile transmission of any signed original document and retransmission of any signed facsimile transmission shall be the same as delivery of an original document.

22. **Amendment.** No modification, termination or amendment of this Agreement may be made except by written agreement signed by all parties, except as provided herein.

23. **Waiver.** No failure by any of the foregoing parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. Any party hereto, by notice and only by notice as provided herein, may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party hereto. No waiver shall affect or alter this Agreement, and each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

24. **Captions.** The captions of this Agreement are for convenience and reference only and in no way define, limit, or describe the scope or intent of this Agreement.

25. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

26. **Counterparts.** This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

27. **Neutral Authorship.** Each of the provisions of this Agreement has been reviewed and negotiated and represents the combined work product of all parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.

28. **Governing Law.** This Agreement and the right of the parties hereto shall be governed by and construed in accordance with the laws of the State of Washington.

29. **Time of Performance.** Time is specifically declared to be of the essence of this Agreement and of all acts required to be done and performed by the parties hereto.

30. **Entire Agreement.** The entire agreement between the parties hereto is contained in this Agreement and the exhibits hereto, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Agreement may be amended only by written instrument executed by the parties subsequent to the date hereof. The Consultant specifically understands that no Whatcom PUD employees other than the project manager or his/her supervisors are authorized to direct the work of the Consultant and/or amend this Agreement.

IN WITNESS WHEREOF, the parties hereto execute this Agreement.

WHATCOM PUD:

PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY

By: _____

Title: General Manager

Date signed: _____

CONSULTANT:

Pacific Surveying and Engineering

By: _____

Title: _____

Firm's EIN: _____

Date signed: _____

Memo

To: Commissioners Dushman, Arnett, and Ury
From: Annette Smith, Director of Finance
Date: March 25, 2025
Re: Resolution 874 – Signatories at Whatcom County

Requested Actions: APPROVE RESOLUTION 874 UPDATING THE SIGNATORIES AT WHATCOM COUNTY

Background: Whatcom county acts as the District’s treasurer. Currently, the General Manager, Assistant General Manager and Director of Finance have signing authority with the county. To be consistent with the Revolving Checking account signers, we would also like to add the Director of Broadband and New Power Sources. By naming the position instead of the person, these will automatically update if the people in these positions are replaced.

Fiscal Impact: None.

Recommended Actions: APPROVE RESOLUTION 874 UPDATING THE SIGNATORIES AT WHATCOM COUNTY

RESOLUTION NO. 874

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE WHATCOM COUNTY PUBLIC UTILITY DISTRICT NO. 1 (“DISTRICT”) UPDATING THE SIGNATORIES WITH WHATCOM COUNTY

WHEREAS, Whatcom county currently acts as the Treasurer for the District;

WHEREAS, the approved signatories on the account approve the investment and withdrawal of funds, the transfer of money between funds, and the approval of electronic transfer of funds to outside parties;

WHEREAS, the established signatories allowed for such account was established to be the District General Manager, the Director of Finance, and the Assistant General Manager. Due to busy schedules, it was decided that an additional signer would be beneficial;

NOW, THEREFORE, BE IT RESOLVED, by the Commissioners of the Public Utility No. 1 of Whatcom County as follows:

1. Transactions made with the county requiring signatures will be approved by one of the following:

- A. **General Manager**, currently Chris Heimgartner
- B. **Assistant General Manager**, currently Kurt Wank
- C. **Director of Finance**, currently Annette Smith
- D. **Director of Broadband and New Power Supply**, currently Andrew Entrikin

2. All expenditures from the District funds shall be necessary to implement, or be part of a Commission approved project or budget, or otherwise be necessary to implement a Commission authorized action.

3. This Resolution shall continue to be in full force and affect unless and until amended or revoked by formal action of the District Commission in writing and the delivery of said notice to Whatcom county.

ADOPTED by the Board of Commissioners of the PUD, at its regular meeting held on the 25th of March 2025.

President/Commissioner

Secretary/Commissioner

Commissioner

RESOLUTION NO. 875

**A RESOLUTION OF THE
BOARD OF COMMISSIONERS OF
PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY
HONORING
ASSISTANT GENERAL MANAGER BRIAN WALTERS**

WHEREAS, Brian Walters has been employed by Public Utility District No.1 of Whatcom County (“District”) from July 1, 2002 until March 31, 2025; and

WHEREAS, Brian Walters has had an indelible career in the utility industry spanning forty-four (44) years, beginning in 1981 with Seattle City Light, and includes time spent at Chelan PUD, Snohomish PUD, Puget Sound Energy, Washington Public Utility District Association where he served as the first Energy Services Director, and Conservation and Renewable Energy Systems (CARES), a consortium of utilities, serving as their first Director upon their foundation; and

WHEREAS, the Board of Commissioners of Public Utility District No. 1 of Whatcom County (“Commission”) and the District staff are indebted to Mr. Walters for his willingness to serve the public and the District faithfully with the best interests of the District always foremost in his actions, and having given generously of his time, talents and sense of humor;

NOW, THEREFORE, BE IT RESOLVED that the members of this Commission do hereby express their sincere appreciation, and the appreciation of the people of Whatcom County, for Brian Walter’s service to the District and for the privilege of having worked alongside him.

BE IT FURTHER RESOLVED that the members of this Commission extend to Mr. Walters their sincere best wishes for the future; and,

BE IT FURTHER RESOLVED that this Resolution be recorded in the official minutes of this meeting and that a copy thereof be delivered to Mr. Walters

ADOPTED by the Board of Commissioners of Public Utility District No. 1 of Whatcom County at a regular meeting thereof held this 25th day of March 2025.

**Public Utility District No. 1 of
Whatcom County**

Atul Deshmane, President/Commissioner

Eddy Ury, Secretary/Commissioner

Jaime Arnett, Commissioner