Supreme Court No. 1028938
[Court of Appeals No. 56938-8-II]
[Pierce County Superior Court No. 21-2-08733-9]

SUPREME COURT
STATE OF WASHINGTON

ADVOCATES FOR A CLEANER TACOMA, SIERRA CLUB; WASHINGTON ENVIRONMENTAL COUNCIL; WASHINGTON PHYSICIANS FOR SOCIAL RESPONSIBILITY; and STAND.EARTH,

Petitioners,

v.

PUGET SOUND CLEAN AIR AGENCY; PUGET SOUND ENERGY, INC.,

Respondents.

PUGET SOUND ENERGY, INC.'S ANSWER TO PETITION FOR REVIEW OF ADVOCATES FOR A CLEANER TACOMA

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I. INTRODUCTION

Advocates for a Cleaner Tacoma (ACT) seeks this Court's review based on a false premise: that the decision of the court of appeals (the Opinion) upheld a delegation of legislative power without express statutory authority authorizing the delegation. The exact opposite is true. The court of appeals concluded—based on the plain language of the Washington Clean Air Act (WCAA)—that the WCAA authorizes Puget Sound Clean Air Agency (PSCAA) staff to issue orders of approval. A-2, 12, 14–16.[1] The Opinion is consistent with this Court's precedent, the WCAA's plain language, and 50 years of practice by every local air agency in the state.

ACT also argues that review is warranted because the Opinion raises issues of substantial public interest. Nearly all its arguments on this point assume the court of appeals acted

[1] "A" refers to pages in the Appendix of documents submitted with ACT's petition for review which does not correspond with pagination in the court's opinion as published or in the administrative record.

contrary to this Court's precedent, which it did not. ACT's remaining arguments are irrelevant to this Court's analysis under RAP 13.4(b) because, in addition to lacking merit, they are not based on purported conflicts with this Court's precedent or matters of substantial public interest.

The arguments ACT presents in its petition have been considered and rejected (repeatedly) by every tribunal that has heard them—the Pollution Control Hearings Board (twice), the superior court (twice), the court of appeals (twice), and once by this Court when its commissioner denied a motion to transfer under RAP 4.4.[2] At no point in this litigation has ACT shown error, let alone error conflicting with this Court's precedent or raising issues of substantial public interest. Because ACT has failed to meet its burden under RAP 13.4(b)(1) and (4), this Court

[2] To be clear, these decisions all occurred during this litigation, including in an interlocutory appeal of the same issue. This list of decisions does not include the separate case ACT cites in its petition and asks this Court to treat as irrelevant. *See* Pet. at 10 n.2 (citing *350.org v. Puget Sound Clean Air Agency*, No. 100706-0 (June 8, 2022)).

should deny its petition.

II. STATEMENT OF THE CASE

ACT's petition for review concerns PSCAA's issuance of a Notice of Construction (NOC) order of approval (the Order) for a liquified natural gas facility at the Port of Tacoma (Tacoma LNG).[3] Puget Sound Energy, Inc. (PSE) proposed the facility primarily for the purposes of providing natural gas service for PSE customers during times of high demand and supporting TOTE Maritime's efforts to comply with international emissions standards by converting their ocean-going vessels from marine gas oil to LNG. A-18. PSE applied to PSCAA for the Order in May 2017, and the application was approved in 2019. A-3.

PSCAA Reviewing Engineer, Ralph Munoz, and PSCAA

[3] PSE agrees with some, but not all, of ACT's statement of the case. For example, it is false that the initial Environmental Impact Statement "did not consider the project's greenhouse gas emissions." Pet. at 6–7. As the court of appeals correctly found, PSCAA determined supplemental review was required on greenhouse gas emissions in part because the initial evaluation had been based on Department of Ecology guidance since withdrawn. A-19. Nonetheless, PSE limits its statement of the case to facts relevant to this Court's analysis under RAP 13.4(b).

Compliance Manger, Carole Cenci, signed the Order. A-3.[4] Before the court of appeals, the petitioners[5] argued, as they had repeatedly and unsuccessfully before the Pollution Control Hearings Board, the superior court, the court of appeals (in a motion for interlocutory review), and this Court in a motion to transfer, that because PSCAA's staff issued the Order instead of the PSCAA board, the order was ultra vires and invalid.[6]

The court of appeals rejected that argument based on the plain language of the WCAA. A-13. The court prefaced its analysis by citing the legal standards governing the interpretation of statutes and agency regulations. A-4–6. The court also described in detail the relevant sections of the WCAA and the applicable PSCAA regulations and resolutions. A-7–11. The court further noted that, in addition to the parties' briefing,

[4] ACT does not challenge the Opinion's factual summary.
[5] The Puyallup Tribe of Indians (the Tribe) raised this issue before the court of appeals. Because ACT now raises it as the sole basis for its petition, this brief refers to ACT, not the Tribe.
[6] The court correctly defined "ultra vires" as "beyond the scope or in excess of legal power or authority." A-6.

Washington's Local Air Agencies had submitted an amicus brief describing limitations the WCAA places on board members, including the amount of time they may spend on local air agency business. A-11.

After carefully reviewing the cited statutory provisions, the court concluded that, read together, RCW 70A.15.2030, RCW 70A.15.2040, RCW 70A.15.2210(3), and RCW 70A.15.2300, authorize the PSCAA board to delegate authority to issue orders of approval to the agency's control officer. A-12–13.

The court reasoned that, in those sections of the WCAA, the legislature outlined the procedures for issuing orders of approval and authorized PSCAA to adopt its own rules and regulations and issue orders necessary to effectuate the WCAA's purpose. *Id.* The legislature also required air authorities to appoint a full-time control officer who "shall" observe and enforce the provisions of the WCAA and all "orders, ordinances, resolutions, or rules and regulations" of the air authority. A-12.

The plain language of these provisions required the PSCAA board to appoint a control officer and authorized PSCAA to delegate responsibility for the issuance of orders of approval to that control officer. A-12–13. Indeed, the WCAA expressly confers upon the control officer the obligation to observe and enforce the provisions of the Act and all PSCAA's regulations and resolutions, including those related to the issuance of orders of approval. *Id.* (citing RCW 70A.15.2300).

The court noted that PSCAA's resolutions and regulations authorized the control officer to assign responsibility for the issuance of orders of approval to "appropriate" staff. A-14–15. Because the WCAA authorized PSCAA to issue those resolutions and regulations and required the control officer to observe and enforce them, the control officer's assignment of authority to PSCAA staff with the required highly specialized and highly technical expertise was both permitted and appropriate. *Id.*

When rejecting ACT's argument that only the board had

authority to issue the Order, the court of appeals described the practical, technical, and legal limitations of the board and explained: "To say that the legislature expected only PSCAA board members, individuals without technical expertise and paid no more than $1,000 per year for their services, to review and research highly technical documents and issue orders of approval for new sources of air contaminants borders on absurd." A-16.

The court also noted that agencies have been delegating authority to professional staff since the 1970s without interference from the legislature. *Id.* and n.11. To the extent petitioners protested the lack of a PSCAA board member's signature on the Order, the court rejected that argument as "form over substance" and unpersuasive. A-16.

III. ARGUMENT

Because the Opinion does not conflict with this Court's precedent or raise a matter of substantial public interest, review is unwarranted. RAP 13.4(b)(1) and (4). ACT's arguments to the contrary mischaracterize the Opinion, the plain language of the

WCAA, and the law.

A. Review is Unwarranted Under RAP 13.4(b)(1)

1. The WCAA Expressly Authorizes the Actions of PSCAA and the Control Officer

ACT argues that the Opinion conflicts with this Court's decisions holding that legislative bodies may not delegate their discretionary or quasi-judicial powers absent specific statutory authorization. Pet. at 10–19. This argument fails because, as the court of appeals correctly concluded, the plain language of the WCAA authorizes (indeed requires) air agencies to appoint a control officer whose sole responsibility "shall be to" enforce the WCAA and "all" agency regulations and resolutions, without limitation. A-12–13. To suggest otherwise, ACT cherry picks language from the WCAA and ignores statutory context proving the fallacy of its position. It also inaccurately describes the analysis of the court of appeals.

ACT contends the court failed to consider that the WCAA assigns different responsibilities to different entities and distinguishes between boards, control officers, and the

permitting authority generally. As it did before the court of appeals, ACT argues that the control officer acted without statutory authority because RCW 70A.15.2210(3), states that if the "board" determines a proposed new source complies with statutory requirements, "it shall issue an order of approval." The court of appeals both considered this argument and correctly rejected it based on the WCAA's plain language and statutory context.

As the court noted, RCW 70A.15.2030 states that the PSCAA "board shall exercise all powers of the authority *except as otherwise provided*." A-12 (emphasis added). RCW 70A.15.2040 enumerates the powers of PSCAA's board, including the authority to "[a]dopt, amend and repeal its own rules and regulations, implementing [the WCAA]." *Id. The* provision on which ACT relies, RCW 70A.15.2210(3), outlines the procedures for NOC of new sources of air contaminants, including issuing orders approving and denying construction. A-12. And RCW 70A.15.2300 states that any activated air pollution

control authority "*shall* appoint a full-time control officer, whose sole responsibility *shall be to observe and enforce* the provisions of this chapter and *all orders, ordinances, resolutions, or rules and regulations of such activated authority* pertaining to the control and prevention of air pollution." *Id.* (emphasis in original).

The court reasoned that the section of the WCAA requiring PSCAA to appoint a control officer to observe and enforce "the provisions of this chapter" along with all agency orders and resolutions fell under the "except as otherwise provided" exemption of RCW 70A.15.2030 and conferred authority on the control officer to enforce RCW 70A.15.2210(3)'s NOC provisions. *Id.* The court further noted that PSCAA had issued a resolution authorizing the control officer to delegate issuance of orders of approval "as appropriate to Agency staff" and that the plain language of the WCAA required the control officer to enforce that resolution. A-15.

ACT cites *In re Puget Sound Pilots Ass'n*, 63 Wn.2d 142,

385 P.2d 711 (1963) to suggest that "a delegated power may not be further delegated by the person to whom such power is delegated," Pet. at 12–13, but that is only true if the delegation is unauthorized by statute. 63 Wn.2d at 145 (stating that, "[a]part from statute," the power to sub-delegate turns on the nature of the delegated duty).

In this instance, the court correctly concluded that the WCAA expressly required the control officer to enforce the WCAA and all PSCAA resolutions and regulations. The WCAA also authorized the PSCAA board to issue resolutions, regulations, and orders as necessary to effectuate the purpose of the WCAA, which would include any provisions related to the issuance of NOC orders of approval. This is not a situation where the PSCAA board or the control officer lacked statutory authority. Their actions—the board's reliance on a control officer, and that control officer's enforcement of the agency's resolutions—are consistent with the express language of the WCAA.

The court also specifically rejected the argument ACT makes in its petition for review and claims the court failed to consider: that other provisions of the WCAA distinguish between the PSCAA board and the control officer. A-13. In rejecting this argument, the court emphasized that RCW 70A.15.2300 "expressly authorizes the control officer to observe and enforce 'all orders, ordinances, resolutions, or rules and regulations of such activated authority.'" A-13. This plain language provided the control officer with statutory authority to enforce PSCAA Regulation I, § 3.01, which mirrors RCW 70A.15.2300 and states that the control officer is "empowered by the [PSCAA] Board to sign official complaints, issue citations, initiate court suits, or use other legal means to enforce the provisions of the [WCAA]." *Id.*

Similarly, the court emphasized PSCAA Resolution No. 1175, which expressly delegated authority to the control officer to issue orders of approval pursuant to RCW 70A.15.2210. *Id.* The court concluded that under ACT's interpretation, language

in RCW 70A.15.2300 requiring the control officer to "enforce" the board's regulations and resolutions would be superfluous.

Indeed, ACT's argument flips on its head the fundamental rule of statutory construction "that a section of a statute should not be read in isolation from the context of the whole Act, and that in fulfilling [the court's] responsibility in interpreting legislation, 'we must not be guided by a single sentence or member of a sentence, but [should] look to the provisions of the whole law, and to its object and policy.'" *Richards v. U.S.*, 369 U.S. 1, 11 (1962) (quoting *Mastro Plastics Corp. v. Nat'l Labor Relations Bd.*, 350 U.S. 270, 285 (1956)); s*ee also Dep't of Ecology v. Campbell & Gwinn, LLC*, 146 Wn.2d 1, 11–12, 43 P.3d 4 (2002); *ITT Rayonier, Inc. v. Dalman*, 122 Wn.2d 801, 807, 863 P.2d 64 (1993) ("Statutory provisions must be read in their entirety and construed together, not piecemeal.").

The WCAA authorizes (and requires) PSCAA to appoint a control officer for the purpose of enforcing the Act and the agency's rules and regulations. ACT's argument is based on a

flawed reading of the WCAA's plain language that focuses on the word "board" without considering the statutory context. The court of appeals correctly read the various provisions of the WCAA together and in context of the WCAA's purpose and its mandate that PSCAA use a control officer to enforce the provisions of the Act and the Agency's regulations and resolutions.

2. Use of the Word "Delegate" Is Not Required

ACT suggests that to qualify as an express delegation of authority, the legislature needed to have specifically used the word "delegate," Pet. at 21–22, but cites no case, let alone Supreme Court precedent, so holding. Instead, as the court of appeals correctly noted, A-5, when interpreting a statute, if "the statute's meaning is plain on its face, then the court must give effect to that plain meaning as an expression of legislative intent." *Campbell & Gwinn*, 146 Wn.2d at 9–10; *see also Barry & Barry, Inc. v. Dep't of Motor Vehicles*, 81 Wn.2d 155, 500 P.2d 540 (1972) (finding delegation based on plain language of

statute not containing the word "delegate"). The court did exactly what this Court's precedents require—it read the statutory provisions and applied their plain meaning. No more is required here.

3. The Court Correctly Considered Absurd Results

Also under RAP 13.4(b)(1), ACT argues that the court of appeals acted contrary to this Court's precedent when it noted the complexity of air permitting, the low compensation of board members, and that the legislature had not acted to amend the relevant provisions of the WCAA even though it is widely recognized among air pollution control authorities that air agency staff members issue orders of approval. ACT argues this was error because, under this Court's precedent, courts may rely on policy considerations only when a statute is unambiguous. Pet. at 27–28. ACT mischaracterizes the Opinion, which did not take any policy considerations into account and instead based its conclusion on the plain language of the WCAA, correctly noting the need to avoid any interpretation of its language that would

lead to absurd results. A-13 ("because the plain language is clear, we need not look outside the language of the statutory provisions to aid in their interpretation."). Because the Opinion was based on the statute's plain language, ACT's argument is misplaced.

The "policy considerations" ACT cites are not policy considerations at all, but the court's explanation of how ACT's proposed interpretation of the statute's plain language would lead to absurd results. As described above, the court correctly noted that it would be absurd to have unqualified board members with statutorily limited time and compensation review thousands of NOC applications, and doing so would upend the longstanding practice of air agencies despite a lack of legislative intervention. A-16.

The court correctly took these considerations into account. A fundamental principle of statutory interpretation is that when construing a statute's plain language, "'a reading that results in absurd results must be avoided because it will not be presumed that the legislature intended absurd results.'" *State v. J.P.*, 149

Wn.2d 444, 450, 69 P.3d 318 (2003) (quoting *State v. Delgado*, 148 Wn.2d 723, 63 P.3d 792 (2003)); *see also Jespersen v. Clark Cnty.*, 199 Wn. App. 568, 578, 399 P.3d 1209 (2017). The court of appeals correctly cited and applied this standard, just as this Court's precedents require. A-5.

As the amicus curiae brief of Local Air Agencies noted, the WCAA limits the amount of time board members may spend on local air agency business. Adopting ACT's position would require part-time board members without expertise to evaluate and act on each and every NOC application. A-11. According to the agencies, such a scenario "is simply not feasible." *Id*. (quoting Brief of Amicus Curiae Local Air Agencies). The court noted these absurd results—that board members lacking expertise who make no more than $1,000 per year would be charged with conducting a highly technical analysis for hundreds

of NOC permits every year[7]—when explaining why ACT's proposed interpretation of the WCAA's plain language must fail. A-16.

To the extent the court of appeals found that the control officer's delegation to staff was also "appropriate" based on these considerations, A-15 and A-16, the court's finding speaks to the plain language of the PSCAA regulation requiring delegation to staff be "appropriate." A-10 (quoting Resolution No. 805) and A-15 (quoting control officer's memo delegating certain authority to "appropriate [PSCAA] staff" and finding that the control officer's delegation had been "appropriate."). In describing the absurd consequences that would result under ACT's interpretation and why, as a matter of fact, the control officer's delegation was "appropriate" and thus in compliance with PSCAA's resolutions, the court of appeals acted in

[7] The court noted that PSCAA has received more than 12,000 NOC applications in its history and regulates approximately 3,000 sources of air contaminants. A-15.

accordance with this Court's precedent, not against it.

B. Review is Unwarranted Under RAP 13.4(b)(4)

ACT's arguments related to the public interest rest almost entirely on its false assumption that the court of appeals acted contrary to this Court's precedent when it rejected ACT's argument that the NOC order of approval is ultra vires. For reasons stated above, the court of appeals did not act contrary to this Court's precedents and, as such, ACT's arguments fail. ACT also fails to raise any other issue of substantial public interest.

1. The Opinion Did Not Create a "Major Loophole"; It Is Consistent With 50 Years of Successful WCAA Implementation

ACT argues that an issue of substantial public interest exists because the court of appeals created a "major loophole that could upend the legislative assignment of responsibilities under many other administrative laws." Pet. 19. This is simply a recasting of its prior arguments. ACT claims a "loophole" exists because RCW 70A.15.2300 does not expressly authorize the PSCAA board to delegate the issuance of NOC orders of

approval. For reasons stated above and in the Opinion, the plain language of the WCAA *does* authorize PSCAA's delegation of the issuance of NOC orders of approval, and requires PSCAA to use a control officer to enforce the provisions of the Act and all PSCAA regulations and resolutions, which is precisely what occurred here.

ACT cites *Pierce v. Lake Stevens School Dist. No. 4*, 84 Wn.2d 772, 529 P.2d 810 (1974) and *P.B. Lutz v. City of Longview*, 83 Wn.2d 566, 520 P.2d 1374 (1974) to suggest PSCAA improperly relied on its inherent power to delegate, but, unlike the city council in *Lutz*, PSCAA has not argued that it relied on any such "inherent" power. Similarly, *Pierce* involved a wholly different statutory scheme that required a school district's board of directors to determine whether probable cause existed for nonrenewal of a teacher's contract. The board did not delegate any of its authority. Here, by contrast, the plain language of the WCAA authorizes PSCAA's delegation of authority to a control officer, who is in turn authorized through

the WCAA and PSCAA resolutions and regulations to delegate issuance of NOC orders of approval to staff.

2. ACT's Environmental Claims Have Already Been Rejected, Are Entirely Unrelated to the Ultra Vires Claim, and Are Therefore Not Properly Before This Court

ACT incorrectly suggests that a substantial public interest exists warranting review under RAP 13.4(b)(4) because the NOC order of approval involves questions of air pollutants. Pet. at 30–33. The environmental impacts of Tacoma LNG, which is a clean-fuel project that displaces the use of a fuel with much higher criteria pollutant emissions contributing to human health impacts, were reviewed under the State Environmental Policy Act (SEPA). That review, which the court of appeals upheld on grounds no party has challenged, demonstrated that the use of LNG instead of petroleum-based fuels is predicted to result "in an overall decrease in GHG emissions," A-21–22. Similarly, PSCAA's Ambient Toxics Impact Analysis demonstrated an almost complete reduction in toxic air pollutants, A-28–29. The court of appeals upheld the analysis supporting those

conclusions, which are also entirely unrelated to the ultra vires claim that is the only issue for which ACT seeks this Court's review.[8] In any event, the fact that Tacoma LNG concerns (and improves) air pollutants is insufficient to demonstrate a substantial public interest warranting review under RAP 13.4(b)(4).

C. ACT's Remaining Arguments Are Irrelevant to This Court's Analysis Under RAP 13.4(b)

ACT argues that the terms "observe and enforce" are too generic to authorize issuance of orders of approval and suggests the legislature needed to instead use the word "delegate." Pet. at 23–24. For reasons stated above, the word "delegate" is not required, and ACT fails to explain how the court's interpretation of the words "observe and enforce" conflicts with this Court's

[8] The fact that another appellant has sought review of PSCAA's analysis of Best Available Control Technology does not change the assessment. As indicated in PSE's forthcoming answer to the petition for review filed by the Tribe, there is no merit to the Tribe's allegations of error and, even if there were, any such errors could not provide a basis for granting review of the ultra vires claim.

precedent or creates an issue of substantial public interest for purposes of RAP 13.4(b). Nevertheless, ACT's argument is irrelevant because the court of appeals did not base its conclusion on some hyper technical definition of these terms. To the contrary, it specifically and expressly based its conclusion on the WCAA's plain language. A-12.

The WCAA requires PSCAA to appoint a control officer. RCW 70A.15.2300; A-11. The WCAA also requires that control officer to "observe and enforce" the provisions of the WCAA and "all orders, ordinances, resolutions, or rules and regulations of such activated authority[.]" *Id.* Finally, the WCAA authorizes PSCAA to adopt its own rules, regulations, and orders implementing the WCAA, "as may be necessary to effectuate" its purpose and without further limitation. RCW 70A.15.2040. As ACT recognizes, the term "observe" means to "adhere to or abide by." Pet. at 23. That definition is consistent with the court's interpretation of the WCAA's plain language and its conclusion that the WCAA authorizes air agencies to delegate the issuance

of notices of approval to a control officer and requires that control officer to observe and enforce the provisions of the WCAA (which would include the provision concerning NOC notices of approval) and all air agency resolutions and ordinances.

ACT also argues that RCW 70A.15.2210, which outlines the procedure for NOCs, should control over RCW 70A.15.2300, which requires the appointment of a control officer who must observe and enforce the agency's resolutions and regulations, because the former is more specific than the latter. Pet. at 24–26. This argument necessarily fails because, as ACT admits, Pet. at 24, the statutes do not conflict. The canon of statutory interpretation favoring specific over general "applies only if, after attempting to read statutes governing the same subject matter in pari materia, we conclude that the statutes conflict to the extent they cannot be harmonized." *O.S.T. ex rel G.T. v. BlueShield*, 181 Wn.2d 691, 701, 335 P.3d 416 (2014) (citing cases). The court of appeals read the statutes together. Because

they could be read in harmony without any portion being rendered meaningless or superfluous, the "specific over general" canon is inapplicable.

ACT also suggests the Opinion will allow an air agency to adopt a regulation "delegating new source permitting to the regulated facilities themselves" or to "waive permit requirements altogether." Pet. at 26. This argument is nonsensical and unsupported by the court's analysis. The WCAA requires PSCAA to appoint a control officer, and for the control officer to enforce PSCAA's regulations and resolutions. There is no parallel delegation to "regulated facilities," and the WCAA sets parameters on an agency's authority to adopt regulations, all of which must be for the purpose of implementing the WCAA and "consistent with" that purpose. RCW 70A.15.2040(1). ACT's hypotheticals are unsupported, far-fetched red herrings apparently intended to distract from the lack of substance in ACT's other arguments. They have no bearing on this Court's analysis under RAP 13.4(b).

Finally, ACT takes issue with the court's conclusion that merely requiring board members to sign NOC orders of approval without any consideration of the underlying merits would place form over substance. Pet. at 28–31. ACT disagrees with the court's conclusion and contends NOC orders of approval are the types of decisions Board members should make, but ACT's disagreement does not create a conflict with this Court's precedent or an issue of substantial public interest, as required for review under RAP 13.4(b). ACT cites *Norco Const., Inc. v. King Cnty.*, 97 Wn.2d 680, 690, 649 P.2d 103 (1982), for the basic proposition that county councils historically decided preliminary plat applications. It has nothing to do with the legal issues in this case, the WCAA, or its delegation of authority to local air agencies. The WCAA clearly confers authority to the control officer to issue orders approving notices of construction, for reasons clearly and correctly stated in the Opinion. A-11–17.

Similarly, *Pierce*, 84 Wn.2d 772, which ACT cites, considered whether it was proper for a school district board to

utilize and rely on the services of staff in determining which teaching positions should be eliminated, even though the board was required to make the ultimate determination of whether probable cause existed. The case is entirely inapplicable. The school district board did not argue that it had statutory authority to delegate any power to staff. *Id.* at 783 ("There is in this case no evidence that the board of directors delegated its power to determine that probable cause for nonrenewal existed."). Nor did *Pierce* involve the WCAA or an interpretation of its plain language, which is the relevant inquiry in this petition for review.

For these reasons and those stated above, ACT has failed to show review is warranted under RAP 13.4(b)(1) or RAP 13.4(b)(4).

IV. CONCLUSION

The court of appeals correctly concluded that the WCAA's plain language authorized PSCAA's delegation of the issuance of NOC orders of approval to a control officer, and that the control officer had authority through the WCAA and PSCAA's

regulations and resolutions to sub-delegate that responsibility to appropriate staff with the necessary technical expertise, which is precisely what the control officer did. Because there is no basis for review under either RAP 13.4(b)(1) or RAP 13.4(b)(4), this Court should deny ACT's petition for review.

Respectfully submitted this 22nd day of April, 2024.

I certify that this Answer to Petition contains 4,592 words in compliance with RAP 13.4(f) and RAP 18.17(c)(10).

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CERTIFICATE OF SERVICE

I, I'sha Willis, declare as follows:

That I am over the age of 18 years, not a party to this action, and competent to be a witness herein;

That I, as legal assistant in the office of Van Ness Feldman LLP, caused true and correct copies of the following documents to be delivered as set forth below:

1. Puget Sound Energy, Inc.'s Answer to Petition for Review of Advocates for a Cleaner Tacoma;
2. Certificate of Service;

and that on April 22, 2024, I caused the foregoing documents to be e-filed and e-served electronically through Washington State Appellate Courts' Secure Portal as follows:

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Dated this 22nd day of April, 2024.

s/ I'sha Willis
I'sha Willis, Legal Assistant

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Filed with Court:	Supreme Court
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Comments:

PSE's Answer to ACT's Petition for Review

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