Washington State Court of Appeals
Division Two

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General Orders, Calendar Dates, and General Information at http://www.courts.wa.gov/courts **OFFICE HOURS**: 9-12, 1-4.

September 9, 2016

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CASE #: 49517-1-II/Puget Sound Energy v City of Tacoma, et al

Counsel:

On the above date, this court entered the following notation ruling:

A RULING BY COMMISSIONER SCHMIDT:

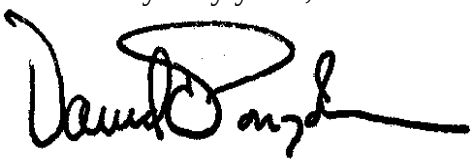
PSE moves to enjoin the City of Tacoma from fulfilling the Public Records Act request made by Nunnally and Tacoma News, Inc. (Tacoma News) for a Siting Report and a Fire Protection Evaluation Report (the Reports) pertaining to a liquified natural gas (LNG) facility that PSE is seeking to build. It has argued that the Reports contain "critical energy infrastructure information" (CEII) that is exempt from disclosure under a number of exceptions to the Public Records Act. When the denial of a motion for relief, such as the motion for an injunction filed here, would destroy the fruits of the appeal, this court should grant the motion for relief under RAP 8.3 unless the appeal is totally devoid of merit. Boeing v. Sierracin Corp., 43 Wn. App. 288, 291, 716 P.2d 956 (1986). The issue of whether a determination by the Federal Energy Regulatory Commission as to whether information constitutes CEII has preclusive effect is a debatable one, so PSE's appeal is not totally devoid of merit. Accordingly, PSE's motion is granted and the City's fulfillment of Tacoma News's request for disclosure of the Records is enjoined pending further decision of this court.

Tacoma News asks that this court condition its injunction on an injunction on any activity on PSE's LNG facility pending disclosure of the Reports. But it cites no authority, and this court can find none, that would give this court the authority to issue an injunction. Its authority is limited to Tacoma News's Public Records Act request. Tacoma News's request for an injunction is denied.

Tacoma News also asks that this appeal be expedited. In light of the public interest, this court grants this request. PSE shall file its designation of clerk's papers and statement of

arrangements by September 16, 2016. PSE shall file its opening brief by October 7, 2016. Tacoma News and the City of Tacoma shall filed their reponse briefs by October 28, 2016. Any reply brief is due by November 10, 2016. The appeal will be set for consideration during the December 2016 calendar.

Very truly yours,



David C. Ponzoha
Court Clerk

DCP:saf