

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKET UG-200112

**BRIEF SUPPORTING FULL
SETTLEMENT STIPULATION
AND AGREEMENT**

I. INTRODUCTION

1 Pursuant to WAC 480-07-740(3)(a), this brief is submitted in support of the
Settlement Stipulation and Agreement (“Settlement Agreement”) entered into by and between
Puget Sound Energy (“PSE”), the regulatory staff of the Washington Utilities and
Transportation Commission (“Commission Staff”), and the Public Counsel Unit of the
Washington Office of the Attorney General (“Public Counsel”). The parties are hereinafter
collectively referred to as “Settling Parties” and each individually as “Settling Party.”

2 The Settlement Agreement presented to the Commission in this case is a “full
settlement,” as that term is defined in WAC 480-07-730(1), because the Settlement
Agreement is entered into by all parties and resolves all disputed issues in the case.

3 The Settling Parties request that the Commission review the Settlement Agreement
and this brief supporting the Settlement Agreement and approve the terms of the Settlement
Agreement in their entirety and without condition.

4 Consistent with the requirements of WAC 480-07-740(2)(b), (2)(e) and (3)(b), the
Settling Parties agree that this proceeding is not a general rate case and request that review

proceed on a timetable for less complex matters. PSE would like to begin the customer transition process as soon as possible so customers are smoothly transitioned before the fall heating season. To aid in the efficiency of the review process, particularly given the challenges associated with COVID-19, the Settling Parties agree that a formal settlement hearing is not necessary and request a streamlined review of the proposed settlement on a paper record. However, the Settling Parties will present one or more witnesses to testify in support of the Settlement Agreement if the Commission believes a hearing will assist the Commission to decide whether to approve the Settlement Agreement.

II. SCOPE OF DISPUTE

5 On February 19, 2020, PSE filed with the Commission an Application seeking to sell its optional water heater rental service, which currently provides service to customers under Natural Gas WN U-2 Tariff Schedules 71 and 72 (the “Water Heater Service”), to Grand HVAC Leasing USA LLC (“GHL”). In addition to the Application, PSE submitted proposed tariff revisions to Schedules 71 and 72, discontinuing the Water Heater Service. In support of the Application and tariff revisions (the “Proposed Transaction”), PSE submitted prefiled direct testimony and exhibits from two PSE witnesses.

6 In its Application, PSE requested an order from the Commission determining that the water heaters, related property, and rental agreements owned by PSE associated with the Water Heater Service (the “Water Heater Assets”), are no longer necessary or useful. Alternatively, PSE requested an order authorizing the sale of the Water Heater Service because the sale is consistent with the public interest. Whether the sale of the Water Heater Service should be approved by the Commission—either because the Water Heater Assets

are no longer necessary or useful or because the sale is otherwise consistent with the public interest—is the fundamental issue in this case.

7 Commission Staff and other parties have been opposed to the Water Heater Service for years. In 2000, PSE agreed to close the service to new customers. In 2015, in Dockets UE-151871/UG-151872, PSE proposed tariff revisions that would expand the service, which Commission Staff, Public Counsel, and other parties opposed. Ultimately, the Commission denied PSE’s proposal.

8 In PSE’s 2017 general rate case in Dockets UE-170033/UG-170034, Commission Staff recommended that the service end. In that case, the parties entered into a Multiparty Settlement Stipulation and Agreement where PSE agreed to enter a collaborative with Commission Staff and other stakeholders to address the future of the service. As part of the collaborative and after discussions with Commission Staff and other stakeholders, PSE agreed to discontinue the Water Heater Service. Accordingly, as set forth in the Application and PSE’s prefiled direct testimony in this case, PSE has submitted tariff revisions to Schedules 71 and 72, discontinuing the Water Heater Service, and entered into an Asset Purchase Agreement with GHL for PSE to sell the Water Heater Service to GHL.

9 On March 4, 2020, in Order 01, the Commission suspended operation of the as-filed tariffs and set the matter for hearing. Attorneys for Commission Staff and Public Counsel filed appearances in the case. No other parties requested intervention. On March 13, 2020, the Commission convened a prehearing conference at Lacey, Washington. On March 16, 2020, the Commission issued a Prehearing Conference Order setting a procedural schedule that, at the recommendation of the parties, included an early settlement conference date of April 3, 2020 and provided for expedited discovery.

10 Pursuant to the procedural schedule, Commission Staff and Public Counsel each issued data requests to PSE, and PSE responded to the requests. The Settling Parties convened a formal telephonic settlement conference on April 3, 2020, participated in several settlement-related calls and correspondence after the formal settlement conference, and convened a second formal settlement conference on April 24, 2020. On April 29, 2020, some of the parties reached an agreement in principle for all issues currently pending before the Commission in this case and provided notice of this agreement in principle to Administrative Law Judge Rayne Pearson and Administrative Law Judge Michael Howard. The remaining party joined the settlement on May 21, 2020. On May 22, 2020, the Settling Parties filed the Settlement and this accompanying brief with the Commission.

III. SCOPE OF SETTLEMENT AND ITS PRINCIPAL ASPECTS

11 Commission Staff and Public Counsel support PSE's discontinuance of the Water Heater Service and agree that selling it to GHL, with the added terms stated in the Settlement Agreement, is consistent with the public interest.¹ Commission Staff and Public Counsel agree that selling the Water Heater Service to GHL (1) ensures that customers who wish to continue a water heater rental service may do so; (2) allows PSE to recoup some of the existing net book value of the Water Heater Assets, which benefits all customers.

12 The fundamental issue between the parties is ensuring that customers are fully protected and informed throughout the transition process. The Settling Parties worked collaboratively and diligently to ensure that during the transition to GHL, customers are informed about the transition, GHL's services, and what options are available to customers.

¹ Commission Staff and Public Counsel take no position on PSE's request for a Commission determination that the water heater, related property, and rental agreements owned by PSE associated with the Water Heater Service, are no longer necessary or useful pursuant to RCW 80.12.020 and WAC 480-143-180. The Settling Parties agree that resolution of this issue is not necessary for a final disposition of this case.

Accordingly, as described more fully below, the Settling Parties agreed to terms to further facilitate customer transition including (i) offering a payment plan for customers who have a payoff balance for their water heater and wish to take ownership that allows customers to spread payments for their water heater up to a twelve-month period, interest free; (ii) changes to the customer communication letters that better outline customer options including the ability of customers to continue their service with GHL; (iii) a comparison document that visually illustrates the differences between the PSE and GHL services; and (iv) the addition of a phone call to customers in the fourth month of transition to further inform customers regarding the transition to GHL. The Settling Parties ask the Commission to accept the proposed Settlement without condition.

A. Payment Plans

13 As proposed in PSE's Application and supporting testimony, customers who do not wish to transition their water heater rental service to GHL can elect to take ownership of their rented water heater.² Customers who currently rent a water heater that has an undepreciated balance and wish to take ownership of the water heater are responsible for the remaining undepreciated balance.³ While PSE already provides customers an optional payment arrangement that allows customers to spread out the payment of the undepreciated value over a three-month period, the Settling Parties agree that for this proceeding, PSE will offer a payment plan option that will spread the undepreciated value of the water heater up to a twelve-month period, without interest. The Settling Parties believe that this option will allow customers who wish to take ownership of their water heater to do so without requiring

² See Application, ¶¶ 9, 17; Einstein, Exh. WTE-1CT at 6:3-7, 10:8-11:9.

³ *Id.*

a lump-sum payment, which will increase accessibility to this option, especially for low-income customers and for customers facing financial hardship due to COVID-19.

14 The payment plan option will be included in the customer transition letter, on PSE's website, and PSE's customer care agents will be trained to assist customers that seek more information and to enroll them in the payment plan.

B. Customer Communication

15 PSE's prefiled direct testimony details an extensive customer communication process coordinated between PSE and GHL to fully notify and inform customers of the transition to GHL.⁴ To improve upon this process, the Settling Parties have agreed to several improvements to the customer communication process, as described below.

1. Revised Customer Transition Letters

16 The Settling Parties worked collaboratively to modify the customer transition letter enclosed with PSE's Application. New, updated letters are attached as Appendix A to the Settlement. A summary of the changes are as follows:

- Created separate letters for customers with fully depreciated equipment and customers with equipment with a remaining undepreciated balance to ensure that customers with fully depreciated equipment understand they can take ownership of their equipment at no cost to them;
- For customers with a remaining undepreciated balance, made various changes to the letter to clarify the payoff amount, and that a payment plan is available;
- Clarified that customers who take ownership of their equipment assume responsibility and liability for their equipment;
- Various other textual changes to improve clarity, ease of reading, and formatting to emphasize that customers have a choice either to continue to rent through GHL or to pursue ownership of their rented water heater.

⁴ See Einstein, Exh. WTE-1CT at 10:8-13:14.

17 In addition to the above, to help customers better understand the transition and the service GHL provides, the customer transition letter will include an attachment visually illustrating the differences between the PSE and GHL rental services, which includes information comparing coverage, replacement options, rental payments and terms. This document is attached as Appendix B to the Settlement. The customer transition letter will also include the GHL terms and conditions as an attachment. The parties believe this document will more fully inform customers of the services provided by GHL before making the choice to transition to GHL.

2. Added Phone Communication

18 In addition to the improved customer transition letter described above, PSE will add a phone call to customers who have not made a choice either to terminate their current lease or enroll with GHL in the fourth month of the transition period as an additional layer of communication to more fully inform customers before transitioning to GHL.

C. Accounting Treatment of the Proposed Transaction

19 PSE's Application and prefiled direct testimony propose that all proceeds from the Proposed Transaction, including (1) proceeds received from GHL at close, (2) proceeds received from GHL as part of the 60 day post-close true-up, and (3) proceeds received, equal to the undepreciated value (or net book value) of the water heater from customers who terminate their rental service and elect to take ownership of their water heater, be recorded against a FERC 187 account (Deferred losses from disposition of utility plant). Any uncollected amounts from customers who choose to take ownership of their water heater will not be included in any calculation of the overall gain/loss on the sale but instead will be recorded as an uncollectible account write off. In addition, also recorded in the FERC 187

account will be the pre-tax net book value of the Water Heater Assets, which will be transferred from their respective plant accounts, plus any direct costs incurred by PSE in selling the Water Heater Service. The balance of the FERC 187 account will be held until the next general rate case where PSE will request recovery through amortization.⁵

20 The Settling Parties agree with PSE’s proposed accounting treatment of the Proposed Transaction, provided that arguments relating to the final disposition of any losses from this transaction are preserved until such time PSE files for the final treatment of any losses. Although gains are not anticipated from the transaction, the Settling Parties agree that the return to customers of any gains would also be addressed at such time PSE files for the final treatment of any gains. The express reservation of this issue is because the Settling Parties may disagree with the ultimate disposition of any losses from the transaction and wish to preserve arguments relating to the ultimate disposition of such losses. To be clear, in PSE’s Application, it is not asking for a Commission decision regarding the ultimate disposition of any gains or losses from the transaction, only that such gains or losses be placed in a FERC 187 account pending final determination in the next general rate case or at such time PSE files for final treatment of any gains or losses. The Settling Parties agree this is the appropriate accounting treatment at this time and consistent with typical practice.

D. Procedural Considerations

21 The Settlement contains provisions to facilitate a prompt and efficient resolution of this matter that will benefit customers as PSE’s service is discontinued. As PSE stated in the Application, the closing date for the Proposed Transaction is September 20, 2020,⁶ and to

⁵ See Application, ¶¶ 20-21; Free, Exh. SEF-1CT at 4:1-5:21.

⁶ Application, ¶ 22. This date will likely be adjusted backwards depending on the date of the Commission’s order.

allow enough time to smoothly transition customers from PSE to GHL, particularly before the fall heating season, the Settling Parties agree it is in the public interest to resolve the matter as soon as possible. Accordingly, in the Settlement, the Settling Parties agree to submit the Settlement and supporting documents to the Commission by May 22, 2020, and to forgo a formal settlement hearing, unless the Commission decides a hearing is necessary. However, while the procedural schedule has been suspended because of the settlement, to ensure the public has an opportunity to comment, the Settling Parties agree a public comment hearing should occur, which is scheduled for June 18, 2020, at 6:00 p.m.

IV. THE SETTLEMENT AGREEMENT IS IN THE PUBLIC INTEREST AND SHOULD BE APPROVED

22 Washington law and Commission precedent strongly support and encourage “the resolution of contested issues through settlement when doing so is lawful and consistent with the public interest.”⁷ The Commission should approve a settlement when doing so is lawful, the settlement terms are supported by an appropriate record, and the result is consistent with the public interest in light of all the information available to the Commission.⁸

23 The Settlement Agreement in this case meets the criteria set forth above and should be approved. The Settlement Agreement is lawful, it is supported by an appropriate record and is consistent with the public interest. The Settling Parties were united in their agreement that discontinuance of the Water Heater Service is appropriate and that selling the service to

⁷ See RCW 34.05.060 (informal settlement of matters that may make unnecessary more elaborate proceedings under this chapter is strongly encouraged); WAC 480-07-700, -740–750; *WUTC v. Cascade Natural Gas Co.*, Docket UG-060256, Order 05 ¶ 24 (Jan. 12, 2007) (internal citations omitted); see also *WUTC v. Verizon Northwest, Inc.*, Docket UT-061777, Order 01 ¶ 11 (June 30, 2008).

⁸ See WAC 480-07-750(2); *WUTC v. Puget Sound Energy*, Dockets UE-170033 and UG170034 (consolidated), Order 08 ¶ 63 (Dec. 5, 2017).

GHL is consistent with the public interest but that the customer transition process could be improved. Despite the disruptions caused by COVID-19, the Settling Parties engaged in accelerated discovery and then collaboratively convened in several rounds of early settlement communications resulting in an efficient and expedited resolution of this matter that avoids a prolonged proceeding, reduces costs, and conserves the resources of the parties and the Commission.

24 The Settling Parties recommend that the Commission approve the Settlement, as filed, as expeditiously as possible, so PSE can begin the important process of notifying customers of the sale and transitioning customers either to GHL or toward taking ownership of their rented water heater.

V. CONCLUSION

25 For the reasons set forth above, the Settling Parties respectfully request the Commission approve the Settlement Agreement filed in this docket.

DATED this 22nd day of May 2020.

Respectfully submitted,

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