

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of)	DOCKET UE-090399
)	
PUGET SOUND ENERGY, INC.)	ORDER 01
)	
For an Order Authorizing the Transfer)	
of White River Assets and an Order)	
Waiving Prior Approval of the Transfer)	ORDER GRANTING
of Surplus Property)	APPLICATION TO TRANSFER
)	ASSETS AND DENYING
)	APPLICATION FOR WAIVER
.....)	

BACKGROUND

1 On March 13, 2009, Puget Sound Energy, Inc. (PSE or Company), filed with the Washington Utilities and Transportation Commission (Commission) an application pursuant to RCW 80.12 and WAC 480-143, for authority to sell and transfer certain assets related to the Company’s White River Hydroelectric Project (the Project) to the Cascade Water Alliance (CWA). PSE also requested in its application that the Commission waive RCW 80.12.020 and WAC 480-143-120 with regard to certain surplus property (Surplus Property) related to the Project, which PSE expects to sell in the near future but which is not part of the CWA transaction. PSE did not request an accounting order in its application; rather PSE stated that it will bring the issue of the application of proceeds from the sale and disposition of all Project proceeds—including the sale of surplus property—to the Commission for consideration in PSE’s next general rate case after the sale of all the Project assets and Surplus Property is completed.¹ Likewise, PSE will address the reasonableness of the sale and transfer of the Surplus Property in a future general rate proceeding after the sale of the Surplus Property is completed. PSE requested in its petition that the Commission take the following action:

- (a) Approve the sale of certain assets related to the Project to the CWA, and
- (b) Waive the requirements of RCW 80.12.020 and WAC 480-143-120 with regard to the Project’s Surplus Property.

¹ See *In the Matter of the Petition of Puget Sound Energy, Inc., For an Accounting Order Authorizing Deferral and Recovery of Investment and Costs Related to the White River Hydroelectric Project*, Docket UE-032043 (consolidated), Order 06 at ¶¶ 251-253.

- 2 PSE stated in its Application that it operated the Project without a federal license from 1911 to 1983. Although PSE believed the Project to be exempt from the licensing requirements of the Federal Power Act, the Federal Energy Regulatory Commission (FERC) made a jurisdictional determination, and required the Company to apply for a license. In November 1983, PSE filed an Application for License with FERC, and from 1984 through 1997, operated White River under FERC jurisdiction pending issuance of a license. In December 1997, FERC issued an Original License to the Project, and PSE appealed based on economic consequences associated with implementing the License. In November 2003, the National Oceanic and Atmospheric Administration-Fisheries (NOAA-Fisheries) issued a revised draft biological opinion containing mandatory conditions that made Project economics infeasible. In December 2003, PSE notified FERC that it intended to reject the 1997 license; and on January 15, 2004, the Company ceased hydropower operations at White River.²
- 3 PSE stated that it pursued efforts to recoup its investment in non-hydro alternatives and dispose of the White River assets in a manner consistent with the public interest. CWA agreed to purchase the Project assets but not the Surplus Property. On April 23, 2008, PSE and CWA executed an Asset Purchase Agreement (Agreement), in which PSE agreed to sell Project assets to CWA in exchange for \$30,000,000. PSE states that the closing of the transaction is anticipated to occur no later than the third quarter of 2009, 45 business days following satisfaction of all conditions to closing, as set forth in Section 4.2 of the Agreement. Commission approval of the sale of the Project assets to CWA is one of several conditions to closing.
- 4 The Surplus Property consists of approximately 2,400 acres of undeveloped real property along the White River, real property that PSE held during the pendency of the FERC licensing proceeding as wildlife mitigation lands. While PSE has not executed a purchase and sale agreement for the Surplus Property, PSE states that it has identified at least two interested parties, and it anticipates executing purchase and sale agreements for the Surplus Land in 2009.

FINDINGS AND CONCLUSIONS

- 5 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate rates, rules, regulations, practices, accounts, securities, and transfers of public service

² See *id.* at ¶ 251.

companies, including electric companies. *RCW 80.01.040, RCW 80.04; RCW 80.08, RCW 80.12, RCW 80.16 and RCW 80.28.*

- 6 (2) PSE is an electric company and is a public service company subject to Commission jurisdiction.
- 7 (3) RCW 80.12.020 and WAC 480-143-120 require public service companies to file an application or petition including that for which PSE seeks approval.
- 8 (4) After reviewing the application and related exhibits, Commission Staff believes the request for authorization to transfer those certain Project assets in accordance with RCW 80.12 and WAC 480-143 is reasonable and consistent with the public interest and should be granted.
- 9 (5) The Commission cannot waive the requirements of a statute. Therefore, Commission Staff recommends, and the Company concurs, the request for waiver of RCW 80.12.020 and WAC 480-143-120 with regard to the Surplus Property should be denied.
- 10 (6) This matter was brought before the Commission at its regularly scheduled open meeting on May 14, 2009.
- 11 (7) After reviewing the application PSE filed in Docket UE-090399 on March 13, 2009, and giving due consideration to all matters and for good cause shown, the Commission finds that the request for authorization to transfer those certain Project assets should be granted and the request for waiver of RCW 80.12.020 and WAC 480-143-120 with regard to the Surplus Property should be denied.

ORDER

THE COMMISSION ORDERS:

- 12 (1) The application of Puget Sound Energy, Inc., for authorization to transfer certain assets related to the Company's White River Hydroelectric Project to the Cascade Water Alliance is approved and the application for waiver of RCW 80.12.020 and WAC 480-143-120 with regard to the Surplus Property is denied.
- 13 (2) Puget Sound Energy, Inc., will bring the issue of the application of proceeds from the sale and disposition of all Project proceeds, including the sales of Surplus

Property, to the Commission for consideration in the Company's next general rate case after the sale of all Project assets and Surplus Property is completed.

- 14 (3) This Order shall in no way affect the authority of the Commission over rates, services, accounts, evaluations, estimates, or determination of costs on any matters whatsoever that may come before it, nor shall anything herein be construed as acquiescence in any estimate or determination of costs claimed or asserted.
- 15 (4) The Commission retains jurisdiction over the subject matter and Puget Sound Energy, Inc., to effectuate the provisions of this Order.

DATED at Olympia, Washington, and effective May 14, 2009.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner