

**BEFORE THE WASHINGTON
UTILITIES & TRANSPORTATION COMMISSION**

In the Matter of the Application of

PUGET SOUND ENERGY

For an Order Authorizing the Sale of All of Puget Sound Energy's Interests in Colstrip
Unit 4 and Certain of Puget Sound Energy's Interests in Colstrip Transmission System

DOCKET UE-200115

**PAUL L. CHERNICK
ON BEHALF OF THE
WASHINGTON STATE OFFICE OF THE ATTORNEY GENERAL
PUBLIC COUNSEL UNIT**

EXHIBIT PLC-5

Puget Sound Energy Response to Public Counsel Data Request No. 13

October 2, 2020

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**Docket UE-200115
Puget Sound Energy
Application Authorizing Sale of PSE Interest in Colstrip Unit 4**

PUBLIC COUNSEL DATA REQUEST NO. 013:

Please refer to PSE's response to Public Counsel Data Request No. 3.

- a. The Prefiled Direct Testimony of Ronald J. Roberts, Exhibit RJR-1CT at 8:1-2, refers to "provisions of the Ownership and Operation Agreement that requires unanimity among the owners to effectuate a closure". The Company's response to Public Counsel Data Request No. 3(a), quoting from the Prefiled Direct Testimony of Ronald J. Roberts, Exhibit RJR-1CT at 35:1 – 36:6, states that "PSE only believes that '[a]rguments could be made that any decision regarding the closure or decommissioning of one or both units must be unanimous.'"
 - i. Please explain why Mr. Roberts states affirmatively that there are "provisions of the Ownership and Operation Agreement that requires unanimity among the owners to effectuate a closure" when, according to the Company's response to Public Counsel Data Request No. 3(a), "PSE only believes" that arguments could be made that the Ownership and Operation Agreement requires unanimity to effectuate closure.
 - ii. At the time that PSE was considering the potential closure of Colstrip Units 3 and 4, did NorthWestern Energy, Talen, or any of the other owners claim that "any decision regarding the closure or decommissioning of one or both units must be unanimous"? Please explain.
 - iii. At the time that PSE was considering the potential closure of Colstrip Units 3 and 4, had PSE formed an opinion regarding whether "any decision regarding the closure or decommissioning of one or both units must be unanimous"? Please explain.
- b. The Company's response to Public Counsel Data Request No. 3(b) states that in 2018 there was not a "consensus between Colstrip owners on the closure of Colstrip Units 3 & 4".
 - i. At that time, did PSE put a proposal to close Colstrip Units 3 and 4 to a vote by the owners' Project Committee? If so, please identify which owners voted to approve the proposal and which owners voted to reject the proposal

- ii. If PSE did not put a proposal to close Colstrip Units 3 and 4 to a vote by the owners' Project Committee at that time, please explain how PSE determined that there was not a "consensus between Colstrip owners on the closure of Colstrip Units 3 & 4".

Response:

Puget Sound Energy ("PSE") objects to Public Counsel Data Request No. 014 on the grounds that it seeks a legal conclusion concerning the terms and conditions of the Colstrip Units #3 & #4 Ownership and Operation Agreement, dated as of May 6, 1981, by and between The Montana Power Company, Puget Sound Power & Light Company, The Washington Water Power Company, Portland General Electric Company, Pacific Power & Light Company, and Basin Electric Power Cooperative (the "Colstrip Units 3 & 4 Ownership and Operation Agreement"). Subject to and without waiving this objection, PSE provides the following response.

- a.
 - i. Puget Sound Energy has not taken a position that unanimity would be required among the owners to effectuate a closure of one or both Colstrip units under the Colstrip Units 3 & 4 Ownership and Operation Agreement. Indeed, the Colstrip Units 3 & 4 Ownership and Operation Agreement is entirely silent with respect to closure of one or both Colstrip units. Given the silence of the Colstrip Units 3 & 4 Ownership and Operation Agreement on closure of units, any proposed closure of a unit that lacks unanimous consent of the owners would be controversial and be subject to prolonged litigation. Therefore, unanimous consent among the owners would effectively be necessary to effectuate an efficient and orderly shutdown of one or both Colstrip units.
 - ii. NorthWestern Energy has taken the position is that any decision regarding the shutdown of Colstrip Unit 4 must be unanimous by the Owners. NorthWestern Energy has no ownership interest in Colstrip Unit 3 and therefore has not taken a position on that unit.
 - iii. PSE has not formed an opinion that the Colstrip Units 3 & 4 Ownership and Operation Agreement requires unanimity among the owners with regard to any decision regarding the shutdown of one or both Colstrip units. As discussed in subpart a.i., PSE has formed an opinion that unanimity among the owners would effectively be required to effectuate an efficient shutdown of one or both Colstrip units.
- b.
 - i. No formal proposal to close Colstrip Units 3 & 4 has been put to a vote by either the Project Committee or the Owners.

- ii. NorthWestern Energy has publicly taken the position that it intends to continue to supply its retail customers with generation from Colstrip Unit 4. Additionally, NorthWestern Energy has publicly and affirmatively taken the position that any decision regarding the shutdown of Colstrip Unit 4 must be unanimous.