

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

In the Matter of the Amended Petition	)	DOCKET UE-070725
of)	
	)	ORDER 06
PUGET SOUND ENERGY, INC.,)	
	)	GRANTING JOINT PETITION FOR
For an Order Authorizing the Use of	)	APPROVAL OF JOINT PROPOSAL AND
the Proceeds from the Sale of	)	REQUEST FOR AMENDMENT OF
Renewable Energy Credits and Carbon	)	ORDER 03; ¹ CONSOLIDATING
Financial Instruments	)	PROCEEDINGS AND GRANTING
	)	ACCOUNTING PETITION
.....)	
)	
In the Matter of the Petition of	)	DOCKET UE-101581
)	
PUGET SOUND ENERGY, INC.,	)	ORDER 01
COMMISSION STAFF AND THE)	
INDUSTRIAL CUSTOMERS OF)	
NORTHWEST UTILITIES,	)	GRANTING PETITION FOR
	)	ACCOUNTING ORDER AND
For an Order Authorizing Accounting	)	CONSOLIDATING PROCEEDINGS
Treatment of Offsets to the Balance of)	
Production Tax Credits)	
.....)	

Synopsis: The Commission approves an unopposed proposal submitted by Puget Sound Energy, Inc. (PSE), Commission Staff, and the Industrial Customers of Northwest Utilities that will result in bill credits to customers during the period November 2010 through March 2011, based on proceeds PSE received from sales of Renewable Energy Credits (RECs) through November 2009. In addition, this Order authorizes PSE to use a portion of the proceeds it receives from sales of RECs after November 30, 2009, to offset Production Tax Credits already credited to PSE’s customers but which the Company has not recovered via tax savings. RECs in excess of those provided to customers in the form of bill credits will be used to offset rate base in future rate proceedings, thus providing additional benefits to PSE’s ratepayers.

¹ The filing as to which the parties seek approval is captioned “Agreed Proposal and Request for Amendment of Order 03.” In this Order, for consistency with the as-filed documents, we refer to the “Joint Petition for Approval of [Agreed] Proposal and Request for Amendment of Order 03.”

MEMORANDUM

- 1 **PROCEEDINGS.** On October 8, 2009, pursuant to WAC 480-07-395(5), Puget Sound Energy, Inc. (“PSE” or “the Company”) filed its Amended Petition requesting the Washington Utilities and Transportation Commission (“Commission”) to enter an order authorizing PSE to defer the net revenues from the sale of certain Renewable Energy Credits and Carbon Financial Instruments (collectively “REC proceeds”), and to use these revenues in specific ways identified in the Amended Petition. Following its receipt of prefiled testimony and exhibits, the Commission conducted hearings on March 5, 2010, and received briefs from the parties on March 17 and 18, 2010.
- 2 The Commission entered Order 03—Final Order Granting, in Part, and Denying, in Part, Amended Petition; Determining Appropriate Accounting and Use of Net Proceeds from the Sales of Renewable Energy Credits and Carbon Financial Instruments, on May 28, 2010.
- 3 On June 1, 2010, PSE, Commission Staff and the Energy Project filed their respective petitions for reconsideration, advocating various modifications to Order 03. The Commission gave notice that it would accept answers pursuant to WAC 480-07-850(3). PSE, Staff, Public Counsel, the Energy Project, the Industrial Customers of Northwest Utilities (ICNU) and the Northwest Energy Coalition (NWECC) filed answers on June 16, 2010. The Commission reopened the record and gave notice of further process on June 29, 2010. Pursuant to its notice, the Commission conducted additional hearings on August 17, 2010.
- 4 On June 2, 2010, PSE made a partial compliance filing in response to Paragraph 93 of Order 03 that required PSE to provide a full accounting of its calculation of net proceeds from the sale of Renewable Energy Credits and Carbon Financial Instruments through November 30, 2009, and a supporting narrative explanation. PSE also filed a motion for extension of time with respect to the other aspects of Order 03 requiring compliance filings, given the pendency of the aforementioned petitions for reconsideration. The Commission granted this request for extension of time in Order 04, entered on June 3, 2010.

DOCKET UE-101581 (*Consolidated*)
ORDER 01

- 5 On August 31, 2010, the Commission entered Order 05 Denying PSE's Petition for Reconsideration; Denying the Energy Project's Petition for Reconsideration; and Granting In Part Staff's Petition for Reconsideration. Given the Commission's entry of Order 05, the need for any further delay in obtaining PSE's full compliance with Order 03 ended. Order 03 contemplated one or multiple proposals concerning the appropriate rate of interest to be applied to balances in the REC deferral accounts for periods before and after November 30, 2009, and the crediting method for REC proceeds received by PSE as of November 30, 2009. The Commission, in Order 05, required the parties to present one or more such proposals, with any necessary supporting evidence and argument, by September 22, 2010. This led to negotiation and agreement by PSE, Staff and ICNU (Joint Parties) to file their Petition for Approval of [Agreed] Proposal and Request for Amendment of Order 03, and their Agreed Proposal Concerning the Crediting Method for REC Proceeds and Request for Amendment of Order 03 (Agreed Proposal).²
- 6 Our approval here of the Joint Parties' Petition and PSE's related Petition for an Accounting Order in Docket UE-101581 will enable the Company to make such filings as are necessary to comply fully with the terms of this Order, and our prior orders in this proceeding. Given the level of detail included in the Agreed Proposal and the Company's Petition for an Accounting Order in Docket UE-101581, we include those filings, and their attachments, as appendices to this Order, and incorporate them by this reference. While the appendices provide the finer details, we discuss generally, and determine specifically, each aspect of the Agreed Proposal below.
- 7 **CONSOLIDATION OF ACCOUNTING PETITION:** When the Joint Parties filed their Agreed Proposal, PSE filed an Accounting Petition requesting that the PTC balance be offset by REC proceeds in the manner set forth in the Agreed Proposal. Because resolution of these PTC and REC issues are related and interdependent, the Parties requested that the Commission consolidate the Accounting Petition docket into the REC proceeding. We determine that these dockets should be consolidated and this Order grants the request for consolidation.

² All parties were invited to participate but only these three took an active role in the negotiations. The Commission accordingly postponed action on the Joint Parties' proposal until the time passed for any response to be filed. No response was filed by any party, resulting in the proposal being before us as unopposed.

- 8 **CREDITS TO CUSTOMERS:** The Joint Parties propose that the balance of REC proceeds received through November 30, 2009,³ be credited to customers during the time period October 2010 through March 2011. This is consistent with what the Commission required in Order 03 in Docket UE-070725. Given the timing of the Joint Parties' filing, however, and the need to provide an opportunity for non-signatory parties to respond, it appears impractical to include October 2010. We determine instead that PSE should provide customer credits during the period November 2010 through March 2011. Hence, we required PSE to rerun Attachment C to the Agreed Proposal for this time period and we substitute in Appendix A to this Order the Company's revised table, provided in response to Bench Request 2, for the original Attachment C.
- 9 **REQUEST FOR AMENDMENT OF ORDER 03:** The Joint Parties request that the Commission amend Order 03 to allow a portion of the REC proceeds received after November 30, 2009, to offset the surplus amount of Production Tax Credit (PTC) that has been credited to customers through the PTC Tracker. After the PTC balance is reduced to zero, the remainder of the REC proceeds received by PSE after November 30, 2009, would be treated as a regulatory liability and used to reduce PSE's rate base for ratemaking purposes. The Joint Parties request that the Commission amend Order 03 to allow the regulatory liability to be amortized over five years, rather than the ten-year amortization set forth in Order 03.⁴
- 10 By way of background to this aspect of the Agreed Proposal, the Joint Parties discuss that during 2005 the Commission approved in Docket UE-050870 the Company's proposal to create a new schedule, Production Tax Credit Tracker Schedule 95A. Schedule 95A provided for crediting electric customers' bills with the PTCs that were provided as a subsidy by the U.S. Government for generating electricity from wind. As explained in Appendix B to the prefiled direct testimony of John Story filed in Docket UE-050870, which was attached to Order 04, the Commission's Final Order in that proceeding:

³ The balance of REC proceeds received through November 30, 2009 excludes that portion of the REC Proceeds PSE is allowed to retain and that portion of the REC Proceeds the Commission allows to be used to increase the funding of PSE's low income energy efficiency programs. *See* Order 03 at ¶¶ 47, 61. Order 05 at ¶ 47.

⁴ *See* Order 03 at ¶¶ 66-68, 90.

To properly flow these tax credits through to the customer, the Company proposal is to create a PTC tracker that will pass through to the customer the actual production tax credits as they are generated and the tracker would not be subject to the sharing bands in the PCA. This pass through will be adjusted by the carrying costs for the deferred tax account for the PTCs that have been generated but have not been used for the current year's tax credit. As the customer is receiving the benefit of the tax credits as they are generated and the Company does not receive a credit from the IRS until the tax credits are utilized the Company is reimbursed its carrying costs for funds through this calculation.

- 11 At the time Schedule 95A was approved, and through December 2007, the timing difference between when the PTCs were credited to customers and when the Company received the subsidy from the U.S. Government was relatively brief. Although the balance of the deferred tax account did not reach zero or go negative during this time period there were additions and reductions to the receivable from the U.S. Government as the PTCs were generated and utilized in the Company's tax return. However, the balance consistently grew after December 2007.
- 12 In 2008, the U.S. Government adopted tax changes that provided PSE additional deductions for tax purposes. These changes, plus tax deductions that PSE was allowed for adding new resources, severely limited the amount of PTCs that the Company could use against any tax liability. The balance of the deferred tax account grew from \$6.3 million, in December 2007, to \$61 million, as of June 2010.
- 13 On June 24, 2010, the Commission entered Order 02 in Docket UE-091703. Order 02 allowed revisions to PSE's Tariff WN U-60, Tariff G, Schedule 95A- Production Tax Credit Tracker that reduced the rate to zero, due to the fact that PSE had not been able to use the tax credits that were being passed through to customers. As noted by the Commission in Paragraph 3 of Order 02:

PSE has been unable to realize in recent federal income tax filings the production tax credits (PTCs) that it has been and is currently passing through the Tracker. The revision of Tracker rates to zero, which is a departure from the original Tracker mechanism approved by the Commission, will cease greater accumulation of interest-

bearing cash balance advanced by PSE to the customers. To address the existing balance and to craft a workable mechanism to pass realized PTCs and Treasury grant benefits to the customers, PSE commits to work with Commission staff and other interested parties to undertake necessary modification of the pass-through mechanism. The zeroing out of Tracker rates serves as a practical undertaking by PSE considering the expected delayed benefit of generated PTCs and pending resolution of the balance owed the Company.

- 14 In response to the Commission's directions in Order 03 in Docket UE-070725 and Order 02 Docket UE-091703, PSE worked with Commission Staff and other interested parties to address the existing balance in the PTC tracking account by proposing amendment of Order 03 in Docket UE-070725 to allow a portion of the REC proceeds received by PSE from December 2009 through December 2011 to be used to offset the PTCs that have been passed through to customers ("PTC customer receivable") but have not been used by the Company on its tax return. The Joint Parties propose that this offset of RECs and PTCs occur during the time period October 2010 through December 2011. They refer to this as "the REC/PTC offset period."
- 15 We determine that the Joint Parties' proposal to address both the treatment of REC proceeds and balances in the PTC tracking account in the manner described in the Agreed Proposal, as summarized above, should be approved. On the one hand, PSE's ratepayers are entitled to the benefit of the REC proceeds, as discussed in Order 03. On the other hand, the PTC balance reflects anticipated tax benefits that PSE has not realized as expected, but which nevertheless were passed through to ratepayers. The Agreed Proposal thus restores balance to PSE's books, providing fair treatment to both ratepayers and the Company.⁵

⁵ While we address here the ratemaking treatment of PSE's REC proceeds and PTC benefits, the larger questions related to the use of tax benefits including various tax credits and PSE's overall federal tax obligation ratemaking treatment is expected to be addressed in its next general rate case. See UE-091703 and minutes 15:35 through 22:10 of the Commission's June 24, 2010, Open Meeting.

- 16 **ACCOUNTING FOR REC AND PTC BALANCES DURING THE REC/PTC OFFSET PERIOD; INTEREST RATE:** During the REC/PTC offset period, the Company will calculate the actual monthly balances of the REC liability and the PTC customer receivable. The actual balances will be used to track the difference between the amounts credited to the customers based on the calculation in Attachment B to the Agreed Proposal⁶ versus the amount that is actually credited to the customer during a given month due to variance in loads. This calculation will also true up the interest calculation on the PTC customer receivable and outstanding REC balances. Interest on the REC balance will be calculated using the current net of tax rate of return on the REC balance with an offset for the REC balance included in current rates as a working capital item. PSE must provide a spreadsheet detailing this calculation to the Commission and all parties to this docket for each month during the REC/PTC offset period.
- 17 **ACCOUNTING FOR REC AND PTC BALANCES AFTER THE REC/PTC OFFSET PERIOD; INTEREST RATE:** In future general or power cost only rate case filings, and after completion of the REC/PTC offset period, the Company will offset the REC liability against rate base and amortize the balance of RECs at the beginning of a given rate year over five years as a credit to cost of service. The rate base impact of the REC liability will be calculated using the same methodology used for regulatory assets related to production. For example, the Company currently uses the average of the monthly averages for the account balances during the rate year to calculate the impact on rate base. This calculation will be trued up to actual REC balances in the PCA mechanism. Once amortization on a REC balance begins, that balance will be tracked so that the amortization of that REC balance will cease at the end of five years. Given the significantly reduced REC balance that will be amortized and offset against rate base, the Parties further requested that the Commission amend Order 03 to allow for amortization over five years, rather than the ten year amortization set forth in Order 03.
- 18 We determine that this aspect of the Joint Parties' proposal is consistent with, but would make appropriate modifications to, the terms of Order 03 in Docket UE-070725. Given that we approve the use of approximately \$60 million in REC

⁶ There is an identical attachment to the Company's Petition for an Accounting Order in Docket UE-101581.

proceeds to offset the PTC balances, it is reasonable to shorten the amortization period for the remaining REC balances to five years.

19 As provided in both the Joint Parties' Agreed Proposal (*e.g.*, at paragraph 17) and in the Company's accounting petition, interest will accrue on the REC balances at PSE's authorized net of tax rate of return as shown in columns (e) and (k) of Attachment B to the Agreed Proposal. This is a reasonable rate of interest and should be applied as the Joint Parties propose.

ORDER

THE COMMISSION ORDERS THAT:

- 20 (1) Dockets UE-070725 and UE-101581, which share common elements of fact and law, are consolidated here for purposes of decision.
- 21 (2) The Joint Parties' Petition for Approval of [Agreed] Proposal and Request for Amendment of Order 03 is granted. The Commission approves and adopts the terms of the Joint Parties' Agreed Proposal Concerning the Crediting Method for REC Proceeds and Request for Amendment of Order 03 as a reasonable resolution of issues pending in these proceedings.
- 22 (3) Order 03 in this proceeding (*i.e.*, Docket UE-070725) is amended as necessary to be consistent with this Order.
- 23 (4) PSE's Petition for an Accounting Order in Docket UE-101581 is granted.
- 24 (5) PSE, in accordance with the Agreed Proposal and WAC 480-07-880(3), is required to file with the Commission and serve on all parties to this docket during each month of the REC/PTC offset period a spreadsheet as discussed in paragraph 16 of this Order.
- 25 (6) PSE is authorized and required to make such compliance filings as are necessary to implement the terms of this Order and, to the extent consistent with this Order, the terms of the Commission's prior orders in this proceeding. Any tariff sheets filed must bear an effective date no earlier than November 1, 2010, and must be filed in time to provide Staff with at least 2 business days for review. Staff is directed to report to the presiding Administrative Law

Judge whether the tariff sheets comply fully with the relevant terms of the Commission's orders in Docket UE-070725.

- 26 (7) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, filings that comply with the requirements of this Order.
- 27 (8) The Commission retains jurisdiction to effectuate the terms of this Order and its prior orders in this proceeding.

Dated at Olympia, Washington, and effective October 26, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This Order amends Order 03, the Commission's Final Order in Docket UE-070725. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.

Appendix A

Dockets UE-070725 and UE-101581
(Consolidated)

**Agreed Proposal Concerning the Crediting
Method For EC Proceeds and Request For
Amendment of Order 03**

Appendix B

Dockets UE-070725 and UE-101581
(Consolidated)

Petition For an Accounting Order
(Docket UE-101581)