

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PUGET SOUND ENERGY, Respondent.	DOCKETS UE-240004 and UG-240005 <i>(Consolidated)</i> ORDER 03
In the Matter of the Petition of PUGET SOUND ENERGY Petitioner, For an Accounting Order Authorizing deferred accounting treatment of purchased power agreement expenses pursuant to RCW 80.28.410	DOCKET UE-230810 ORDER 01 CONSOLIDATING DOCKETS

BACKGROUND

1 On September 29, 2023, in Docket UE-230810, Puget Sound Energy (PSE or Company) filed with the Washington Utilities and Transportation Commission (Commission), a petition seeking an Accounting Order authorizing PSE to defer the costs associated with three demand response (DR) power purchase agreements (PPAs) pursuant to Revised Code of Washington (RCW) 80.28.410, to track and preserve them for later ratemaking treatment. On March 8, 2024, PSE filed a revised petition adding the benefits of the PPAs to its request for deferred accounting and modifying the requested start date of the deferral period from July 2023 to September 2023.¹

¹ PSE’s revised petition also removed the Company’s earlier request that it be allowed to file a Notice of Intent to Defer – rather than a petition for deferred accounting treatment – for all future resources qualifying under RCW 80.28.410(1).

- 2 On May 7, 2019, the Washington State Legislature enacted Engrossed Second Substitute Senate Bill 5116 (ESSSB 5116), which included various provisions intended to support electric utilities' transition to clean energy.² Section 21 of ESSSB 5116 added a new section to RCW 80.28 – codified as RCW 80.28.410 – for the primary purpose of allowing electric companies to account for and defer for later consideration by the Commission costs incurred in connection with major projects in the company's clean energy action plan (CEIP).³
- 3 RCW 80.28.410(2) provides that the costs that an electric company may account for and defer pursuant to RCW 80.28.410(1) include the costs – including costs of capital – associated with the execution of an applicable PPA. The cost of capital that a company may account for and defer for a qualifying PPA is calculated as a rate of return that is no less than the utility's authorized cost of debt and no greater than the utility's authorized rate of return.⁴
- 4 Between March 10, 2023, and September 27, 2023, PSE executed PPAs with three separate demand response aggregators. Each of the PPAs are for a term of five years and are for capacity and the associated conservation attributes of the aggregator's services.
- 5 In its petition, PSE seeks authorization to defer:
1. The expenses and offsetting benefits of the PPAs for the period of September 2023 through December 2023, and
 2. A return on the PPAs at the Company's authorized rate of return (ROR), beginning September 2023 and continuing beyond January 1, 2024, which is the date the underlying PPAs were included in rates.
- 6 Commission staff (Staff) has reviewed the Company's petition. Staff notes that this is the first petition filed with the Commission pursuant to RCW 80.28.410 and, as such, it presents the Commission with a case of first impression with respect to how it will implement the statute.
- 7 Staff does not contest the deferral of the PPA expenses and offsetting benefits⁵ that the Company recorded between September and December 2023. Staff further notes it believes DR PPAs qualify for deferred accounting under RCW 80.28.410 pursuant to the

² Chapter 288, Laws of 2019.

³ Pursuant to RCW 19.280.030.

⁴ RCW 80.28.410(2)(b).

⁵ PSE added the offsetting benefits to its revised petition, filed March 8, 2024, in response to the Commission taking formal note of the offsetting benefits of DR PPAs in Docket UE-230805, Order 01 at 5 ¶16 (“the value of the DR contracts carries an offsetting benefit amounting to \$880,000, which will accrue to the benefit of customers”).

Final Order in PSE's 2022 general rate case where the Commission held to the extent DR costs relate to projects identified in the Company's CEIP, the costs qualify under the statute.⁶

8 Staff has confirmed the DR resources in question were identified in PSE's CEIP, and therefore Staff believes that the expenses and offsetting benefits for the associated PPAs qualify for deferral. Staff also believes that PSE's requested deferral period of September 2023 through December 2023 is also appropriate as it corresponds to the period spanning the date PSE initially filed this accounting petition up to the date PSE began recovering the going-forward PPA expenses in rates.

9 However, Staff also notes that Staff and PSE have differing perspectives on what is, and what is not, permitted under the law. Staff requests guidance on two issues as follows:

1. Over what duration may a utility defer a return on a qualifying PPA, and
2. What are the standards for determining what return a utility may earn on a qualifying PPA, given that RCW 80.28.410(2)(b) allows a return that is no lower than the utility's authorized cost of debt and no greater than the utility's authorized rate of return?

10 In comments filed to the docket on March 1, 2024, Northwest & Intermountain Power Producers Coalition (NIPPC) also urged the Commission to provide policy guidance for implementing RCW 80.28.410 and identified similar policy questions that Staff notes. NIPPC additionally identified a need for policy guidance regarding the types of PPAs that are eligible under RCW 80.28.410. While Staff agrees that Commission guidance in this area would be helpful, Staff does not believe resolving PSE's petition for deferred accounting requires addressing that question.

11 Regarding the first question – over what duration a utility may defer a return on a qualifying PPA – Staff notes PSE seeks to defer a return on the PPAs continuing beyond January 1, 2024, which is when the PPAs were incorporated into rates.

12 Staff does not believe that RCW 80.28.410 permits PSE to continue deferring a return on the PPAs beyond the date the PPAs are included in rates. Staff notes that while it does not dispute that PSE can earn a return on a qualifying PPA over the duration of the contract, it does dispute that a return can continue to be deferred after a qualifying PPA is included in rates.

⁶ Appendix A, Settlement Stipulation and Agreement, to Final Order 24/10, Dockets UE-220066, UG-220067, & UE-210918 (*Consolidated*) ¶ 32 (“The cost of any DER PPA for distributed generation, battery resources and demand response costs are eligible for recovery through PSE's PCORC, PCA Mechanism and/or annual power cost update and are eligible for potential earning on PPAs pursuant to RCW 80.28.410”), *see also* Final Order 24/10, Dockets UE-220066, UG-220067, & UE-210918 (*Consolidated*) at ¶ 258.

- 13 On the second question – what the standards are for determining what return a utility may earn on a qualifying PPA – Staff notes that PSE requests the full authorized rate of return, which is the maximum allowed under RCW 80.28.410. Staff notes that per the settlement stipulation in PSE’s 2022 general rate case, PSE’s current authorized rate of return is 7.156 percent and PSE’s current authorized cost of debt is 5.00 percent.⁷
- 14 In Staff’s view, where statute provides a range of possible rates that the Commission may consider for calculating the return, the Commission should authorize a rate at the upper end of that range only when a Company has adequately justified using the upper end of the range. Staff asserts that PSE’s petition did not provide such justification.
- 15 Staff notes that while PSE did incur capital costs to finance the PPA expenses prior to those expenses being included in rates, PSE’s suggestion in its petition that the PPAs require long-term financing is not accurate and is therefore not a compelling reason to provide the Company the maximum return allowed by law.
- 16 Staff recommends granting PSE’s petition for an accounting order as it pertains to the costs incurred between September and December of 2023. However, Staff recommends the Commission deny PSE’s request to defer a return on the PPAs calculated at the Company’s full authorized rate of return, and instead order the Company to calculate the return using the Company’s authorized cost of debt. Further, Staff recommends the Commission deny the portion of PSE’s petition that pertains to deferral of a return on the PPAs beyond December 31, 2023.
- 17 On March 27, 2024, the Commission received additional comments filed jointly by The Energy Project (TEP) and the Alliance of Western Energy Consumers (AWEC).
- 18 This matter came before the Commission at its regularly scheduled March 28, 2024, Open Meeting. The Commission heard additional comments from Staff, PSE, NIPPC, TEP, AWEC, and Public Counsel. Staff reiterated its position that it supports PSE’s accounting petition in part and opposes it in part. Particularly, Staff’s counsel reiterated its interpretation of RCW 80.28.410, that the deferral of costs is singular and cannot be separated into separate costs. Therefore, the Company is not allowed to include contract costs of the PPAs into rates and continue to defer the rate of return. The Company expressed its position that determining a rate of return at this time is not paramount, as the Company is requesting to defer the full rate of return to preserve the issue for the Company’s next general rate case. The Company also expressed its position that the deferral in RCW 80.28.410 can be separated, allowing costs of the contract and the rate of return to be separated for varying time periods. PSE further expressed its position that it considers the PPAs in this docket to be major when considered together and when considered more broadly given PSE’s load growth and need for significant acquisition of resources. NIPPC reiterated its request for guidance from the Commission on RCW 80.28.410, specifically regarding how the Commission interprets the statute, how the statute should be more broadly implemented, and factors the Commission may consider

⁷ Dockets UE-220066 and UG-220067.

in evaluating requests pursuant to the statute. TEP expressed its position that any consideration of a rate of return is most appropriately considered in a docket where a full record can be evaluated. TEP requested the Commission defer acting on the accounting petition and consolidate the petition for consideration in the Company's general rate case. AWEC expressed support for TEP's position. Public Counsel expressed agreement with TEP and AWEC, and its position that consideration of the deferral should be conducted during the Company's general rate case.

DISCUSSION

19 The Commission agrees with TEP, AWEC, and Public Counsel that a decision on PSE's petition for accounting order related to PSE's PPA costs is not yet ripe. The Commission finds that all interested parties should have the opportunity to provide briefing on their interpretation of whether RCW 80.28.410 allows for deferral of separate costs over varying time periods. Further, the Commission finds that additional information is needed, and a record needs to be developed to determine the appropriate rate of return in this proceeding.

20 Accordingly, we consolidate dockets UE-230810 and UE-240004 and UG-240005. The Commission may consolidate dockets when the facts or principles of law are related.⁸ This docket raises issues and legal principles the Commission can most efficiently consider by consolidating the dockets.

FINDINGS AND CONCLUSIONS

- 21 (1) The Commission is an agency of the state of Washington vested by statute with the authority to regulate the rates, regulations, practices, accounts, and affiliated interests of public service companies, including electric companies.
- 22 (2) Puget Sound Energy is engaged in the business of providing electric services within the state of Washington and is a public service company subject to Commission jurisdiction.
- 23 (3) This matter came before the Commission at its regularly scheduled meeting on March 28, 2024.
- 24 (4) Pursuant to Washington Administrative Code (WAC 480-07-320), Docket UE-230810 should be consolidated with Dockets UE-240004 and UG240005 (*consolidated*).

⁸ WAC 480-07-320.

ORDER

THE COMMISSION ORDERS:

- 25 (1) Docket UE-230810 and Dockets UE-240004 and UG-240005 (*consolidated*) are
consolidated.
- 26 (2) The Commission retains jurisdiction over the subject matter and Puget Sound
Energy to effectuate the provisions of this Order.

DATED at Lacey, Washington, and effective March 29, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner