

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of
PUGET SOUND ENERGY, INC.
For a Declaratory Order Regarding the
Transfer of Assets to Jefferson County
Public Utility District.

Docket No. U-101217

SETTLEMENT STIPULATION

1. This multiparty settlement stipulation ("Settlement Stipulation ") is entered into pursuant to WAC 480-07-730(3) for the purpose of resolving all issues in this proceeding, as set forth below. This Settlement Stipulation is subject to approval by the Washington Utilities and Transportation Commission ("Commission") and it is not effective for any purpose until such approval, except for paragraphs 18, 19, 21, and 22 below, which cover the agreement by the Parties regarding how they will support the Settlement Stipulation before the Commission.

I. PARTIES

2. The parties to this Settlement Stipulation are Puget Sound Energy, ("PSE" or "the Company"), Public Utility District #1 of Jefferson County ("JPUD"), and the Staff of the Washington Utilities and Transportation Commission ("Commission Staff").¹ PSE,

¹ In formal proceedings such as this, Commission Staff functions as an independent party with the same rights, privileges, and responsibilities as other parties to the proceeding. There is an "*ex parte* wall"

JPUD and Commission Staff are collectively referred to hereafter in this Settlement Stipulation as "the Parties." The Office of the Attorney General, Public Counsel Section ("Public Counsel") is the only other party to this proceeding. While Public Counsel is not a party to this Settlement Stipulation, Public Counsel has informed the Parties that Public Counsel does not object to the Settlement Stipulation, including resolution of all outstanding issues in this proceeding.

II. RECITALS

3. On July 15, 2010, PSE petitioned the Commission for a declaratory order related to the transfer of certain assets from PSE to JPUD.

4. PSE is currently providing electric service to customers located in Jefferson County, Washington subject to Commission rules and regulations, including, but not limited to, PSE rates and tariffs on file therewith.

5. In November 2008, the citizens of Jefferson County voted to approve Proposition 1, authorizing JPUD to construct or acquire electrical facilities for the generation, transmission or distribution of electric power in Jefferson County. JPUD is so authorized pursuant to RCW 54.16.040.

6. Washington law also provides JPUD with authority to acquire PSE's assets by eminent domain. JPUD initiated settlement negotiations with PSE in July 2009 to acquire PSE's transmission and distribution assets within Jefferson County under threat of

separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including Commission Staff. *See* RCW 34.05.455. The three-member panel of Commissioners is not a party to this Stipulation. The Commissioners must review, consider, and decide whether this Stipulation should be adopted by the Commission.

"exercising the authority to condemn the PSE facilities."² The settlement negotiations led to a tentative settlement agreement that was memorialized in a Letter of Intent ("LOI") dated April 30, 2010.

7. On June 11, 2010, PSE and JPUD entered into an Asset Purchase Agreement ("APA") as the definitive settlement agreement contemplated under the LOI. The assets to be transferred to JPUD pursuant to the APA are more particularly described in Exhibit A of the APA and are referred to hereinafter in this Settlement Stipulation as the "Assets." The transactions described therein are proceeding under JPUD's threat of condemnation.³ If consummated, the APA will constitute a settlement between PSE and JPUD and a disposal of property to a special purpose district pursuant to RCW 80.12.020(2). A map generally depicting the geographical area to be served by JPUD, upon closing of the transactions contemplated by the APA, is attached as Exhibit G to the APA and is referred to hereinafter in this Settlement Stipulation as the "Service Territory."

8. The APA identifies certain regulatory approvals that must be satisfied as a condition precedent to closing the transactions contemplated by the APA. These approvals include, but are not limited to, an order from the Commission confirming (a) the purchase price is an amount that is sufficient to fully compensate PSE's customers for the sale of the Assets, (b) that the provisions of this APA pertaining to PSE's transition of its responsibilities to provide electrical service to its customers in the Service Territory are sufficient and consistent with PSE's public service obligations; and (c) that the transfer of

² See PSE's Petition at ¶7.

³ See PSE's Petition at ¶8.

the assets is authorized by RCW 80.12.020(2).⁴ The APA states that PSE must apply for an order requesting resolution of these regulatory uncertainties on or before July 15, 2010.⁵

9. PSE's Petition requested an order from the Commission resolving these regulatory uncertainties, the controversies arising therefrom, and the adversities affecting PSE and JPUD associated therewith, without adverse effect to others or to the general public.

10. The Commission convened a prehearing conference in this proceeding at Olympia, Washington on August 26, 2010, before Administrative Law Judge Dennis J. Moss. At the prehearing conference, the Commission granted JPUD's petition to intervene. Commission Staff and Public Counsel also entered their appearances in this docket.

11. The parties to the proceeding engaged in discovery and mutually agreed to conduct a settlement conference on December 3, 2010. Based on the settlement discussions and related correspondence, PSE, JPUD and Commission Staff have reached an agreement regarding all matters in dispute in this proceeding. As stated above, Public Counsel does not object to this Settlement Stipulation or the resolution of all issues in this proceeding.

12. The Parties wish to present their agreement for the Commission's consideration and approval. The Parties therefore adopt the following Settlement Stipulation, which is entered into by the Parties voluntarily to resolve matters in dispute among them in the interests of expediting the orderly disposition of this proceeding. The Parties file this Settlement Stipulation with the Commission as a "multiparty settlement"

⁴ The Company clarified at hearing that this final declaration means simply that the transfer of assets from PSE to JPUD does not require Commission approval under RCW 80.12.020(1). Tr. 8:23-25.

⁵ See Exhibit No. KRK-3 at 20.

pursuant to WAC 480-07-730(3) that resolves all issues in this proceeding.

III. TERMS OF THE SETTLEMENT STIPULATION

13. This section sets forth the terms of the Settlement Stipulation.

14. The Parties agree that the Commission should enter a declaratory order

stating that:

- a. the transfer of Assets from Puget Sound Energy, Inc. to Public Utility District #1 of Jefferson County is authorized by RCW 80.12.020(2) and no further action is required by the Commission to approve the transfer of the Assets for purposes of RCW 80.12.020;⁶
- b. the purchase price of \$103,000,000 is fair, reasonable and sufficient; and
- c. the provisions of the Asset Purchase Agreement regarding transition of PSE's responsibilities to provide electrical service to its customers in the Service Territory are sufficient and consistent with PSE's public service obligations.

15. The agreement to a determination that the purchase price of \$103,000,000 is "fair, reasonable and sufficient" does not and is not intended to affect the accounting treatment of the sale proceeds, and is not and does not affect an allocation of the sale proceeds as between PSE's customers and shareholders. The Parties understand and agree that such accounting treatment and allocation of the sale proceeds as between PSE's customers and shareholders are matters to be determined by the Commission in a subsequent

⁶ See footnote 4, *supra*.

proceeding. For avoidance of doubt, the \$103,000,000 purchase price sets a ceiling for ratemaking purposes, without prejudice to any subsequent allocation of such sale proceeds to be recommended by any party or to be ordered by the Commission as between PSE's customers and shareholders.

16. The Parties agree to support this Settlement Stipulation as a multiparty settlement pursuant to WAC 480-07-730(3) that resolves all issues in this proceeding and to recommend Commission approval of the terms of this Settlement Stipulation in their entirety. In that regard, the Parties waive their right to an initial order of the Administrative Law Judge, should the Commission wish to enter its order directly.

17. The Parties agree that this Settlement Stipulation represents a compromise in the positions of the Parties. As such, any conduct, statements, and documents disclosed in the negotiation of this Settlement Stipulation shall not be admissible as evidence in this or any other proceeding.

**IV. THE SETTLEMENT STIPULATION IS IN THE PUBLIC INTEREST AND
THE INTERESTS OF THE PARTIES**

18. The Parties agree that the Settlement Stipulation is in their interest and the public interest, and should be adopted by the Commission in its entirety, because it sets forth a practical and efficient procedure to address all aspects of PSE's Petition for a Declaratory Order Regarding the Transfer of Assets to JPUD. The procedure set forth in the Settlement Stipulation will save the Commission and all parties to this proceeding time, effort, and resources, and produce a full and timely resolution of all the issues in this docket, without

prejudice to the ultimate ratemaking consequences of the transfer of Assets from PSE to JPUD.

V. MISCELLANEOUS PROVISIONS

19. The Parties have recommended, and agree to recommend, that the Commission suspend all existing due dates for filing written evidence and hearing dates in Docket U-101217. The Parties shall cooperate in submitting this Settlement Stipulation promptly to the Commission for acceptance so that it may be approved and implemented as early as possible. The Parties also agree to cooperate in developing supporting documentation pursuant to WAC 480-07-740(2)(a). The Parties shall each make a witness or witnesses available to answer questions in support of this Settlement Stipulation or provide such other indication of support as the Commission or Administrative Law Judge may require. Each Party will also provide a legal representative or representatives to support the Settlement Stipulation at a hearing if the Commission or Administrative Law Judge requires, and recommend that the Commission issue an order adopting the Settlement Stipulation in its entirety. In the event the Commission rejects this Settlement Stipulation or accepts this Settlement Stipulation upon conditions not contained herein, the provisions of WAC 480-07-750(2) shall apply.

20. The Parties enter into this Settlement Stipulation to avoid further expense, uncertainty, and delay. By executing this Settlement Stipulation, no Party shall be deemed to have approved, accepted, admitted, or consented to the facts, principles, methods, or theories employed in arriving at the terms of the Settlement Stipulation.

21. This Settlement Stipulation may be executed by the Parties in several

counterparts, through original and/or facsimile signature, and as executed shall constitute one agreement.

22. This Settlement Stipulation is entered into by each Party as of the date entered below.

DATED this ___ day of December, 2010.

PERKINS COIE LLP

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