

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

In the Matter of the Petition of	)	DOCKET UE-082128
	)	
PUGET SOUND ENERGY, INC.,	)	
	)	ORDER 03
For a Determination of Emissions	)	
Compliance and Proposed Accounting	)	FINAL ORDER APPROVING AND
Treatment For the Mint Farm Energy	)	ADOPTING SETTLEMENT
Center; or, Alternatively For an	)	AGREEMENT
Accounting Order.	)	
	)	
.....	)	

*Synopsis: The Commission approves and adopts a settlement agreement supported by all parties to this proceeding. By this Order, the Commission authorizes deferred accounting treatment with respect to fixed and net variable cost components of the Mint Farm generation facility that will be incurred prior to entry of a final Commission order in Puget Sound Energy, Inc's, next rate proceeding. The parties' rights to challenge the prudence and recovery of these costs in rates, the deferral methodology used, compliance with RCW 80.80 (greenhouse gases emissions performance standard) and all other issues raised by the Company's Petition and prefiled testimony in this docket are reserved for consideration in the company's next general rate proceeding.*

**SUMMARY**

1 **PROCEEDINGS:** On November 25, 2008, Puget Sound Energy, Inc. (PSE or the Company), filed with the Washington Utilities and Transportation Commission (Commission) a petition for an order determining that its newly acquired Mint Farm Energy Center (Mint Farm) complies with the greenhouse gases emissions performance standards in RCW 80.80 and approving the proposed deferred accounting pursuant to RCW 80.80.060(6) and WAC 480-100-435. In the alternative, if the Commission were to determine that Mint Farm is not eligible for deferral accounting under RCW 80.80.060(6), PSE requested that the Commission enter an accounting order under WAC 480-07-370(b) authorizing the deferred accounting treatment detailed in its Petition related to the fixed and net variable cost components of the Mint Farm facility that will be incurred prior to entry of a final Commission

order in the Company's next general rate proceeding. The Commission, during its regularly scheduled open meeting on December 23, 2008, set the matter for hearing.

2 Prior to the scheduled date for response testimony, the parties informed the presiding Administrative Law Judge during an informal conference that they had agreed in principle to a settlement that would resolve the issues in this proceeding. At the parties' request, the Commission suspended the procedural schedule to give them an opportunity to reduce their agreement to writing and file it. The parties filed their Settlement Stipulation on April 2, 2009.

3 **PARTY REPRESENTATIVES:** Sheree Strom Carson and Jason Kuzma, Perkins Coie, Bellevue, Washington, represent PSE. Simon ffitch and Sarah Shifley, Assistant Attorneys General, Seattle, Washington, represent the Public Counsel Section of the Washington Office of Attorney General (Public Counsel). Robert D. Cedarbaum, Senior Assistant Attorney General, and Jonathan Thompson, Assistant Attorney General, Olympia, Washington, represent the Commission's regulatory staff (Commission Staff or Staff).<sup>1</sup>

4 **COMMISSION DETERMINATIONS:** The Commission determines the proposed settlement of the issues in this proceeding in accordance with the terms proposed by the parties in their Settlement Stipulation is in the public interest. The Commission approves and adopts the Settlement Stipulation. The Commission authorizes deferred accounting treatment for Mint Farm and reserves all other issues raised in PSE's petition for consideration in PSE's next general rate case, as provided by the settlement terms.

## MEMORANDUM

### **I. Background and Procedural History**

5 Mint Farm is a natural gas-fired combined cycle combustion turbine plant, situated on approximately 11.42 acres of land located within the Mint Farm Industrial Park in Longview, Washington. PSE purchased Mint Farm on December 5, 2008. After the purchase, PSE upgraded Mint Farm to bring it up to the Company's operating

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<sup>1</sup> In formal proceedings, such as this, the Commission's regulatory 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" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including regulatory staff. RCW 34.05.455.

standards and to meet property insurance requirements. Mint Farm's nominal rated generation capacity is 311 megawatts (MWs) including 37 MW of duct-fired capacity and an incremental 14 MWs that can be produced through steam augmentation.

- 6 The Commission convened a prehearing conference in this proceeding at Olympia, Washington on February 2, 2009, before Administrative Law Judge Dennis J. Moss. At the prehearing conference, the Commission granted ICNU's petition to intervene. Commission Staff and Public Counsel also entered their appearances in this docket.
- 7 In accordance with the procedural schedule adopted at the prehearing conference (Order 01), PSE filed direct testimony on February 13, 2009. The Company's direct testimony addressed its deferred accounting proposal, whether Mint Farm complies with the greenhouse gases emissions performance standard set forth in RCW 80.80, whether the Company has a need to acquire new electric generation resources, and whether Mint Farm is appropriate to meet that need.
- 8 The parties engaged in discovery and mutually agreed to conduct a settlement conference on March 19, 2009. Based on the settlement discussion and related correspondence, the parties reached an agreement regarding all matters in dispute in this proceeding. They filed their Settlement Stipulation as a "full settlement" pursuant to WAC 480-07-730(1), meaning it resolves, or reserves for later consideration in a separate docket, all pending issues and is supported or unopposed by all parties.

## II. Discussion and Decisions

- 9 The parties' agreement asks the Commission to enter an order authorizing deferred accounting treatment for the fixed (including return of and on<sup>2</sup> PSE's plant investment) and variable cost components associated with Mint Farm, as such fixed and variable costs are defined by PSE's Power Cost Adjustment (PCA) mechanism,<sup>3</sup> plus the accrual of interest on such deferral. The parties propose that interest accrue at PSE's authorized net-of-tax rate of return for the period, 7.00 percent per the Partial

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<sup>2</sup> This is the fixed cost associated with the net of tax return for the fixed asset recovery on Mint Farm that would be included in Transmission or Production Rate Base on Exhibit A-1 of the PCA Mechanism.

<sup>3</sup> The PCA's definition of fixed and variable costs is set forth on page 4 of the Settlement Terms for PCA, which the Commission approved and adopted in its 12<sup>th</sup> Supplemental Order in Docket UE-011570.

Settlement Re: Electric and Natural Gas Revenue Requirements and Order 12 in the Company's most recent general rate case, Docket UE-072300 *et al.*

- 10 Under the settlement terms, this deferral begins when the fixed and variable costs associated with Mint Farm first are reflected in the Company's income statement, but no earlier than November 25, 2008, when the petition initiating this docket was filed. Deferral of costs will end on the day immediately preceding the effective date of new rates that result from the Commission's final order in the Company's next rate proceeding. The amount recorded on PSE's books for the purchase of Mint Farm and the upgrades to Mint Farm will be used to determine depreciation plus the return on the plant investment.
- 11 Although they agree to this deferred accounting order, they expressly reserve, under the settlement terms, the right to challenge in the Company's next rate proceeding, the prudence and the recovery of costs associated with Mint Farm, including costs that the Company has deferred. They also expressly reserve the right to challenge in the Company's next rate proceeding, the Company's deferral methodology (including whether the deferred costs are appropriate for deferral, and whether temporary suspension of PCA Schedule G, as it relates to Mint Farm is appropriate), interest rate, and amortization period. PSE agrees that nothing in the Settlement Stipulation alters its burden to prove in its next rate proceeding the appropriateness of the Mint Farm deferral and the prudence of all costs associated with Mint Farm.
- 12 Finally, the parties agree that the Commission's determinations regarding whether Mint Farm is baseload electric generation that complies with the greenhouse gases emissions performance standard in RCW 80.80, and all other issues raised by the Company's petition and direct testimony in this proceeding, other than the authorization for deferred accounting as discussed above, can be considered in the Company's next rate case.
- 13 The Settlement Stipulation proposes a practical and efficient procedure that will allow the parties and the Commission to address all aspects of the Mint Farm acquisition in PSE's next general rate case rather than on a piecemeal basis through two separate proceedings. In the meantime, PSE's opportunity to seek recovery of ongoing costs associated with Mint Farm is protected by allowing deferred accounting treatment. While it is not necessary for all aspects of the Mint Farm acquisition to be considered in a single proceeding, the procedure set forth in the Settlement Stipulation may save the Commission and the parties' time, effort, and resources, and produce a full and timely resolution of the issues in this docket. The Commission finds and concludes

that it is in the public interest to approve and adopt the Settlement Stipulation. It will preserve the parties' and the Commission's resources, while protecting the parties' rights to contest, and the Commission's opportunity to consider in a future proceeding, prudence, cost recovery, and questions associated with RCW 80.80 that are presented by PSE's acquisition of Mint Farm.

### **FINDINGS OF FACT**

- 14 Having discussed above the evidence received in this proceeding concerning all material matters, the Commission now makes and enters the following summary of facts, incorporating by reference pertinent portions of the preceding detailed findings:
- 15 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including electrical companies.
- 16 (2) Puget Sound Energy, Inc., (PSE) is a "public service company" and an "electrical company," as those terms are defined in RCW 80.04.010 and as those terms otherwise are used in Title 80 RCW. PSE is engaged in Washington state in the business of supplying utility services and commodities to the public for compensation.
- 17 (3) On December 5, 2008, PSE completed its purchase of Mint Farm, a natural gas-fired combined cycle combustion turbine generation plant, situated on approximately 11.42 acres of land located within the Mint Farm Industrial Park in Longview, Washington. Just prior to completing the transaction, PSE filed its petition in this docket seeking a compliance determination under RCW 80.80—Greenhouse Gasses Emissions and deferred accounting treatment either under the statute and WAC 480-100-435(2)(a) or pursuant to WAC 480-07-370(b).
- 18 (4) The parties to this docket filed on April 2, 2009, a Settlement Stipulation, which they propose the Commission approve and adopt to allow PSE to defer costs associated with Mint Farm as requested by the Company in its petition, while reserving other issues for future consideration in PSE's next general rate case.

- 19 (5) The terms of the Settlement Stipulation preserve the parties' and the Commission's resources, while protecting the parties' rights to contest, and the Commission's ability to determine, in PSE's next general rate case issues concerning prudence and cost recovery, deferral methodology, compliance with the requirement of RCW 80.80—Greenhouse Gases Emissions, and other matters.
- 20 (6) Commission authorization of the proposed deferred accounting treatment in this docket is for accounting purposes only and does not alter the Company's current rates. PSE's deferred accounting treatment of costs associated with Mint Farm means that the Company will have the opportunity in a future proceeding to advocate for recovery of these costs.

**CONCLUSIONS OF LAW**

- 21 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:
- 22 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, this proceeding.
- 23 (2) Commission approval of the terms of the Settlement Stipulation filed by the parties to this proceeding on April 2, 2009, is in the public interest.

**ORDER**

**THE COMMISSION ORDERS THAT:**

- 24 (1) The parties' Settlement Stipulation, filed in this proceeding on April 2, 2009, attached as an appendix to, incorporated into, and made part of, this Order by this reference, is approved and adopted in accordance with its terms in resolution of the issues in this proceeding.
- 25 (2) PSE is authorized to defer costs associated with Mint Farm as provided by the terms of the Settlement Stipulation incorporated into this Order.

- 26 (3) PSE is authorized and required to make any filings necessary and sufficient to effectuate the terms of this Order.
- 27 (4) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, any filing that complies with the requirements of this Order.
- 28 (5) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective April 17, 2009.

**WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION**

**JEFFREY D. GOLTZ, Chairman**

**PATRICK J. OSHIE, Commissioner**

**PHILIP B. JONES, Commissioner**

**NOTICE TO PARTIES: This is a Commission Final Order. 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**

**SETTLEMENT STIPULATION**