

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

**Docket No. UE-090704
Docket No. UG-090705**

**MOTION TO STRIKE OF PUGET
SOUND ENERGY, INC.,
COMMISSION STAFF, NW ENERGY
COALITION AND THE ENERGY
PROJECT**

1 Puget Sound Energy, Inc., ("PSE" or the "Company") the Staff of the Washington Utilities and Transportation Commission ("Staff"), the NW Energy Coalition, and The Energy Project, by and through undersigned counsel, hereby move to strike those portions of the response testimony and exhibits of Public Counsel and the Kroger Co. that relate to the sales of renewable energy credits by PSE. Such testimony and exhibits should be stricken because they are outside the scope of issues presented in this case. The Commission rule at issue is WAC 480-07-375(1)(d) (motions to strike).

Introduction

2 Witnesses Norwood, Dittmer and Higgins filed response testimony on November 17, 2009, in which they testify regarding the sale of PSE's renewable energy credits ("RECs"). Mr. Norwood discusses RECs in his "Introduction" and "Summary of Testimony" sections and more specifically on page 42, line 15 through page 47, line 10 of Exhibit No. SN-1HCT.

Mr. Dittmer references Mr. Norwood's testimony on page 105, lines 18-20 of Exhibit No. JRD-1CT and on page 39 (Schedule C-25) of Exhibit No. JRD-2C. Mr. Higgins generally discusses RECs in his "Overview and Recommendations" section and more specifically on pages 5-6 of Exhibit No. KCH-2T. PSE, Staff, the NW Energy Coalition, and The Energy Project now move to strike such testimony and exhibits regarding the sale of RECs as such evidence is more appropriately addressed in the current open Docket UE-070725 (Petition of PSE for an Order Authorizing the Use of the Proceedings from the Sale of Renewable Energy Credits and Carbon Financial Instruments) (hereinafter "REC Proceeding").

Discussion

3 The REC Proceeding is an ongoing action for the specific purpose of addressing the sale of RECs. On December 1, 2009, a prehearing conference was held in the REC Proceeding, wherein Public Counsel and Kroger became active parties. No party moved to consolidate the REC Proceeding and this general rate case proceeding, despite the Administrative Law Judge's direct questioning about consolidation (*See* Tr. 12).

4 On December 4, 2009, the Commission issued Prehearing Conference Order 01 (attached hereto as Exhibit A), wherein the nature of the proceeding expressly addressed the sale of RECs as follows:

NATURE OF PROCEEDING. On October 8, 2009, pursuant to WAC 480-07-395(5), Puget Sound Energy, Inc. ("PSE" or "the Company") filed its Amended Petition requesting that the Washington Utilities and Transportation Commission ("Commission") issue an order authorizing PSE to defer the net revenues from the sale of certain Renewable Energy Credits ("REC") and Carbon Financial Instruments ("CFI") (collectively, "REC Proceeds") and to use these revenues as follows:

- (1) Provide funding for low income energy efficiency and renewable energy services.
- (2) Credit a portion of the REC Proceeds to sums owed to PSE by several California utilities since 2001. This sum, the "California Receivable," reflects unpaid amounts owed to the Company from California utilities for power PSE sold into California during the 2000-2001 energy crisis.
- (3) Provide a credit to customers by offsetting the REC Proceeds against a regulatory asset.

Neither Public Counsel nor Kroger objected to the Prehearing Conference Order in any respect.

5 Also in Prehearing Conference Order 01, the Commission set a schedule for the filing of testimony. Public Counsel and Kroger have until January 28, 2010 to file response testimony to PSE's direct prefiled testimony. In that testimony, Public Counsel, Kroger and other parties will have an opportunity to respond to all REC matters as outlined above. This will include the opportunity to recommend alternative uses of REC Proceeds than the methods proposed by PSE.

6 Moreover, the procedural schedule in the REC Proceeding generally coincides with this general rate case.¹ This will allow the Commission the ability to reflect in rates the results of the REC Proceeding at approximately the same time as rates take effect in the general rate case. Thus, ratepayers are not harmed if the testimony and exhibits of Public Counsel and Kroger addressing REC Proceeds are stricken and all issues related to revenues from the sale of RECs are addressed solely in the REC Proceeding.

¹ Reply Briefs in the general rate case are due March 2, 2009, while closing briefs in the REC Proceeding are due March 17, 2009. Rates in the general rate case must be in effect no later than April 8, 2009.

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Finally, Public Counsel and Kroger are both aware of the scope and schedule of the REC Proceeding and acknowledge that Docket UE-070725 is the appropriate docket for determining the allocation of proceeds from the sale of certain RECs. Mr. Higgins testifies: "PSE has made a filing in Docket No. UE-070725 in which the Company makes a proposal for allocating the proceeds from certain sales of RECs and CFIs to California parties." *See* Exhibit No.KCH-2T, page 5, lines 4-6. Mr. Norwood testifies: "[O]n October 7, 2009, PSE filed an amended petition in Docket UE-070725 requesting that the Commission approve the ratemaking treatment of REC sales revenues in that proceeding." *See* Exhibit No. SN-1HCT, page 44, lines 11-13. Consistent with this testimony, the Commission should strike any and all testimony and exhibits related to the sale of RECs in this general rate case, as the appropriate proceeding for such testimony is the REC Proceeding.

Conclusion

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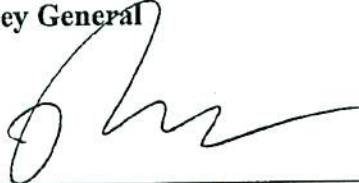
The Commission should strike all testimony and exhibits by Public Counsel witnesses Scott Norwood and James R. Dittmer and Kroger Co. witness Kevin C. Higgins relating to the sale of RECs. They will have an opportunity to provide response testimony with regard to the sale of RECs in the REC Proceeding on January 28, 2010, and that docket is the proper proceeding in which to address these issues.

Respectfully submitted this 16th day of December, 2009.

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