

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Joint Application of

PUGET SOUND ENERGY,  
ALBERTA INVESTMENT  
MANAGEMENT CORPORATION,  
BRITISH COLUMBIA INVESTMENT  
MANAGEMENT CORPORATION,  
OMERS ADMINISTRATION  
CORPORATION, and PGGM  
VERMOGENSBEHEER B.V.

For an Order Authorizing Proposed  
Sales of Indirect Interests in Puget  
Sound Energy

DOCKET U-180680

FINAL ORDER 06 (CORRECTED)

APPROVING MULTIPARTY  
SETTLEMENT; AUTHORIZING  
PROPOSED TRANSACTIONS

*Synopsis: The Washington Utilities and Transportation Commission, approving and adopting without condition a full multiparty settlement, authorizes the transfer of a 43.99 percent non-controlling interest in Puget Holdings LLC. The full multiparty settlement includes 65 commitments, including ring-fencing provisions to maintain and protect Puget Sound Energy's financial independence from Puget Energy, Inc., Puget Holdings, and other corporate affiliates. The proposed transactions and settlement commitments are consistent with the public interest because they reasonably assure that the transfer of a non-controlling interest in Puget Holdings will not result in harm to the public or utility customers of Puget Sound Energy.*

## BACKGROUND

- 1 Puget Holdings LLC (Puget Holdings) indirectly holds 100 percent of the ownership interest in Puget Sound Energy (PSE).
- 2 On December 30, 2008, the Washington Utilities and Transportation Commission (Commission) entered Order 08 in Docket U-072375 (2008 Acquisition Order), which authorized Puget Holdings' acquisition of Puget Energy, Inc. (Puget Energy) and its wholly owned subsidiary, Puget Sound Energy (PSE), by approving a multi-party settlement agreement that contained numerous commitments, subject to conditions.<sup>1</sup> In particular, it conditioned approval of the settlement on Commission authorization of any sale or transfer of "any material part of PSE."<sup>2</sup> This requirement applies to the proposed transactions at issue in this case.
- 3 In Order 10 in Docket UG-151663 (2016 LNG Order), the Commission approved amendments to the 2008 Acquisition Order, revising Commitments 56 and 58 to allow Puget Energy to establish Puget LNG, LLC (Puget LNG), as a subsidiary, and instating additional ring-fencing provisions through Commitments 64-68.<sup>3</sup>

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<sup>1</sup> *In the Matter of the Joint Application of Puget Holdings LLC and Puget Sound Energy, Inc., For an Order Authorizing Proposed Transaction, Docket U-072375, Order 08, Approving and Adopting Settlement Stipulation; Authorizing Transaction Subject to Conditions (Dec. 30, 2008) [hereinafter 2008 Acquisition Order].* The Commission authorized the acquisition subject to conditions of Puget Energy, Inc. (Puget Energy) and its wholly owned subsidiary, PSE, by Puget Holdings. At the time of the acquisition, Puget Holdings was owned by a consortium of six primary investors, two of whom were Macquarie Infrastructure Partners Inc. and Padua MG Holdings LLC, a Macquarie entity.

<sup>2</sup> *Id.* at Attachment B, 153-54. The Commission defined a material part as "any sale or transfer of stock representing ten percent or more of the equity ownership of Puget Holdings or PSE." *Id.*

<sup>3</sup> *In the Matter of the Petition of Puget Sound Energy, Inc. for (i) Approval of a Special Contract for Liquefied Natural Gas Fuel Service with Totem Ocean Trailer Express, Inc. and (ii) a Declaratory Order Approving the Methodology for Allocating Costs Between Regulated and Nonregulated Liquefied Natural Gas Services, Docket UG-151663, Order 10, Final Order Approving and Adopting Settlement Stipulation; Reopening Record and Amending Order 08 in Docket U-072375, 30-32, ¶¶ 68-73 (Nov. 1, 2016) [hereinafter 2016 LNG Order].*

## A. PROCEDURAL HISTORY

- 4 On September 5, 2018, four purchasers and PSE (Joint Applicants) filed with the Commission a joint application (Joint Application) for the proposed sale of a 43.99 percent indirect ownership interest in PSE currently held by Macquarie Infrastructure Partners Inc. (MIP Funds) and Padua MG Holdings LLC (Padua MG Holdings), a Macquarie entity (collectively, Macquarie).
- 5 The Joint Application identifies the purchasers as Alberta Investment Management Corporation (AIMCo), British Columbia Investment Management Corporation (BCIMC), OMERS Administration Corporation (OAC), and PGGM Vermogensbeheer B.V. (PGGM)<sup>4</sup> (collectively, Purchasers).
- 6 AIMCo and BCIMC already own indirect interests in PSE as two of the five current investors, and were both original investors in Puget Holdings in 2008. AIMCo proposes to purchase a 6.01 percent equity interest from Macquarie, thereby increasing its interest in Puget Holdings to 13.60 percent. BCIMC proposes to purchase a 4.01 percent equity interest, thereby increasing its interest in Puget Holdings to 20.87 percent.
- 7 OAC and PGGM do not currently own an interest in Puget Holdings. OAC proposes to purchase from Macquarie a 23.94 percent equity interest in Puget Holdings, and PGGM proposes to purchase a 10.02 percent equity interest.
- 8 On September 21, 2018, the Commission issued a Notice of Opportunity to File Written Comments by October 24, 2018, and Notice of Recessed Open Meeting scheduled for November 5, 2018.
- 9 On October 24, 2018, the Public Counsel Unit of the Attorney General's Office (Public Counsel), the Alliance of Western Energy Consumers (AWEC), The Energy Project, and

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<sup>4</sup> PGGM Vermogensbeheer B.V. is the fund manager for the PGGM Infrastructure Fund. Stichting Depository PGGM Infrastructure Funds is an entity that holds the title to assets for the benefit of the PGGM Infrastructure Fund. The proposed transaction is structured such that Stichting Depository PGGM Infrastructure Funds owns Mount Rainier Utility Holdings LLC, which in turn will own a 10.02 percent interest in Puget Holdings. Verwoest, Exh. MJV-4 and Exh. MJV-5. We refer in this Order to the PGGM entities, collectively, as "PGGM," consistent with how the Joint Applicants use the reference. *See e.g.* Joint Application at 2:31 - 3:3 and accompanying notes; Harris, Exh. KJH-1T at 4:13 - 5:8 and accompanying notes; Verwoest, Exh. MJV-1T at 1:6-13.

the Washington and Northern Idaho District Council of Laborers (WNIDCL) filed a joint petition for adjudication.

- 10 The Commission received oral comments on the Joint Application at the November 5, 2018, recessed open meeting and discussed this matter at its regularly scheduled open meeting on November 8, 2018.
- 11 On November 9, 2018, the Commission issued Order 01, Granting and Denying Petition for Adjudication, in Part (Order 01). Order 01 granted the request to commence an adjudication,<sup>5</sup> but determined that the Joint Application should be evaluated under the public interest standard set out in WAC 480-143-170 rather than the “net benefit” standard that applies to a direct or indirect acquisition of a controlling interest in a regulated utility.<sup>6</sup>
- 12 The Commission held a prehearing conference on November 19, 2018, before Administrative Law Judges Rayne Pearson and Andrew J. O’Connell.
- 13 On November 21, 2018, the Commission entered Order 02, Prehearing Conference Order, Notice of Hearing. Order 02 granted intervention to AWEC, The Energy Project, NWEC, and the Federal Energy Agencies (FEA), as well as limited intervenor status to WNIDCL, the International Brotherhood of Electrical Workers (IBEW), and United Association Local 32 of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada (Local 32). Order 02 denied J. Richard Lauckhart’s petition to intervene.
- 14 The Commission determined that issues relevant to our consideration of whether the proposed transactions will result in harm to customers must be tethered to the proposed transactions and illustrate harm arising from the proposed transaction. On that premise, the Commission granted limited intervention to WNIDCL and IBEW to address issues of “safety and reliability of service to customers where its members are actually involved in

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<sup>5</sup> We initiated an adjudication because we found it was appropriate in light of the circumstances presented by the proposed transaction. Our decision, however, is limited to the facts and circumstances of this case and sets no precedent regarding whether it is appropriate to initiate an adjudication in any other proceeding.

<sup>6</sup> RCW 80.12.020.

the provision of such service” to the extent that those issues would illustrate “whether the proposed transaction would result in ‘no harm’ to customers.”<sup>7</sup>

- 15 On January 15, 2019, the Joint Applicants, Staff, Public Counsel, AWEC, The Energy Project, and NWEA (Settling Parties) filed a full multiparty settlement (Settlement Stipulation), and requested the Commission approve and adopt the Settlement Stipulation as a full resolution of the issues in this proceeding. WNIDCL, IBEW, and Local 32 oppose the settlement. FEA neither joins nor opposes the settlement.
- 16 On February 8, 2019, WNIDCL and IBEW filed testimony opposing the settlement.
- 17 On February 11, 2019, the Joint Applicants filed motions to strike the testimony and exhibits of WNIDCL and IBEW, arguing that they exceeded the scope of the proceeding and were unrelated to the proposed transactions. Pursuant to WAC 480-07-375(4), the Commission gave notice that parties may respond to the Joint Applicants’ motions orally at the outset of the settlement hearing set for February 15, 2019.
- 18 The Commission held a hearing on February 15, 2019, to receive testimony and evidence regarding whether the Settlement Stipulation is consistent with the public interest and should be approved.
- 19 At hearing, the Commission granted in part, and denied in part, the Joint Applicants’ motions to strike. We granted the motions to the extent the testimony filed by WNIDCL and IBEW failed to adhere to our earlier instructions that labor and employment issues are not relevant to the proposed transactions. The Commission determined that the majority of WNIDCL’s and IBEW’s testimony and exhibits addressed criticisms of PSE’s and its owners’ current labor and employment practices without establishing any nexus between these practices and the proposed transactions.
- 20 The Commission denied the Joint Applicants’ motions to strike to the extent they sought to exclude testimony related to PSE’s contractor policy, which we determined may be relevant to our evaluation of whether the proposed transactions would result in no harm to customers, and other issues addressing service quality that were unrelated to labor and employment issues or disputes.

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<sup>7</sup> Order 03, Prehearing Conference Order; Notice of Hearing, at 5, ¶¶ 16-17 (Nov. 21, 2018).

**B. THE PROPOSED TRANSACTIONS**

21 Puget Holdings is currently owned by five investors: MIP Funds; Padua MG Holdings; Canada Pension Plan Investment Board (CPPIB); BCIMC; and, AIMCo.<sup>8</sup> No investor currently holds a controlling interest in Puget Holdings.<sup>9</sup> The percent owned by each of these investors is shown in Table 1, below.<sup>10</sup>

22 **Table 1. Ownership of Puget Holdings Prior to Proposed Transactions**

MIP Funds	43.89%
Padua MG Holdings	0.10%
CPPIB	31.57%
BCIMC	16.86%
AIMCo	7.59%

23 CPPIB is the only current investor in Puget Holdings that is not a party to the proposed transactions, and its 31.57 percent equity interest in Puget Holdings will remain unchanged. Mr. Christopher Hind, a board member of Puget Holdings, Puget Energy, and PSE who represents the ownership interest of CPPIB, supports the proposed transactions.<sup>11</sup>

24 If the proposed transactions are approved, Puget Holdings will be owned by five investors, as illustrated by Table 2, below.<sup>12</sup> No investor would hold a controlling interest in Puget Holdings as a result of the proposed transactions.<sup>13</sup>

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<sup>8</sup> Harris, Exh. KJH-1T at 4:1.

<sup>9</sup> Puget Holdings' governance structure requires a vote of 55 percent of the shares to support any action and a vote of 80 percent or more of the shares for certain significant corporate decisions. 2008 Acquisition Order at 17, ¶ 40. A controlling interest, therefore, would require an investor to hold an equity interest in Puget Holdings of at least 55 percent. *See id.* at 17, 24, 90, 97, 108, ¶¶ 40, 53, 214, 232, 254.

<sup>10</sup> *See* Harris, Exh. KJH-1T at 4:1.

<sup>11</sup> Harris, Exh. KJH-3 at 1.

<sup>12</sup> Harris, Exh. KJH-1T at 6:5-6.

<sup>13</sup> *See* note 9 and accompanying text.

25 **Table 2. Ownership of Puget Holdings After Proposed Transactions**

CPPIB	31.57%
OAC	23.94%
BCIMC	20.87%
AIMCo	13.60%
PGGM	10.02%

26 **Alberta Investment Management Corporation.** AIMCo is a large, institutional investment manager based in Edmonton, Alberta, Canada, that manages funds for a variety of public entities.<sup>14</sup> AIMCo has a specific investment group for infrastructure investments, which manages its long-term interests in infrastructure assets like Puget Holdings.<sup>15</sup> AIMCo has a history of experience with the utility and energy industries.<sup>16</sup>

27 **British Columbia Investment Management Corporation.** BCIMC is a trust company and large asset manager based in Victoria, British Columbia, Canada, that services funds of public sector pension plans for entities including the British Columbia government, foundations, and benefit trusts.<sup>17</sup> BCIMC has a history of experience with the energy and utility industries.<sup>18</sup>

28 **OMERS Administration Corporation.** OAC does not currently hold an interest in Puget Holdings. Mr. Steven Zucchet, Managing Director of OMERS Infrastructure Management Inc. (OMERS Infrastructure), testified for OAC. OMERS Infrastructure is the dedicated infrastructure investment and management arm of OAC.<sup>19</sup>

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<sup>14</sup> Mubashir, Exh. AM-1T at 4:5-17.

<sup>15</sup> Mubashir, Exh. AM-1T at 5:9 - 6:2.

<sup>16</sup> Mubashir, Exh. AM-1T at 6:14 - 7:12.

<sup>17</sup> Webb, Exh. LW-1T at 4:12-20.

<sup>18</sup> Webb, Exh. LW-1T at 5:15 - 6:8.

<sup>19</sup> Zucchet, Exh. SZ-1T at 4:14-15. OMERS Infrastructure is responsible for OAC's purchase of an ownership interest in Puget Holdings and will manage OAC's investment after consummation of the proposed transaction. *Id.* at 4:16-20.

29 OAC is a corporation with more than C\$95 billion in net assets and an AA+ credit rating from Standard & Poor's.<sup>20</sup> OAC is based in Ontario, Canada, and administers the Ontario Municipal Employees Retirement System (OMERS) pension plans, benefitting participants of nearly 1,000 employers and 500,000 public employees and former employees.<sup>21</sup> Mr. Zucchet explained that the Province of Ontario lacks any ability to influence OAC, noting that the province does not own any shares, any equity interest, or any appointment authority over OAC's board members.<sup>22</sup>

30 Mr. Zucchet explained:

OMERS Infrastructure has made significant investments on behalf of OAC in the infrastructure and energy industries in both the United States and abroad, providing substantial experience investing in regulated energy and utility sectors. Infrastructure and energy investments of this kind are made on a long-term basis and are diversified geographically and across utility sectors.<sup>23</sup>

Mr. Zucchet continued, describing OAC's investment history in the energy and utility sectors around the world. Such investments include electricity generation such as Bruce Power, a private nuclear generator in Canada; Vento II, wind projects spanning Illinois, Oregon, Minnesota, and Texas; and, electricity and natural gas distribution such as Scotia Gas Networks in the United Kingdom and Oncor in Texas.<sup>24</sup>

31 Mr. Zucchet also explained OAC's long-term strategy in terms of its responsibility to its plan participants:

OAC has the responsibility to invest plan member contributions to meet its long-term pension obligations that are required to be paid out over future decades. Having such a long-term planning horizon means that OAC must

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<sup>20</sup> Zucchet, Exh. SZ-1T at 4:7 - 4:10.

<sup>21</sup> Zucchet, Exh. SZ-1T at 3:15 - 4:2.

<sup>22</sup> Zucchet, Exh. SZ-1T at 5:15 - 6:12.

<sup>23</sup> Zucchet, Exh. SZ-1T at 8:3-9.

<sup>24</sup> Zucchet, Exh. SZ-1T at 8:10 - 10:8.



seek to invest in secure and stable cash flows that are anchored in businesses and industries with a proven track record.<sup>25</sup>

OAC believes that its indirect acquisition of an ownership interest in Puget Holdings fits well within its investment strategy and successful history of investing in the energy and utility industries.<sup>26</sup>

32 OAC proposes to purchase indirectly a 23.94 percent equity interest in Puget Holdings through Moby Canada Limited Partnership, “an Ontario limited partnership formed for the purpose of acquiring a non-controlling 23.94 percent interest in Puget Holdings, with Moby GP Canada Corporation (“Moby GP”) acting as its general partner. OAC, through its wholly-owned subsidiaries, indirectly holds 100 percent of the economic interests in Moby GP.”<sup>27</sup> OAC’s purchase will be funded by equity from the OMERS pension plans through Moby Canada Limited Partnership.<sup>28</sup>

33 **PGGM Vermogensbeheer B.V.** PGGM does not currently hold an interest in Puget Holdings. It is a private company based in the Netherlands that manages investments made by the PGGM Infrastructure Fund and exercises any voting rights on the fund’s behalf.<sup>29</sup> The fund ultimately benefits “more than 2.7 million active, former, and retired members of five Dutch pension funds.”<sup>30</sup> Mr. Martijn Verwoest, Senior Director in PGGM’s Infrastructure team, testified for PGGM, stating “PGGM is an experienced and active global infrastructure investor, is strongly committed to customer satisfaction, reliability, safety, and sustainability, and has significant experience with investments in regulated utilities.”<sup>31</sup>

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<sup>25</sup> Zucchet, Exh. SZ-1T at 10:23 - 11:1.

<sup>26</sup> Zucchet, Exh. SZ-1T at 10:12 – 11:11.

<sup>27</sup> Zucchet, Exh. SZ-1T at 7:7-11.

<sup>28</sup> Zucchet, Exh. SZ-1T at 7:1-5.

<sup>29</sup> Stichting Depository PGGM Infrastructure Funds is the title holder of the fund’s assets, including Mount Rainier Utility Holdings LLC, which is the entity that would own 10.02 percent interest in Puget Holdings as a result of the proposed transaction. Verwoest, Exh. MJV-4 and Exh. MJV-5.

<sup>30</sup> Verwoest, Exh. MJV-1T at 6:5-10.

<sup>31</sup> Verwoest, Exh. MJV-1T at 22:12-14.

- 34 Mr. Verwoest testified that PGGM invests globally, has “a long-term strategy of 20 years or more with no pre-set exit requirements and flexible yield requirements to allow investing in growth or improvements of infrastructure,” and is interested in “long-term investments that display relatively stable and predictable cash flows.”<sup>32</sup>
- 35 Mr. Verwoest supported this statement by describing PGGM’s investments in the energy and utility industries.<sup>33</sup> These investments include natural gas distribution such as Peoples Natural Gas in Pennsylvania, West Virginia, and Kentucky; Madrileña Red de Gas in Spain; electricity generation such as the Red Pine Wind Project in Minnesota and the Switch Station 1 and 2 Solar Projects in Nevada; and regulated electric utilities such as DQE Holdings LLC (and subsidiary Duquesne Light Company) in Pennsylvania.<sup>34</sup>
- 36 Mr. Verwoest testified further that PGGM’s investments in various renewable energy resources confirms its stated interest in sustainability.<sup>35</sup> He stated that PGGM supports PSE’s sustainability goals and views PSE as a “compelling investment opportunity” because it matches PGGM’s investment strategies and philosophies of supporting the “development of sustainable forms of electricity generation while achieving stable and predictable long-term cash flow.”<sup>36</sup>
- 37 PGGM proposes to acquire indirectly its equity interest through Mount Rainier Utility Holdings LLC, a Delaware limited liability company that has been created for the purpose of acquiring PGGM’s interest in Puget Holdings.<sup>37</sup> PGGM holds 100 percent of the membership interests in Mount Rainier Utility Holdings LLC.<sup>38</sup> PGGM’s proposed purchase will be funded with 100 percent equity.<sup>39</sup>

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<sup>32</sup> Verwoest, Exh. MJV-1T at 10:1 - 11:3 and 15:22 - 16:10.

<sup>33</sup> See Verwoest, Exh. MJV-1T at 11:6-16.

<sup>34</sup> Verwoest, Exh. MJV-1T at 11:17 - 15:19.

<sup>35</sup> Verwoest, Exh. MJV-1T at 10:13 - 11:3 and 20:1 - 21:3.

<sup>36</sup> Verwoest, Exh. MJV-1T at 15:21-26 and 19:22-28.

<sup>37</sup> Verwoest, Exh. MJV-1T at 5:18 - 6:2.

<sup>38</sup> Verwoest, Exh. MJV-1T at 5:18 - 6:2.

<sup>39</sup> Verwoest, Exh. MJV-1T at 8:16 - 9:3.

### C. SETTLEMENT STIPULATION<sup>40</sup>

- 38 The Settlement Stipulation provides commitments intended to protect PSE’s customers from potential harm in a variety of areas. The commitments address potential harms to PSE’s governance, business operations, and regulatory obligations from financial and upstream ownership risks through the use of ring-fencing and other financial commitments. The commitments also address PSE’s continued support for low-income customers, PSE’s environmental and energy efficiency obligations, and the risk of harm resulting from any unregulated business owned or indirectly owned by Puget Holdings, such as Puget LNG.
- 39 The Joint Applicants, together with the other Settling Parties, claim that the Settlement Stipulation maintains, updates, and adds to the protections the Commission determined were necessary in the 2008 Acquisition Order and 2016 LNG Order. For any commitments not reaffirmed by the Settlement Stipulation, the Joint Applicants explain: “To the extent those 2008 commitments are not being reaffirmed, it is because those commitments were satisfied—no protections relied upon in the 2008 Acquisition Order are being rolled back.”<sup>41</sup> We analyze the commitments in greater detail in the following section.

### DISCUSSION AND DECISION

- 40 Settlements must comply with applicable legal requirements and be consistent with the public interest.<sup>42</sup> The Commission “will approve a settlement if it is lawful, supported by an appropriate record, and consistent with the public interest in light of all the information available to the commission.”<sup>43</sup> A settlement regarding a transfer of property

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<sup>40</sup> The Settlement Stipulation is included as Attachment A to this Order. The 65 commitments to which the Settling Parties agree are included as Appendix A to the Settlement Stipulation. Attachment A is incorporated into, and made part of, this Order by this reference. In this Order, we briefly summarize the Settling Parties’ proposed commitments. To the extent of any arguable inconsistency between our summary and the terms of the Settlement Stipulation, the terms of the Settlement Stipulation (Attachment A, including Appendix A) control.

<sup>41</sup> Joint Applicants, Exh. JA-1JT at 4:8-10.

<sup>42</sup> WAC 480-07-740.

<sup>43</sup> WAC 480-07-750(2).

is consistent with the public interest if it meets the standard of review applicable to the transaction.

41 For transfers of property, the Commission’s authority and standards of review are found in chapter 80.12 RCW and chapter 480-143 WAC. In Order 01, the Commission determined that the Joint Application should be evaluated “under the public interest standard, which requires a showing that the proposed transactions will not harm the public interest.”<sup>44</sup>

42 “To be ‘consistent with the public interest,’ a transaction need not confer net benefits on customers or the public by making them better off than they would be absent the transaction.”<sup>45</sup> It is sufficient, therefore, if the proposed transactions result in no harm to PSE’s customers and the public interest, and we evaluate the proposed transactions and Settlement Stipulation according to this standard.

43 The Settlement Stipulation reaffirms many of the commitments approved by the 2008 Acquisition Order and the 2016 LNG Order. With respect to those commitments that continue to apply, we determine it is unnecessary to repeat the Commission’s analysis here. Instead, we acknowledge and adopt the findings and conclusions set out in the 2008 Acquisition Order and 2016 LNG Order as they apply to those commitments.

44 The Settlement Stipulation organizes the commitments by topic. We address these commitments below.

45 **GOVERNANCE AND OPERATIONS COMMITMENTS.** Commitments 1-4, entitled the “Governance and Operations Commitments,” address the governance of Puget Energy and PSE and PSE’s business operations. All four commitments reaffirm commitments and conditions that were part of the transaction approved by the 2008 Acquisition Order.<sup>46</sup>

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<sup>44</sup> Order 01, Granting and Denying Petition for Adjudication, in Part, at 9, ¶ 39 (Nov. 9, 2018); *see id.* at 10, ¶ 43; *see also* WAC 480-143-170.

<sup>45</sup> 2008 Acquisition Order at 48, ¶ 115.

<sup>46</sup> The original numbers for these commitments, as identified in the 2008 Acquisition Order, were 41, 12, 14, and 17.

- 46 **DECISION.** We find that Commitments 1-4 continue to hold value because they protect against risks identified in the 2008 Acquisition Order. Because these risks remain, maintaining these commitments will continue to protect customers.
- 47 Several commitments in this section, as well as in others, were updated to retain their applicability and consistency. For example, Commitment 1 addresses how the board of directors for PSE and Puget Energy must be composed. The single modification to this commitment is appropriate because the entities included in the term “Joint Applicants” have changed from the 2008 Acquisition Order. The change, therefore, to “Puget Holdings and PSE” accurately describes the relevant entities and preserves the intent and force of the commitment.
- 48 Commitments 2 and 3 reaffirm commitments instated by the 2008 Acquisition Order. Commitment 2 requires PSE to honor its labor contracts, and Commitment 3 requires maintaining “staffing and presence in the communities in which PSE operates at level sufficient to maintain the provision of safe and reliable service and cost-effective operations.” These commitments were the subject of cross-examination during the February 15, 2019, hearing.<sup>47</sup>
- 49 IBEW argued that Commitment 3, in particular, obligates PSE and Puget Holdings – and, indeed, the Purchasers – to do nothing more than maintain the status quo.<sup>48</sup> No witness testified that Commitment 3 would result in changes to the status quo.<sup>49</sup> Nevertheless, IBEW argued that the “status quo is the harm.”<sup>50</sup> We disagree.
- 50 IBEW’s argument fails for the same reason that we excluded from the record most of the testimony and exhibits it offered. As we explained in Order 01 and at hearing, labor and employment issues, including critiques related to PSE’s current operations under its current ownership, are not relevant to the proposed transactions. Likewise, the argument

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<sup>47</sup> See Cheesman, TR. 213:9 - 232:20; Molander, TR. 234:6 - 244:11, 275:23 - 277:10; Piliaris, TR. 245:16 - 247:8, 256:24 - 270:3; Mubashir, TR. 248:8 - 250:21; Zucchet, TR. 251:18 - 252:7; Webb, TR. 253:15 - 254:21; Verwoest, TR. 255:19 - 256:3.

<sup>48</sup> See IBEW, TR. 300:13-20.

<sup>49</sup> See Cheesman, TR. 213:9 - 232:20; Molander, TR. 234:6 - 244:11, 275:23 - 277:10; Piliaris, TR. 245:16 - 247:8, 256:24 - 270:3; Mubashir, TR. 248:8 - 250:21; Zucchet, TR. 251:18 - 252:7; Webb, TR. 253:15 - 254:21; Verwoest, TR. 255:19 - 256:3.

<sup>50</sup> IBEW, TR. 303:9.

that maintaining the status quo *is* the harm suffered by customers is neither relevant to the proposed transactions nor the “no harm” standard.

- 51 The record does not support a finding that Commitment 3 will result in harm customers, that is, it will put them in a worse position than before the proposed transaction. To the contrary, we find that this commitment continues to protect customers from the risk of harm that would befall them if PSE or Puget Holdings failed to maintain staffing and presence at levels sufficient to maintain the provision of safe and reliable service and cost-effective operations.
- 52 Accordingly, we approve Commitments 1-4 and find that they demonstrate the Purchasers’ commitment to important public service obligations, such as customer service, safety, and reliability, and continue to provide protections for PSE’s governance and business operations.
- 53 **REGULATORY COMMITMENTS.** Nearly all of Commitments 5-23, entitled “Regulatory Commitments,” reaffirm commitments instated by the 2008 Acquisition Order, including Commitments 5-8 and 10-21, and associated conditions.<sup>51</sup> These commitments preserve the protections the Commission previously found necessary to protect ratepayers from the risk of a variety of harms, including: costs associated with the proposed transactions; improper hindrances to the Commission’s regulatory oversight, including access to books, records, and financial information; potential rate impacts due to non-regulated activities; and affiliated transactions.
- 54 **DECISION.** We find that Commitments 5-8 and 10-21 continue to hold value to protect against risks of harm identified in the 2008 Acquisition Order. Because those risks remain, protections addressing them continue to be necessary to ensure that no harm results from the proposed transactions. Several commitments in this section are noteworthy due to the modified and additional protections they provide.
- 55 Commitment 15, which mostly reaffirms PSE’s and Puget Holdings’ commitment to service quality measures, adds the following language: “PSE and Puget Holdings commit that PSE will not seek to abolish its Service Quality program, but that such program may

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<sup>51</sup> The original numbers for Commitments 5-8, as identified in the 2008 Acquisition Order, were 21, 9, 24, and 26. The original numbers for Commitments 10-21, as identified in the 2008 Acquisition Order, were 19, 27, 20, 28, 29, 1, 46, 52, 51, 30, 31, and 33.

be modified, if warranted. PSE will serve any request to change a service quality measure on Commission Staff and Public Counsel.”<sup>52</sup>

56 At hearing, WNIDCL inquired how the Commission would discover from PSE any degradation in safety and reliability standards.<sup>53</sup> Mr. Joel Molander, testifying on behalf of PSE, explained that he believed safety and reliability would be monitored, and such standards confirmed, through the existing service quality reports regularly filed with the Commission.<sup>54</sup> We agree. PSE’s Service Quality program plays an important role in ensuring accountability for the safety, reliability, and quality of PSE’s service. Commitment 15 adds a provision that prevents PSE from abolishing its Service Quality program, and ensures regulatory oversight to protect against service degradation. Accordingly, Commitment 15 improves the protection against the risk of harm to customers originally established by the 2008 Acquisition Order. The Commission will continue to monitor the safety, reliability, and quality of service provided by PSE to its customers.

57 Commitments 9, 22, and 23 are new. All three describe circumstances in which PSE must notify the Commission about certain actions PSE may take. Commitment 9 requires PSE to notify the Commission at least 30 days prior to the closing of any transfer or sale of any interest in Puget Holdings. This notice is for informational purposes only if the sale or transfer is for less than 10 percent of the equity ownership of Puget Holdings. As the Joint Applicants note, Commitment 9 “formalizes an existing practice with respect to notifying the Commission of transfers of less than a ten percent membership interest in Puget Holdings. . . . Over the past decade, PSE has provided similar notice to the Commission of such small transfers of interest, and this commitment formalizes this practice.”<sup>55</sup> We find that Commitment 9 strengthens regulatory oversight and access to information. It also does not modify the requirement in Commitment 8 that PSE and Puget Holdings must seek Commission approval prior to any sale or transfer of a material part of PSE, including any sale representing 10 percent or more of the equity ownership of Puget Holdings or PSE.

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<sup>52</sup> Multiparty Settlement Stipulation and Agreement, Appendix A, at 6, Commitment 15 (Jan. 15, 2019) [hereinafter Settlement Stipulation].

<sup>53</sup> Molander, TR. 276:21 – 277:2.

<sup>54</sup> Molander, TR. 277:3-8.

<sup>55</sup> Joint Applicants, Exh. JA-1JT at 6:18 - 7:2.

- 58 Commitment 22 and Commitment 23 require PSE to file with the Commission and serve on all parties to this proceeding a notice when there is a change to certain Canadian pension laws that might affect an owner of Puget Holdings, a change to the voting requirements for PSE or Puget Holdings, or the creation of an enforceable voting agreement among two or more members of Puget Holdings. The Joint Applicants' testify that these commitments were intended to address parties' stated concerns about possible changes in Canadian laws that apply to certain of the Joint Applicants and possible coordination among Puget Holdings' members.<sup>56</sup>
- 59 Mr. J. Randall Woolridge, on behalf of Public Counsel, testifies that Commitments 22 and 23 address political and behavior risks associated with specific corporate governance and ownership risk.<sup>57</sup> We agree. We find that both commitments address a political and ownership risk by increasing regulatory oversight and transparency under circumstances relevant to the proposed transactions.
- 60 **RING-FENCING AND FINANCIAL COMMITMENTS.** Commitments 24-38, entitled the "Ring-Fencing and Financial Commitments," provide protections for PSE and its customers from financial distress and other upstream financial risks experienced by Puget Holdings. Commitment 38 is the only new commitment. The remaining 14 commitments (Commitments 24-37) reaffirm commitments and conditions that were part of the transaction approved by the 2008 Acquisition Order.<sup>58</sup> No party objected to any of the ring-fencing and financial commitments.
- 61 **DECISION.** We determine that the ring-fencing and financial commitments in Commitments 24-37 remain robust and continue to hold value to increase transparency and protect against the risks of harm the Commission identified in the 2008 Acquisition Order. The risks associated with harm from upstream financial distress, including bankruptcy, remain, and the protections addressing them likewise continue to be necessary to protect PSE and its customers.
- 62 Commitment 36 reaffirms Commitment 8 of the 2008 Acquisition Order. Although PSE and Puget Holdings met that commitment, the Settling Parties have included it here to require PSE and Puget Holdings to again file a non-consolidation opinion with the

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<sup>56</sup> Joint Applicants, Exh. JA-1JT at 7:8-21.

<sup>57</sup> Woolridge, Exh. JRW-1T at 11:22 - 12:3.

<sup>58</sup> The original numbers for these commitments, as indicated in the 2008 Acquisition Order, were 16, 10, 39, 38, 37, 35, 36, 40, 13, 43, 44, 45, 8, and 2.



Commission subsequent to the closing of the proposed transactions. We agree that this is appropriate, and find that the non-consolidation opinion required by Commitment 36 is an important aspect of the ring-fencing protections for PSE and its customers.

63 Commitment 38 is new. It requires PSE to file annually with the Commission, for five years, the total amount of debt held at PSE and Puget Energy, as well as the material terms of any new debt issuances. We find that adding this commitment is appropriate because it further protects PSE and its customers against financial risks associated with the proposed transactions.

64 **COMMUNITY AND LOW-INCOME COMMITMENTS.** Commitments 39-48, entitled the “Community and Low-Income Commitments,” regard ongoing support and financial contributions that PSE and Puget Holdings agree to make for low-income customers. Commitments 39-42 reaffirm and update commitments established by the 2008 Acquisition Order.<sup>59</sup> Commitments 43-48 are new. No party objected to the Community and Low-Income Commitments.

65 **DECISION.** We find that Commitments 39-42 continue to protect against the risks of harm identified in the 2008 Acquisition Order, thus ensuring that the proposed transactions will harm neither customers generally nor low-income customers in particular.

66 At first glance, Commitment 42 appears to be significantly modified because much of the language in the original commitment pertained specifically to circumstances surrounding the 2008 Acquisition Order, including an ongoing general rate case. Upon further inspection, however, the core of this commitment remains because it commits PSE to continuing its bill assistance benefits for low-income customers.<sup>60</sup> Because the particular circumstances at the time of the 2008 Acquisition Order no longer exist, the language agreed to by the Settling Parties appropriately updates the commitment by referencing PSE’s current low-income program while preserving its original intent.

67 The new community and low-income commitments preserve financial and staffing resources, which have been updated since the 2008 Acquisition Order, for low-income customers. Commitment 43 requires PSE to continue funding low-income weatherization

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<sup>59</sup> The original numbers for these commitments, as indicated in the 2008 Acquisition Order, were 18, 22, 23, and 42.

<sup>60</sup> Settlement Stipulation, Appendix A at 13, Commitment 42.

programs at an annual level of no less than \$4.43 million through December 31, 2022, including an annual \$500,000 from Schedule 120 for as long as PSE's decoupling tariff remains in place, and continued annual contributions of \$400,000 from shareholders. Commitment 44 requires PSE to devote financial and staff resources to assist in a low-income needs assessment study. Commitment 45 requires PSE to "maintain a project cost allowance of thirty percent (30%) for Administrative/Indirect Rate associated with the delivery of the Low-Income Weatherization program."<sup>61</sup> Commitment 46 commits Puget Holdings to make a \$2 million contribution from shareholder funds to the Low-Income Weatherization program. Commitment 47 requires PSE to "take reasonable steps to include equitable participation of low-income households in renewable energy programs available to residential customers."<sup>62</sup> Commitment 48 requires PSE to "continue to consult with the low-income advisory committee in the deployment of the Get-to-Zero initiative."<sup>63</sup>

68 These commitments demonstrate that PSE and the Purchasers remain committed to PSE's low-income program and to continuing to make weatherization and energy efficiency more achievable for low-income customers. Mr. Shawn Collins, testifying on behalf of The Energy project, states that low-income weatherization is an energy efficiency investment that specifically benefits low-income customers by making housing more affordable and livable, but also benefits the Company and customers in general.<sup>64</sup> Mr. Collins continues: "As a package, these commitments provide assurances that PSE's existing programs will continue to be supported by [PSE] and its new owners." We agree. These additional commitments protect against harm that might result from the proposed transactions by ensuring that support for PSE's low-income program prior to the proposed transactions is preserved.

69 **ENVIRONMENTAL COMMITMENTS.** Commitments 49-52, entitled the "Environmental Commitments," demonstrate the Joint Applicants' support for PSE's renewable energy obligations, including its commitment to reduce its greenhouse gas footprint and produce an annual Greenhouse Gas Inventory Report. All of the

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<sup>61</sup> Settlement Stipulation, Appendix A at 13, Commitment 45.

<sup>62</sup> Settlement Stipulation, Appendix A at 14, Commitment 47.

<sup>63</sup> Settlement Stipulation, Appendix A at 14, Commitment 48.

<sup>64</sup> Collins, Exh. SMC-1T at 5:5-8.

commitments in this section reaffirm and update commitments established by the 2008 Acquisition Order.<sup>65</sup> No party objected to the Environmental Commitments.

70 **DECISION.** We find that Commitments 49-52, as updated by the Settling Parties, continue to hold value to protect against the risks of harm that the Commission identified in the 2008 Acquisition Order. These risks remain, and protections addressing them continue to be necessary to ensure that no harm results from the proposed transactions.

71 While no updates have been made to Commitments 49 or 50, noteworthy updates have been made to Commitments 51 and 52.<sup>66</sup> Originally, the 2008 Acquisition Order committed Puget Holdings to support PSE's Greenhouse Gas and Carbon Policy as set out in its then-current Integrated Resource Plan (IRP). The updated language proposed by the Settling Parties maintains the intent and spirit of the original commitment, while Commitment 51 provides greater specificity updated for current circumstances. Commitment 51 also requires Puget Holdings to support PSE's goal of reducing its greenhouse gas emissions by 50 percent of its 2016 footprint by 2040. We find that the updated language accurately reflects the expectation that PSE's plans for carbon reductions should continue, consistent with the spirit of the original commitment.

72 **ENERGY EFFICIENCY COMMITMENTS.** Commitments 53-55, entitled the "Energy Efficiency Commitments," relate to continuing and furthering energy efficiency for PSE customers. Commitment 53 reaffirms and updates Commitment 48 from the 2008 Acquisition Order. Commitments 54 and 55, which address PSE's program for on-bill repayment of investments in energy efficiency and PSE's pay for performance pilot, are new. No party objected to the Energy Efficiency Commitments.

73 **DECISION.** Commitment 53 has been updated by the Settling Parties, but the intent of the original commitment remains. This commitment confirms that PSE will continue its participation in, and financial support for, energy efficiency transformation through the Northwest Energy Efficiency Alliance (NEEA). We find that Commitment 53, as updated by the Settling Parties, continues to hold value to protect against the risk of harm identified in the 2008 Acquisition Order.

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<sup>65</sup> The original numbers for these commitments, as indicated in the 2008 Acquisition Order, were 4, 5, 6, and 53.

<sup>66</sup> The updates to Commitment 52 refresh references and preserve the core of the original commitment: PSE will continue to produce its annual Greenhouse Gas Inventory Report.

- 74 Commitments 54 and 55 are new commitments that address the continuation and future of ongoing efforts aimed at energy efficiency. Commitment 54 pertains to PSE’s review of an on-bill repayment program for customers’ investments in energy efficiency. This commitment requires PSE to continue and accelerate its review, and also to work collaboratively with the Conservation Resource Advisory Group (CRAG). Commitment 55 requires PSE to “work with NEEA and the CRAG to adaptively manage and modify PSE’s ‘Pay for Performance’ pilot.”<sup>67</sup>
- 75 The Joint Applicants explain that these Energy Efficiency Commitments “are in the public interest because they demonstrate the Joint Applicants’ commitment to PSE’s energy efficiency measures that benefit customers.”<sup>68</sup> We agree. Both of these commitments are necessary to ensure the continuation of PSE’s ongoing support for energy efficiency efforts that benefit its customers, and they protect against the risk that the proposed transactions may negatively impact these efforts.
- 76 **COLSTRIP COMMITMENTS.** Commitments 56-59, entitled the “Colstrip Commitments,” reaffirm commitments made in PSE’s 2017 general rate case, Dockets UE-170033 and UG-170034 (2017 GRC).<sup>69</sup> No party objected to the Colstrip Commitments.
- 77 **DECISION.** Commitments 56 and 57 relate to the use of production tax credits (PTCs) and the account that will be used when monetizing them. Commitment 58 pertains to a community transition plan for Colstrip, Montana, and Commitment 59 addresses reports that must be filed with the Commission regarding the Colstrip units. The Joint Applicants

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<sup>67</sup> Settlement Stipulation, Appendix A at 14, Commitment 55.

<sup>68</sup> Joint Applicants, Exh. JA-1JT at 11:15-17.

<sup>69</sup> Commitment 56 comes from part of Section III.B.2.f.i of the multiparty settlement reached in PSE’s 2017 GRC and pertains to the use of production tax credits. *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Dockets UE-170033 and UG-170034, Order 08, Final Order Rejecting Tariff Sheets; Approving and Adopting Settlement Stipulation; Resolving Contested Issues; and Authorizing and Requiring Compliance Filing, Appendix B, Settlement Stipulation and Exhibits, 8, ¶ 25 (Dec. 5, 2017). Commitment 57 comes from part of Section III.I.2 of the multiparty settlement reached in PSE’s 2017 GRC and pertains to the account used when monetizing PTCs. *Id.* at 32, ¶ 117. Commitment 58 comes from part of Section III.I.3 of the multiparty settlement reached in PSE’s 2017 GRC and pertains to a community transition plan for Colstrip, Montana. *Id.* at 32, ¶ 118. Commitment 59 comes from part of Section III.I.4 of the multiparty settlement reached in PSE’s 2017 GRC and pertains to required reports regarding the Colstrip units. *Id.* at 32-33, ¶ 119.

testify that the Colstrip Commitments “demonstrate that the Joint Applicants are supportive of PSE’s ongoing obligations and commitments with respect to retirement planning for the Colstrip units and transition support for the Colstrip community.”<sup>70</sup> We agree.

78 We find that the Colstrip Commitments require the Joint Applicants to support the obligations and commitments PSE has made previously regarding the Colstrip units and appropriately protect the public interest. Neither the Settlement Stipulation, the commitments, nor any testimony or evidence offered concerning the same, request that we alter the final order in PSE’s 2017 GRC or the multiparty settlement reached in that case. Accordingly, we make no modifications to that order or settlement here.

79 **LNG COMMITMENTS.** Commitments 60-63, entitled the “LNG Commitments,” include two commitments from the 2008 Acquisition Order, as amended by the 2016 LNG Order, and reaffirm two commitments made in Docket UG-151663 and approved by the 2016 LNG Order.<sup>71</sup> No party objected to the LNG Commitments.

80 **DECISION.** All of these commitments relate to the 2016 LNG Order, the creation of Puget LNG as a special purpose vehicle for the construction and operation of a liquefied natural gas storage and export facility, and protections for PSE and its customers from the risks associated with unregulated businesses owned by Puget Energy and, indirectly, by Puget Holdings. The Commission approved of all the proposed language modifications to Commitments 60 and 61 (except for one, which we address below) in the 2016 LNG Order. Further, the Commission approved the additions of Commitments 62 and 63 in the 2016 LNG Order.

81 The proposed updated language to Commitment 61, which clarifies the former wording of “Joint Applicants” with “PSE and Puget Holdings” is appropriately aligned with the intent of the commitment. We approve this update to the language of the commitment, as we have approved other minor, ministerial updates to similar language.

82 The Joint Applicants testify that these commitments are in the public interest, and that including them “in this case demonstrates that the Joint Applicants are aware of and

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<sup>70</sup> Joint Applicants, Exh. JA-1JT at 12:12-15.

<sup>71</sup> The original numbers for Commitments 60 and 61, as indicated in the 2008 Acquisition Order, were 56 and 58.

supportive of PSE’s ongoing commitments with respect to Puget LNG, LLC.”<sup>72</sup> We agree. We find that protecting PSE and its customers against upstream, unregulated financial risks remains necessary. Neither the Settlement Stipulation, the commitments, nor any testimony or evidence offered concerning the same, request that we alter the 2016 LNG Order or the settlement reached in that case. Accordingly, we make no modifications to that order or settlement, here.

83 **MISCELLANEOUS COMMITMENTS.** Commitments 64 and 65, entitled “Miscellaneous Commitments,” confirm the support of Puget Holdings and its owners for the commitments made in the Settlement Stipulation, the regulatory jurisdiction of the Commission, and PSE’s responsibility to report any failure to comply with this Order.

84 **DECISION.** Commitment 64 reaffirms Commitment 32 of the 2008 Acquisition Order, with updates. The proposed updates to the language of this commitment modify the obligation that PSE file an *annual* report confirming implementation and performance of the commitments in the 2008 Acquisition Order, as well as reporting the failure to meet any commitment. Instead, the updated language strengthens the effect of the original commitment and maintains its protections by requiring that PSE file a report describing any failure to comply with the commitments within five business days of identifying such failure.

85 The updated language also includes the following additional requirements:

Puget Holdings and PSE understand and agree that the Commission has authority to enforce these Commitments in accordance with the terms of these Commitments. In support of this purpose, Puget Holdings will file with the Commission prior to closing the Proposed Transactions an affidavit affirming that it will submit to the jurisdiction of Washington courts for enforcement by the Commission of orders adopting these Commitments and subsequent orders affecting PSE.<sup>73</sup>

86 At hearing, WNIDCL raised some question whether Commitment 64 ensures that any breach of the commitments contained in the Settlement Stipulation, including any deterioration of standards, will be discovered.<sup>74</sup> We conclude that it will. Not only does

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<sup>72</sup> Joint Applicants, Exh. JA-1JT at 13:13-15.

<sup>73</sup> Settlement Stipulation, Appendix A at 16-17, Commitment 64.

<sup>74</sup> See Piliaris, TR. 258-17 - 259:11, 269:12 - 270:3; Molander, TR. 276:21 – 277:8.

Commitment 64 require PSE to self-report any violation of these commitments, the Commission retains regulatory authority to enforce this Order and investigate any violation.

87 Accordingly, we find that Commitment 64, with updates, is in the public interest. The protections it includes adequately protect against the risk of harm from the proposed transactions by acknowledging the Commission’s regulatory oversight, increasing transparency, and requiring PSE to disclose any violations of the commitments.

88 Commitment 65 is new. It states: “Each Owner of Puget Holdings is supportive of these Commitments. Prior to closing of the Proposed Transaction, each Owner of Puget Holdings will file an affidavit with the Commission affirming that it is supportive of these Commitments.”<sup>75</sup> We note that the initial testimony filed on behalf of each of the Purchasers contained support for the commitments as presented in the Joint Application. It is appropriate and necessary that all owners of Puget Holdings affirm their support for the commitments contained in the Settlement Stipulation because they differ from those contained in the Joint Application. Accordingly, we find that Commitment 65 is in the public interest and provides protections against harms that could result from the proposed transactions by increasing regulatory oversight and transparency.

89 **DEFINITIONS.** The Settlement Stipulation includes a section that compiles a glossary of definitions. It defines terms such as “2008 Acquisition Order,” “EBITDA,” “Parties,” and “Proposed Transaction,” among others.

90 **DECISION.** IBEW took issue with the definition of “Parties,” which does not reference IBEW, WNIDCL, or Local 32. IBEW argued that the Settlement Stipulation should be modified to include reference to IBEW, WNIDCL, and Local 32 in this definition.<sup>76</sup> We disagree.

91 IBEW, WNIDCL, and Local 32 remain parties to this proceeding. The definition, however, specifies that it includes only *signatories* to the Settlement Stipulation.<sup>77</sup> IBEW, WNIDCL, and Local 32 are not signatories to the Settlement Stipulation.

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<sup>75</sup> Settlement Stipulation, Appendix A at 17, Commitment 65.

<sup>76</sup> Arnold, Exh. DTA-1T at 9:24 - 10:17; Exh. DTA-26.

<sup>77</sup> Settlement Stipulation, Appendix A at 1, Definitions.

92 Moreover, the definitions section explains that terms defined therein “are periodically clarified” in later commitments. For example, the language in Commitments 22 and 23 refers to notifications that must be filed with the Commission and served “on the *parties to Docket U-180680*.”<sup>78</sup> This language includes IBEW, WNIDCL, and Local 32, and demonstrates that the Settling Parties have not excluded IBEW, WNIDCL, and Local 32 as parties to this proceeding.

93 Accordingly, we decline to condition our approval of the Settlement Stipulation on any modification to the definitions therein.

94 **EXPIRED AND SATISFIED COMMITMENTS.** The following commitments, as identified by the 2008 Acquisition Order, are either omitted, discontinued, or otherwise not reaffirmed: 3, 7, 11, 15, 25, 34, 47, 49, 50, 54, 55, 57, 59, 60, 61, 62, and 63.

95 **DECISION.** The Joint Applicants explain that these commitments have been satisfied and, therefore, are no longer relevant.<sup>79</sup> Ms. Melissa Cheesman, on behalf of Staff, testifies that it is appropriate to remove any commitments that have either expired or have been satisfied.<sup>80</sup> We agree.

96 The Settling Parties have not removed or rolled back any protections the Commission deemed necessary in the 2008 Acquisition Order, 2016 LNG Order, or 2017 GRC Final Order. To the contrary, the Settling Parties have gone beyond preserving prior commitments and have added additional commitments that improve the protections against the risk of harm to the public interest. We find no value in retaining for posterity’s sake the expired and satisfied commitments from the 2008 Acquisition Order. For example, Commitment 49 in the 2008 Acquisition Order required PSE to acquire renewable resources to meet 10 percent of its load by 2013. PSE satisfied this requirement. We agree with the Settling Parties’ choice to remove such commitments from those proposed in the Settlement Stipulation.

97 We are satisfied that the Settling Parties have fully contemplated which commitments are necessary under the circumstances presented in this case, created additional commitments

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<sup>78</sup> Settlement Stipulation, Appendix A at 7, Commitment 22 (emphasis added); Settlement Stipulation, Appendix A at 7, Commitment 23 (emphasis added).

<sup>79</sup> See Joint Applicants, Exh. JA-1JT at 4:5-13.

<sup>80</sup> Cheesman, Exh. MCC-1T at 9:8-10.



to address those circumstances, and removed commitments that have expired or have been satisfied.

- 98 **PURCHASERS.** The Joint Applicants characterize the proposed transactions as “simply represent[ing] the transfer of a non-controlling minority ownership interest from existing well-qualified, institutional investors in Puget Holdings to (i) two other existing well-qualified, institutional investors in Puget Holdings; and (ii) two new, well-qualified, institutional investors; with no change to PSE’s operations, management and commitment to its customers and the Commission.”<sup>81</sup> We agree.
- 99 Mr. J. Randall Woolridge filed testimony supporting the Settlement Stipulation on behalf of Public Counsel. He explained that:

[T]he Purchasers are large investors in infrastructure assets. Since they are managers of pension funds, they have long-term liabilities, and therefore, they have a long-term perspective on their investments. There are a number of factors that suggest they are, or would be, good owners of PSE, and therefore pose little corporate governance risk.<sup>82</sup>

Ms. Cheesman also explained that the Purchasers “are financially fit, have the ability to access capital, and have experience with managing and investing in the utility industry.”<sup>83</sup>

- 100 We agree. The demonstrated long-term philosophies and strategies of the Purchasers, as well as their experience managing and investing in the utility and energy industries, indicate that they will be well-qualified owners for PSE and Puget Holdings, and that whatever risk of harm may exist is sufficiently mitigated by the commitments set out in the Settlement Stipulation.
- 101 WNIDCL raised a concern related to harm resulting from the change in upstream ownership. Ms. Erin Hutson, on behalf of WNIDCL, testified that Macquarie has a Responsible Contractor Policy.<sup>84</sup> She believes that harms related to safety and reliability

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<sup>81</sup> Joint Application, 3, ¶ 3 (Sep. 5, 2018).

<sup>82</sup> Woolridge, Exh. JRW-1T at 9:17-21.

<sup>83</sup> Cheesman, Exh. MCC-1T at 8:17-18.

<sup>84</sup> Hutson, Exh. EH-1Tr at 12:14-17.

will result from the proposed transactions because none of the Purchasers has a commensurate policy.<sup>85</sup> We disagree.

102 We appreciate WNIDCL raising this issue and providing information regarding Macquarie's Responsible Contractor Policy. We are satisfied, however, that PSE has its own policies and guidelines that govern how it engages with its contractors. There is no evidence that Macquarie's departure will result in any negative change to PSE's existing contractor guidelines.

103 We decline to condition our approval on modifications to the Settlement Stipulation stemming from the issues raised regarding the Responsible Contractor Policy. We find that the Purchasers are financially and managerially fit and able to perform as well-qualified, upstream, indirect owners of PSE.

104 **PUBLIC COMMENTS.** On September 21, 2018, the Commission issued a Notice of Opportunity to File Written Comments by October 24, 2018, and took additional public comments at its November 5, 2018, Open Meeting. Since the Commission's decision to initiate an adjudication in this docket, we have received additional comments from members of the public. Pursuant to WAC 480-07-385(1), we receive public comments as an illustrative bench exhibit. In this instance, we have two such exhibits: the first contains those public comments received up until November 5, 2018,<sup>86</sup> and the second contains any public comments received from November 28, 2018, until the close of the hearing in this matter on February 15, 2019.<sup>87</sup>

105 We received numerous comments from the public in this matter, mostly prior to the Commission's November 5, 2018, Open Meeting. We acknowledge and have considered those members of the public who oppose this change in PSE's ownership as reflected in the record of public comments. However, as in the 2008 Acquisition Order, the clear weight of the evidence and applicable law compel us to conclude that the transaction does not harm the public interest.

106 We acknowledge the multiple concerns voiced in the public comments portraying the dissatisfaction of some PSE customers with current practices and ownership. Some of

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<sup>85</sup> Hutson, Exh. EH-1Tr at 13:9-13.

<sup>86</sup> Exh. BE-1.

<sup>87</sup> Exh. BE-3.

these concerns raised issues about PSE's IRP and transmission projects.<sup>88</sup> We have attempted to explain in this Order, and we repeat here, that critiques of PSE's current practices, including IRP and transmission projects, are not at issue in this proceeding because they exceed the scope of the proposed transactions.

107 We conclude that maintaining numerous commitments established by the 2008 Acquisition Order and including additional commitments tailored to the circumstances in this case strongly weigh in favor of deciding that the public interest is adequately protected, and that approving the proposed transactions will not result in harm to PSE's customers.

108 **CONCLUSION.** We find that the Settlement Stipulation and its commitments adequately protect customers and address the risks of harm that may result from the proposed transactions. We conclude that the Settlement Stipulation is in the public interest and should be approved without condition, and that the proposed transactions should be authorized.

### FINDINGS OF FACT

The Commission makes the following findings of fact:

109 (1) The 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 electric and natural gas companies.

110 (2) PSE is a "public service company," an "electrical company," and a "gas company" as those terms are defined in RCW 80.04.010, and as those terms are otherwise used in Title 80 RCW. PSE is engaged in Washington in the business of supplying utility services and commodities to the public for compensation. PSE is a wholly-owned subsidiary of Puget Energy. Puget Energy is wholly-owned by Puget Holdings, which is PSE's ultimate parent company.

111 (3) On September 5, 2018, PSE, AIMCo, BCIMC, OAC, and PGGM, filed a Joint Application requesting an order approving the acquisition by the four purchasers of the entirety of Macquarie's 43.99 percent equity interest in Puget Holdings.

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<sup>88</sup> See Exh. BE-1; Exh. BE-3.

- 112 (4) AIMCo is an original investor in Puget Holdings. It currently owns a 7.59 percent interest in Puget Holdings. As part of the proposed transaction, AIMCo proposes to purchase a 6.01 percent equity interest from Macquarie, thereby increasing its interest in Puget Holdings to 13.60 percent.
- 113 (5) BCIMC is an original investor in Puget Holdings. It currently owns a 16.86 percent interest in Puget Holdings. As part of the proposed transaction, BCIMC proposes to purchase a 4.01 percent equity interest from Macquarie, thereby increasing its interest in Puget Holdings to 20.87 percent.
- 114 (6) OAC does not currently own an interest in Puget Holdings. As part of the proposed transaction, OAC proposes to purchase from Macquarie a 23.94 percent interest in Puget Holdings.
- 115 (7) PGGM does not currently own an interest in Puget Holdings. As part of the proposed transaction, PGGM proposes to purchase from Macquarie a 10.02 percent equity interest in Puget Holdings.
- 116 (8) On January 15, 2019, PSE, AIMCo, BCIMC, OAC, PGGM, Staff, Public Counsel, AWEC, The Energy Project, and NWECA filed the Settlement Stipulation, which they propose the Commission approve and adopt as a full resolution of the issues in this proceeding. WNIDCL, IBEW, and Local 32 oppose the settlement. FEA neither joins nor opposes the settlement.
- 117 (9) The Settlement Stipulation includes 65 commitments that emphasize important public service obligations, including:
- Regulatory commitments that protect and promote the Commission’s ability to regulate PSE in the public interest.
  - Ring-fencing commitments that protect PSE from any financial distress experienced by other companies within the holding company structure.
  - Financial integrity commitments that protect PSE’s financial health.
  - Corporate governance commitments.
  - Environmental and energy efficiency commitments that preserve PSE’s obligations and support its goals to reduce its carbon footprint.
  - Low-income assistance commitments.

- 118 (10) Under the terms of the Settlement Stipulation, the effectiveness of the commitments in the 2008 Acquisition Order, as modified by subsequent proceedings, including Docket UG-151663, is reaffirmed by the proposed transactions.
- 119 (11) All four purchasers of Macquarie's 43.99 percent interest have affirmed their commitment to abide by and be subject to all applicable commitments and conditions of the 2008 Acquisition Order as modified by subsequent proceedings, including Docket UG-151663.
- 120 (12) The proposed transactions, which increase the ownership interest of AIMCo and BCIMC while granting new ownership interests to OAC and PGGM, will not impair, weaken, or change the Commission's regulatory control and oversight of PSE.
- 121 (13) Under the terms of the Settlement Stipulation, the Commission will continue to receive from PSE and the other companies in its holding company structure all of the financial information necessary for effective regulatory oversight and control by the Commission.
- 122 (14) The acquisition of Macquarie's 43.99 percent ownership interest in Puget Holdings, PSE's ultimate parent company, by AIMCo, BCIMC, OAC, and PGGM on the terms provided by the Joint Application as modified by the Settlement Stipulation attached to and made a part of this Order by prior reference, including the 65 commitments set forth in Appendix A to the Settlement Stipulation, is consistent with the public interest and will not result in harm to PSE's customers.

### CONCLUSIONS OF LAW

The Commission makes the following conclusions of law:

- 123 (1) The Commission has jurisdiction over the subject matter of, and parties to, this proceeding.
- 124 (2) Chapter 80.12 RCW requires public service companies, including PSE, to secure Commission approval before they can lawfully sell or otherwise dispose of the whole or any part of their franchises, properties, or facilities that are necessary or

useful in the performance of their duties to the public. As described in the 2008 Acquisition Order, the transfer of an ownership interest in Puget Holdings LLC is, likewise, subject to Commission approval. Any sale or disposition made without Commission authority is void.

- 125 (3) WAC 480-143-170 governs the Commission's standard of review for the transfer of a non-controlling interest and requires a finding that the transaction is consistent with the public interest. To be consistent with the public interest, the transaction must not harm the public interest.
- 126 (4) The commitments found in the Settlement Stipulation are sufficient to protect PSE's customers and the public interest from the risks of harm associated with the proposed transactions.
- 127 (5) The Commission should approve the Settlement Stipulation in this proceeding because it is lawful, supported by an appropriate record, and consistent with the public interest in light of all the information available to the Commission.
- 128 (6) The Commission should authorize, as consistent with the public interest, Macquarie's transfer of its 43.99 percent interest in Puget Holdings, as conditioned by the terms of the Settlement Stipulation attached to and made a part of this Order by prior reference, including the 65 commitments set forth in Appendix A to the Settlement Stipulation.
- 129 (7) The Commission's Secretary should be authorized to accept by letter all filings or submissions, including affidavits that comply with Commitment 64 and Commitment 65, with copies to all parties to this proceeding.
- 130 (8) The Commission should retain jurisdiction over the subject matter and the parties to effectuate the terms of this Order.

## ORDER

### THE COMMISSION ORDERS:

- 131 (1) The full multiparty settlement reached by the Settling Parties in this proceeding is lawful, supported by an appropriate record, and consistent with the public interest and is, therefore, approved without condition.

- 132 (2) The transfer by Macquarie Infrastructure Partners Inc. and Padua MG Holdings LLC of their combined 43.99 percent interest in Puget Holdings LLC to Alberta Investment Management Corporation, British Columbia Investment Management Corporation, OMERS Administration Corporation, and PGGM Vermogensbeheer B.V., on the terms provided by the Joint Application and the terms of the Settlement Stipulation attached to and made a part of this Order, including the 65 commitments set forth in Appendix A to the Settlement Stipulation, is authorized.
- 133 (3) Puget Sound Energy, Puget Energy LLC, and Puget Holdings LLC are authorized and required to make any compliance filing and any other filing or submission necessary to effectuate the terms of this Order.
- 134 (4) The Commission Secretary is authorized to accept all filings or submissions, with copies to all parties to this proceeding, which comply with the requirements of this Order.
- 135 (5) The Commission retains jurisdiction to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective March 11, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner

**ATTACHMENT A – SETTLEMENT STIPULATION AND APPENDICES**