

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

<p>WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,</p> <p>Complainant,</p> <p>v.</p> <p>PUGET SOUND ENERGY,</p> <p>Respondent.</p>	<p>DOCKETS UE-240004 and UG-240005 (<i>Consolidated</i>)</p> <p>ORDER 08</p>
<p>In the Matter of the Petition of</p> <p>PUGET SOUND ENERGY</p> <p>Petitioner,</p> <p>For an Accounting Order Authorizing deferred accounting treatment of purchased power agreement expenses pursuant to RCW 80.28.410</p>	<p>DOCKET UE-230810</p> <p>ORDER 06</p>
<p>WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION</p> <p>Petitioner,</p> <p>v.</p> <p>PUGET SOUND ENERGY,</p> <p>Respondent.</p>	<p>DOCKET UG-230968</p> <p>ORDER 04</p> <p>DENYING MOTION FOR CONSOLIDATION</p>

BACKGROUND

- 1 On February 15, 2024, Puget Sound Energy (PSE or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its

currently effective Tariff WN U-60, Tariff G, Electric Service, and its currently effective Tariff WN U-2, Natural Gas. The Company characterizes this filing as a general rate case (GRC). The Commission commenced an adjudication in this proceeding in consolidated Dockets UE-240004 and UG-240005.

- 2 On November 22, 2023, in Docket UG-230968, PSE filed revised tariff sheets for its natural gas Schedule 111 with rates reflecting the Company’s forecasted Climate Commitment Act (CCA) costs and revenues for 2024. PSE’s Schedule 111 is an existing pass-through tariff with tracking and true-up functions that addresses PSE’s CCA costs and revenues. On December 22, 2023, the Commission issued Order 01 in Docket UG-230968 suspending PSE’s Schedule 111 tariff revisions and moving the issue of a potential risk-sharing mechanism to adjudication.
- 3 On September 29, 2023, in Docket UE-230810, PSE filed with the Commission a petition seeking an Accounting Order authorizing PSE to defer the costs associated with three demand response power purchase agreements pursuant to Revised Code of Washington (RCW) 80.28.410 to track and preserve them for later ratemaking treatment. On March 8, 2024, PSE filed a revised petition adding the benefits of the PPAs to its request for deferred accounting and modifying the requested start date of the deferral period from July 2023 to September 2023. This is the first petition filed with the Commission pursuant to RCW 80.28.410 and as such, it presents the Commission with a case of first impression with respect to how it will implement the statute.
- 4 On March 29, 2024, in Order 03, the GRC was consolidated with Docket UE-230810, as the Commission found that the dockets raise issues and legal principles the Commission could most efficiently consider by consolidating the dockets.
- 5 On May 8, 2024, Commission staff (Staff) filed a Motion to Consolidate Proceedings (Motion). Staff submits that the Commission should consolidate its GRC, Dockets 240004 and UG-240005, with Docket UE-230968. Staff argues that there are related issues of fact and law between the two proceedings. Staff notes that the procedural schedules for both the GRC and CCA risk-sharing docket are similar – with both scheduled for evidentiary and public comment hearings in the Fall of 2024. Staff offers that “[c]onsideration of all of the newly proposed trackers in the general rate case and the remaining design elements of Schedule 111 in the CCA risk-sharing mechanism docket rais[e] broader policy questions that are relevant in both matters.”
- 6 Staff also argues that consolidation would support judicial economy. Staff notes that consolidation would be more “efficient” for the parties. Specifically, Staff notes that

“PSE proposes three new trackers: Clean Generation Resources Tracker, Wildfire Prevention Tracker, and Decarbonization Tracker.” Staff argues that approval of these trackers and corresponding decisions related to cost recovery will be decided in the GRC, and the overlap between these trackers and the remaining design questions for Schedule 111 would be more administratively efficient to resolve at once. Staff’s Motion further asks that that if the Commission were to consolidate proceedings, that the separately scheduled public comment hearings continue to be segregated as the process for providing ratepayers with notice is mid-process.

7 On May 15, 2024, Puget Sound Energy filed a Response to Motion to Consolidate Proceeding (PSE’s Response). That same day, The Energy Project (TEP) filed a Response to Motion to Consolidate Proceedings (TEP’s Response). Both PSE and TEP took similar positions on Staff’s Motion: neither party supported or opposed the motion, but both parties asked that if the proceedings were to be consolidated that procedural steps be taken to limit participation of the new CCA Joint Environmental Advocates (JEA)¹ to only the CCA risk-sharing issue.²

8 Also on May 15, 2024, the JEA filed an Opposition to Staff’s Motion. Both the GRC JEA and the CAA JEA urged the Commission to deny Staff’s Motion to consolidate PSE’s GRC with the CAA risk-sharing docket.

9 The JEA argues that while there are related issues of fact and law between the two proceedings, the same could be said of any docket that affects accounting and rates. The JEA posits that the two proceedings are not sufficiently related to warrant consolidation. The JEA argues that the CCA risk-sharing proceeding is significantly narrower in scope than the GRC – in support of this JEA highlights that in the CCA risk-sharing proceeding PSE’s opening testimony is comprised of four witnesses, while in the GRC, PSE’s opening testimony comprises thirty-eight. Further, the GRC already has a large number of intervenors, almost all of which did not petition to intervene in the CCA risk-sharing proceeding. The JEA posits that the effect of consolidating the broad GRC with the narrow CCA proceeding would have the effect of diminishing the voices of the CCA JEA.

¹ The JEA comprise of five organizations with joint representation. The JEA currently in the GRC (the GRC JEA) are comprised of Front and Centered, NW Energy Coalition (NWEC), and Sierra Club. The JEA currently in the CCA risk-sharing docket (CCA JEA) are comprised of Climate Solutions, NWEC, and Washington Conservation Action (WCA).

² PSE’s Response at ¶¶ 2-3; TEP’s Response at ¶¶ 3-4.

- 10 The JEA also argues that consolidation would not support judicial economy. The JEA asserts that the Commission should reject Staff's Motion for similar reasons to its rejection of PSE's Motion to Consolidate in UE-210795 – where the Commission noted that consolidation would not facilitate parties' "grappling with complex, novel issues of first impression." The JEA support this comparison by highlighting the Commission's explicit language in Order 01 of UG-230968, "[t]he issue of a risk sharing mechanism for CCA compliance costs is a complex one, and the Commission would benefit from a full record, including testimony and briefing from the parties."³ The JEA also raises a concern that consolidation will lead to potential confusion on a complex issue of first impression, where the discreet issue of the CCA risk-sharing mechanism might bleed into the larger discussion of trackers at issue in the GRC.
- 11 The JEA disagrees that consolidation is necessary and posits that it would be prejudicial to all of its members. The constituent members of the JEA have chosen the proceeding in which they wish to intervene and have planned resources accordingly. Consolidation would require the groups to reposition resources, which the JEA posits would be harmful to all of the constituent advocates. To the extent there is any marginal benefit from having both the GRC and CCA risk-sharing mechanism approved at the same time, the JEA suggests that this is outweighed by the other considerations noted in its Opposition.

DISCUSSION

- 12 The Commission has discretion to "consolidate two or more proceedings in which the facts or principles of law are related."⁴ In determining whether to exercise such discretion, the Commission considers not just the extent to which the factual and legal issues are related, but whether consolidation would promote judicial economy and would not unduly delay the resolution of one or all of the proceedings.⁵
- 13 We agree with the JEA that it is not appropriate to consolidate PSE's GRC with the CCA risk-sharing mechanism docket. The two proceedings may, at least to a degree, involve similar facts and evidence. However, the two proceedings have different sets of intervenors who have pled different interests. The merging of both sets of intervening organizations would either have the effect of: (1) subjecting organizations to a broader set of concerns than they originally intervened for; or (2) requiring additional judicial

³ Order 01, UG-2300968 at ¶ 14.

⁴ WAC 480-07-320.

⁵ *E.g., Qwest Corp. v. Level 3 Comm.*, Docket UT-063038, Order 09, ¶ 13 (February 15, 2008).

resources to parse proceedings between the main GRC case and those parties interested in solely the CCA risk-sharing issues. In either scenario, it is difficult to imagine that the level of briefing and attention that the CCA risk-sharing mechanism would receive would not be affected.

- 14 The CCA risk-sharing mechanism is both complex and novel. There are unanswered questions, which the Commission is poised to address. Maintaining a separate proceeding for the CCA risk-sharing mechanism will enable the Commission to address the nuances of the specific adjudication with a higher level of precision, which would in turn be of use for participants in the policy Docket U-230161 – the most appropriate place for a wholistic evaluation of the involved concepts. As a result, the undivided attention of the Commission in resolving this discrete issue is of value. While there may be some efficiencies achieved by consolidation, we are persuaded that intervenors in the CCA risk-sharing docket would be disadvantaged. We give weight to this, especially in consideration of the feedback that the Commission recently received in Docket A-230217;⁶ and in consideration of the testimony of intervenors that participated in UE-220066 about the challenges that the complexity of Commission proceedings present for community-based organizations.⁷ Consolidation would thus be inappropriate here.
- 15 As the JEA notes, the two proceedings are fundamentally different in scope and scale. In the GRC, the Commission is charged with determining fair, just, reasonable, and sufficient rates for PSE’s service, and the Company bears the burden of proof for its proposed rates. This includes prudence determinations for all of PSE’s risk management strategies taken as whole. In the CAA risk-sharing proceeding, the Commission has charged the parties to work through a specific, complex question. It is difficult to envision the CCA risk-sharing mechanism receiving the attention it deserves if it is only one of many issues within the GRC proceeding.

⁶ *Equity Policy Statement Proceeding*, Docket A-230217, Comment of Front and Centered at 10 (Nov. 29, 2023) (“Change will be propelled by the growing attention and action to build bridges between lived experience and data science and illuminate the connections across seemingly isolated components of highly complex cases. This is what public participants and resourced stakeholders are able to bring to a common cause: showing up to condemn systemic inequities and demand better.”).

⁷ *Wa. Utils. & Transp. Comm’n v. Puget Sound Energy*, Dockets UE-220066, UG-220067, & UG-210918 (*Consolidated*), Exh. MFT-1T at 5-6 (Dec. 8, 2023) (describing advocate’s disappointment in discreet equity issue resolved in a GRC settlement as being subject to amendment).

- 16 We therefore find that Staff's Motion should be denied. Any limited benefit from consolidating and deciding the GRC and CCA risk-sharing mechanism in one proceeding are outweighed by the practical implications of consolidating these two complex proceedings.

ORDER

- 17 THE COMMISSION ORDERS That Staff's Motion is DENIED.

DATED at Lacey, Washington, and effective June 11, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Bijan Hughes
Bijan Hughes
Administrative Law Judge

NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 10 days of the service of this Order pursuant to WAC 480-07-810.