



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

621 Woodland Square Loop S.E. • Lacey, Washington 98503

P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY (360) 586-8203

State Of WASH.
 UTIL. AND TRANSP.
 COMMISSION

04/19/21 16:26

Received
 Records Management

April 19, 2021

Mark L. Johnson, Executive Director and Secretary
 Washington Utilities and Transportation Commission
 P. O. Box 47250
 Olympia, Washington 98504-7250

RE: *Petition of Puget Sound Energy 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 Non-regulated Liquefied Natural Gas Services, Docket No. UG-151663, and*

In the Matter of the Filing of a Gas Supply Services Agreement Between PSE and Puget LNG, Docket No. UG-210111.

Dear Mr. Johnson:

Please find enclosed Staff's review of a series of filings made by Puget Sound Energy, Inc. (PSE) to satisfy the requirements of the Commission's Order 10 in Docket UG-151663 (Order 10). These filings consist of the Amended and Restated Joint Ownership Agreement (JOA) Between PSE and Puget LNG, LLC (Puget LNG), an operations and maintenance (O&M) agreement between PSE and North American Energy Services Corporation (NAES), and two affiliated interest filings between PSE and Puget LNG (the Reimbursement Agreement and the Gas Supply Services Agreement). In preparing for these most recent filings, PSE worked with Staff to ensure that they met the requirements embodied in Order 10 as well as the Commission's rule governing affiliated interest agreements.¹

Before turning to Staff's review, I note that none of PSE's filings request the inclusion of costs relating to the Tacoma LNG Facility (Project) in the rates charged under its currently effective tariffs. Nor do these filings seek an order determining the Project to be prudent for ratemaking purposes.² The Settlement Stipulation approved by the Commission in Order 10 did not address the ratemaking treatment for Project costs, and all parties to the Settlement Stipulation expressly reserved their right to challenge the financial

¹ WAC 480-90-245.

² The Commission applies a "prudence" standard when it determines whether a decision by a utility to acquire or develop a specific resource is appropriate, and that ratepayers can be required to support that resource through rates.

prudence and reasonableness of the Tacoma LNG Facility in future Commission proceedings wherein PSE sought cost recovery.³

BACKGROUND

PSE's Compliance to Commission Order 10

On November 1, 2016, the Commission issued Order 10 which included several provisions related to the formation of Puget LNG, an unregulated entity of PSE's parent, Puget Energy. These provisions are intended to hold PSE's customers harmless from the liabilities and financial losses stemming from the unregulated activities of Puget Energy and Puget LNG. As relevant, Order 10 required that:

- Within thirty (30) days of issuance of an order by the Commission approving the Settlement Stipulation consistent with its terms and its conditions, Puget Energy will form or will cause to be formed a wholly-owned subsidiary of Puget Energy named Puget LNG, LLC ("Puget LNG").⁴
- Within sixty (60) days of the formation of Puget LNG, PSE will file a non-consolidation opinion with the Commission which concludes, subject to customary assumptions and exceptions, that the ring-fencing provisions are sufficient that a bankruptcy court would not order the substantive consolidation of the assets and liabilities of PSE with those of Puget Energy or its affiliates or subsidiaries, including Puget LNG.⁵
- Within sixty (60) days of the formation of Puget LNG, PSE will file a JOA between Puget LNG and PSE for approval by the Commission pursuant to RCW 80.16.020.⁶
- Within 90 days after the establishment of Puget LNG, PSE will assign Puget LNG's Ownership Shares of the components of the Tacoma LNG Facility to Puget LNG and pay PSE an amount equal to the product of (a) PSE's total capital expenditures for the Tacoma LNG Facility as of the assignment date and (b) Puget LNG's projected common capital costs allocation of fifty-seven percent (57%).⁷
- The management structure for the Tacoma LNG facility include two independent members, one of which should have LNG Industry experience.⁸

Additionally, in Order 10, PSE identified the need for PSE and Puget LNG to enter into an O&M Agreement for the Project that was separate and distinct from the JOA. The O&M Agreement falls within the definitions of an Affiliate Interest under RCW 80.16.020.⁹

³ In re Petition of Puget Sound Energy, Inc. for (i) Approval of a Special Contract for Liquefied Natural Gas Fuel Service with Totem Ocean Express, Inc. and (ii) a Declaratory Order Approving the Methodology for Allocating Costs Between Regulated and Non-Regulated Liquefied Natural Gas Services, Order 10, 2 ¶ 4 (Nov. 1, 2016) (hereinafter "Order 01").

⁴ Order 10 at 32 ¶ 74. Staff determined PSE complied with this condition in its compliance letter of December 29, 2016.

⁵ Order 10 at 33 ¶ 76. Staff determined that PSE complied with this condition in its compliance letter of March 23, 2017.

⁶ Order 10 at 37 ¶ 86. Staff determined that PSE complied with this condition in its compliance letter of March 23, 2017 (original JOA). This letter addresses PSE's Amended and Restated JOA, provided on November 30, 2020, and its compliance with Order 10.

⁷ Order 10 at 26 ¶ 61. Staff determined that PSE complied with this condition in its compliance letter of March 28, 2017.

⁸ Order 10 at 59 ¶ 141. Staff determined that PSE complied with this condition in its compliance letter of January 30, 2018.

⁹ Order 10, Paragraph 94. Included as Attachment D to the Amended Restated JOA filed on November 30, 2020. Addressed in this compliance letter.

On September 14, 2020, PSE informed Staff that it would not provide O&M services for the Tacoma LNG Facility as originally contemplated. Instead, PSE explained that it had contracted with a third-party, NAES, to provide O&M services for the Tacoma LNG Facility. On September 30, 2020, PSE by letter filed in Docket UG-151663 informed the Commission of this change and stated that it intended to update the previously filed JOA with an amended and restated version.

Amended and Restated Joint Ownership and Operating Agreement

On November 30, 2020, PSE filed with the Commission an amended and restated version of the original JOA it filed on March 23, 2017.¹⁰ The primary purpose behind amending and restating the JOA is to reflect the inclusion of the third-party O&M provider, NAES. In addition, the Amended and Restated JOA added language that further clarifies the responsibilities of the parties as it relates to the operation of the plant.

Section 6.3 of the Amended Restated JOA includes a reference to a “parental guaranty” provided by Puget Energy to PSE in order to secure the obligations of its subsidiary, Puget LNG. The parental guaranty is an additional affirmation by Puget Energy that it will shield the regulated utility, PSE, from any debts, liabilities and/or obligations arising from Puget LNG’s unregulated business. Puget Energy had previously affirmed that it would hold PSE’s customers harmless against any liabilities and financial losses from unregulated operations at the Tacoma LNG Facility by making the ringfencing commitment and in an Affidavit from Steve R. Secrist, Senior Vice President, General Counsel, and Chief Ethics & Compliance Officer for both Puget Energy and PSE attached to an earlier compliance filing.¹¹

Exhibit D of the Amended Restated JOA includes the third-party O&M contract with NAES.

Reimbursement Agreement between PSE and Puget LNG

On January 27, 2021, PSE filed with the Commission a Reimbursement Agreement between itself and its affiliate, Puget LNG. The purpose of the Reimbursement Agreement is to memorialize the affiliate transaction between PSE and Puget LNG regarding payment of Puget LNG’s share of the NAES O&M contract costs.

Affiliated Interest Filing; UG-210111

On February 18, 2021, PSE filed with the Commission a Gas Supply Services Agreement between itself and its affiliate, Puget LNG. The Gas Supply Services Agreement will be used by both parties to manage the supply of gas for unregulated fueling operations at the Tacoma LNG Facility.¹² Included as companion agreements to the Gas Supply Services Agreement are the North American Energy Standards Board (NAESB) Base Contract and an Amending Agreement to the NAESB Base Contract.¹³

¹⁰ According to PSE’s November 30, 2020, compliance filing: “Paragraph 94 in Order 10 provides, in part, that Puget Sound Energy (“PSE”) would need to file an O&M Services Agreement for Commission approval under RCW 80.16.020 as an affiliated transaction based on the assumption, at that time, that there would be such an agreement between PSE and Puget LNG, LLC (“Puget LNG”) pursuant to which PSE would be providing those services:

There will be an Operations and Maintenance (O&M) Services Agreement between Puget LNG and PSE, as distinct from the JOA. Mr. Kuzma confirmed that the O&M Services Agreement also falls within the definitions in RCW 80.16.020, and so, it would also have to be brought to the Commission for approval. It is also PSE’s understanding that any amendments to such agreement also would have to be brought to the Commission for approval.” (emphasis added by Staff)

¹¹ In re Petition of PSE, Docket UG-151663, PSE compliance filing of January 27, 2017 - Notice of the Formation of Puget LNG, LLC, on behalf of Puget Sound Energy, Exhibit A (Jan. 27, 2017).

¹² The Company’s cover letter from the February 18, 2021 affiliate interest filing (UG-210111) states that testing of the Tacoma LNG Facility is underway with commercial operations commencing on or around May 1, 2021.

¹³ The NAESB Base Contract incorporates by reference general terms and conditions for the sale and purchase of wholesale natural gas as published by the North American Energy Standards Board. The Amending Agreement between PSE and Puget LNG modifies certain terms and conditions contained in the NAESB Base Contract.

DISCUSSION/RECOMMENDATION

Staff examined PSE's most recent compliance and affiliated interest transaction filings and find they meet the requirements specified in Order 10 and Commission rule. The two reported affiliate interest transactions between PSE and Puget LNG: 1) the Reimbursement Agreement, and 2) the Gas Supply Services Agreement, are reasonable and consistent with the public interest cited in Order 10 of Docket UG-151663.¹⁴ PSE has completed all outstanding compliance items and is in full compliance with the requirements specified in Order 10.

Sincerely,

David C. Gomez
Assistant Power Supply Manager, Energy Regulation

¹⁴ See Order 10 at 50 ¶ 115.