

**EXHIBIT NO. ___(MM-7)
DOCKET NO. UE-13____
2013 PSE PCORE
WITNESS: MICHAEL MULLALLY**

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

Docket No. UE-13_____

**SIXTH EXHIBIT (NONCONFIDENTIAL) TO THE
PREFILED DIRECT TESTIMONY OF
MICHAEL MULLALLY
ON BEHALF OF PUGET SOUND ENERGY, INC.**

APRIL 25, 2013

141 FERC ¶ 62,100
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Tenaska Washington Partners, L.P.
Puget Sound Energy, Inc.

Docket No. EC13-5-000

ORDER AUTHORIZING DISPOSITION AND ACQUISITION
OF JURISDICTIONAL FACILITIES AND ACQUISITION
OF GENERATING FACILITIES

(Issued November 8, 2012)

On October 4, 2012, Tenaska Washington Partners, L.P. (Tenaska LP) and Puget Sound Energy, Inc. (Puget Sound) (collectively, Applicants) filed an application pursuant to sections 203(a)(1)(B) and (D) of the Federal Power Act (FPA)¹ requesting Commission authorization for the disposition of jurisdictional facilities associated with the transaction under which Tenaska LP will sell and Puget Sound will acquire the Ferndale Cogeneration Station and associated interconnection equipment (Facility) located in Whatcom County, Washington (Transaction). The jurisdictional facilities affected by the Transaction are limited interconnection facilities.

Applicants state that Tenaska LP is a qualifying facility under the Public Utility Regulatory Policies Act of 1978 (PURPA) and an exempt wholesale generator under the Public Utility Holding Company Act of 2005. According to Applicants, the Commission has authorized Tenaska LP to make wholesale sales of energy, capacity, and certain ancillary services at market-based rates. Applicants continue that Tenaska LP owns and operates the Facility, a topping cycle cogeneration facility with a capacity of approximately 271 megawatts (MW) and associated interconnecting transmission facilities, located in Whatcom County, Washington. The Facility is interconnected to Puget Sound's transmission system. Applicants add that until December 31, 2011, the full output of the Facility was sold to Puget Sound under a long-term contract entered into pursuant to PURPA.

Applicants state that Tenaska LP is a Washington limited partnership that is owned by two general partners: Tenaska Washington I, L.P. (Tenaska LPI), which is the sole managing general partner, and EMPECO IV, Inc. (EMPECO IV), which is not the managing general partner and does not hold equivalent rights or interests. Tenaska LPI is a limited partnership with two general partners: Tenaska Washington, Inc., and Diamond

¹ 16 U.S.C. § 824b (2006).

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Washington, LLC (Diamond Washington), Applicants add that Tenaska LPI has the following limited partners: Tenaska Energy Holdings, LLC, which has a 15.2194 percent limited partnership interest; USPF II Ferndale Holdings, LLC (USPF II Ferndale) which has a 64.6797 percent limited partnership interest; and Tenaska Diamond II, L.P., which has a 19.0571 percent limited partnership interest and is wholly-owned by Diamond Ferndale, L.P. (Diamond Ferndale).

Applicants state that Tenaska Washington, Inc. is a wholly owned subsidiary of Tenaska Energy, Inc., a privately held energy company, headquartered in Omaha, Nebraska, that develops, constructs, owns, and operates non-utility generation and cogeneration plants. Diamond Washington and Diamond Ferndale are indirect, wholly owned subsidiaries of Mitsubishi Corporation. Applicants add that EMPECO IV and USPF II Ferndale are owned by private equity investment funds and related special-purpose intermediate entities administered and managed exclusively by EIF Management.

Applicants state that Puget Sound is a public utility within the meaning of the FPA and is incorporated in the State of Washington. Puget Sound is a wholly-owned subsidiary of Puget Energy, Inc. (Puget Energy), and is an investor-owned utility that provides retail electric and natural gas services in a service territory covering approximately 6,000 square miles in the Puget Sound region of the State of Washington. Applicants add that Puget Sound's retail and wholesale utility business includes the generation, purchase, transmission, distribution, and sale of electric energy, plus the purchase, transportation, storage, distribution, and sale of natural gas. Puget Sound owns an interest in and operates the Jackson Prairie storage facility located in Lewis County, Washington. According to Applicants, Puget Sound does not own or control any inputs to electric power production as defined in section 35.36(a)(4) of the Commission's regulations, except that Puget Sound controls five sites for the potential development of new wind generation capacity that are currently in the interconnection process in the Bonneville Power Administration balancing authority area (BAA) with a maximum potential number of megawatts that are reasonably commercially feasible of 1,432 MW.

Applicants state that Puget Sound is a wholly-owned subsidiary of Puget Energy. As the result of a transaction completed on February 6, 2009, Puget Energy is indirectly owned by a consortium of investors consisting of Macquarie Infrastructure Partners, Macquarie-FSS Infrastructure Trust, Macquarie Capital Group Limited, Macquarie Infrastructure Partners II, Canada Pension Plan Investment Board, British Columbia Investment Management Corporation, and Alberta Investment Management (collectively, Investor Consortium). Each of the members of the Investor Consortium indirectly owns or controls more than 10 percent of the voting securities in Puget Sound. Applicants add that no member or affiliate of the Investor Consortium owns or controls a 10 percent or greater interest in any electric generation, transmission, or distribution facilities or inputs

to electric power production in the geographical market relevant to the Transaction, the Puget Sound BAA, in which the Facility is located.

Applicants state that the Transaction is consistent with the public interest and will not have an adverse effect on competition, rates or regulation. Applicants state that the Transaction will not raise horizontal market power concerns in the relevant geographic market because Puget Sound will be a net buyer of energy after the proposed acquisition of the Facility. As a result, Applicants state that Puget Sound will have neither the ability nor the incentive to raise prices or withhold capacity.

Applicants state that the Transaction will have no adverse impact on vertical market power because the Transaction does not involve transmission facilities except for limited interconnection equipment necessary to connect the Facility to the integrated transmission grid. Applicants further state that the Transaction involves no other inputs to generation and that service over Puget Sound's transmission system is provided under Puget Sound's Commission-approved open access transmission tariff.

Applicants state that the Transaction will not have an adverse impact on rates because Puget Sound sells electric energy under its Commission-authorized market-based rate tariff, and these rates will not be affected by the Transaction. Applicants add that the Transaction will have no adverse impact on regulation transmission rates because the Transaction does not involve transmission facilities except for the limited interconnection facilities necessary to interconnect the Facility to the integrated transmission grid.

Applicants state that the Transaction will not affect the manner or extent to which the Commission, any state, or other federal agency may regulate Applicants. Applicants will continue to be subject to Commission regulation and the Transaction will not affect the extent to which the Commission or any state regulatory agency can regulate Applicants' rates.

Applicants state that, based on facts and circumstances known to it or that are reasonably foreseeable, the Transaction will not result in, at the time of the transaction or in the future, cross-subsidization of a non-utility associate company or pledge or encumbrance of utility assets for the benefit of an associate company. Specifically, Applicants state that the Transaction does not involve a franchised public utility with captive customers, and will not result in, now or in the future: (1) any transfers of facilities between a traditional utility associate company that has captive customers, or that owns or provides transmission service over jurisdictional transmission facilities, and an associate company; (2) any new issuances of securities by a traditional utility associate company that has captive customers, or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company; (3) any new pledges or encumbrances of assets of a traditional utility associate company that has captive customers, or that owns or provides transmission service over jurisdictional

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transmission facilities, for the benefit of an associate company; or (4) any new affiliate contracts between a non-utility associate company and a traditional utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, other than non-power goods and services agreements subject to review under sections 205 and 206 of the FPA.

The filing was noticed on October 5, 2012, with comments, protests, or interventions due on or before October 25, 2012. None were filed. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214) (2012). Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214.

Puget Sound details its proposed journal entries in Attachment 2 of its Application. Puget Sound's proposed journal entries clear the purchase through Account 102, Electric Plant Purchased or Sold, and record the original cost and related accumulated depreciation of the Facility on its books consistent with Electric Plant Instruction No. 5, Electric Plant Purchased or Sold.² Also, Puget Sound's proposed journal entries record a \$32 million acquisition adjustment in Account 114, Electric Plant Acquisition Adjustments, for the amount paid in excess of the depreciated original cost of assets purchased.

Further, Puget Sound proposes to record the amortization of the acquisition adjustment related to the purchase of the Facility to Account 406, Amortization of Electric Plant Acquisition Adjustments, over the remaining life of the facility. Under the Commission's Uniform System of Accounts, acquisition adjustments must be amortized to Account 425, Miscellaneous Amortization, absent evidence of recoverability in rates.³ Puget Sound did not indicate that it has received approval from its rate regulator to recover this amount in rates, or that there is an expectation that it will receive approval. We will, therefore, require Puget Sound to record the amortization of the acquisition adjustment to Account 425 if Puget Sound does not obtain authorization to recover the acquisition adjustment in future rates.

Information and/or systems connected to the bulk power system involved in this transaction may be subject to reliability and cybersecurity standards approved by the Commission pursuant to FPA section 215. Compliance with these standards is

² 18 C.F.R. Part 101 (2012).

³ 18 C.F.R. Part 101 Account 425 (2012).

mandatory and enforceable regardless of the physical location of the affiliates or investors, information databases, and operating systems. If affiliates, personnel or investors are not authorized for access to such information and/or systems connected to the bulk power system, a public utility is obligated to take the appropriate measures to deny access to this information and/or the equipment/software connected to the bulk power system. The mechanisms that deny access to information, procedures, software, equipment, etc., must comply with all applicable reliability and cybersecurity standards. The Commission, NERC or the relevant regional entity may audit compliance with reliability and cybersecurity standards.

Order No. 652 requires that sellers with market-based rate authority timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority.⁴ The foregoing authorization may result in a change in status. Accordingly, Puget Sound is advised that it must comply with the requirements of Order No. 652. In addition, Puget Sound shall make appropriate filings under section 205 of the FPA, to implement the Transaction.

After consideration, it is concluded that the Transaction is consistent with the public interest and is hereby authorized, subject to the following conditions:

- (1) The Transaction is authorized upon the terms and conditions and for the purposes set forth in the application;
- (2) The foregoing authorization is without prejudice to the authority of the Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determinations of cost, or any other matter whatsoever now pending or which may come before the Commission;
- (3) Nothing in this order shall be construed to imply acquiescence in any estimate or determination of cost or any valuation of property claimed or asserted;
- (4) The Commission retains authority under Sections 203(b) and 309 of the FPA to issue further orders as appropriate;
- (5) If the Transaction results in changes in the status or the upstream ownership of Applicants' affiliated qualifying facilities, an appropriate filing for recertification pursuant to 18 C.F.R. 292.207 (2012) shall be made;

⁴ Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority, Order No. 652, 70 Fed. Reg. 8,253 (Feb. 18, 2005), FERC Stats. & Regs. ¶ 31,175, order on reh'g, 111 FERC ¶ 61,413 (2005).

- (6) Applicants shall make the appropriate filings under section 205 of the FPA, as necessary, to implement the transactions;
- (7) Puget Sound shall account for the transaction in accordance with Electric Plant Instruction No. 5 and Account 102, Electric Plant Purchased or Sold, of the Uniform System of Accounts. Puget Sound shall submit final accounting entries within six months of the date that the transaction is consummated, and the accounting submission shall provide all the accounting entries and amounts related to the transaction along with narrative explanations describing the basis for the entries;
- (8) Applicants must inform the Commission of any change in circumstances that would reflect a departure from the facts the Commission relied upon in authorizing the Transaction; and
- (9) Applicants shall notify the Commission within 10 days of the date that the disposition and acquisition of the jurisdictional facilities has been consummated.

This action is taken pursuant to the authority delegated to the Director, Division of Electric Power Regulation - West, under 18 C.F.R. § 375.307 (2012). This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order pursuant to 18 C.F.R. § 385.713 (2012).

Steve P. Rodgers
Director
Division of Electric Power Regulation – West