

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of  
  
PUGET SOUND ENERGY,  
  
For a Declaratory Order Approving the  
Avoided Cost Rate Methodology for Power  
Purchases from Schedule 92 Large Qualified  
Facilities per WAC 480-106-050(5)

DOCKET UE-191062  
  
COMMISSION STAFF'S RESPONSE  
TO PUGET SOUND ENERGY'S  
PETITION FOR A DECLARATORY  
ORDER

**I. INTRODUCTION**

1 On December 31, 2019, Puget Sound Energy (PSE) filed a Petition for a Declaratory Order with the Utilities and Transportation Commission (Commission), requesting that the Commission approve PSE's avoided cost rate methodology for power purchases from Schedule 92 large qualified facilities pursuant to WAC 480-106-050(5). On January 7, 2020, the Commission issued a Notice of Opportunity to Respond by January 21, 2020. Commission Staff (Staff) submits the following response.

**II. ARGUMENT**

**A. Commission Staff's Request for Extension of Time for Declaratory Order**

2 Staff requests that the Commission find that good cause exists to extend the time the Commission has to enter a declaratory order. Although Staff has begun reviewing PSE's proposed methodology, Staff has not had sufficient time to thoroughly validate the methodology, solicit stakeholder feedback, and confer with PSE about any potential changes to the methodology.<sup>1</sup>

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<sup>1</sup> Staff has worked diligently to review PSE's proposed methodology, however the holiday season and other filings related to the Public Utility Regulatory Policies Act by other investor owned utilities have constrained Staff's ability to quickly review the proposed methodology.

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WAC 480-07-930(5)(c) states in part that within thirty days after it receives a petition for a declaratory order, the Commission will “[s]et a specified time, no later than ninety days after the day the petition was filed, by which the commission will enter a declaratory order.” WAC 480-07-930(6) states that the “commission may extend the times specified in [WAC 480-07-930(5)(c) and (d)] for good cause.” It is Staff’s position that the relative complexity of the methodological review and the benefit of additional collaboration with PSE and third-party stakeholders present good cause for the Commission to issue a declaratory order more than ninety days after PSE filed its petition. Staff also asserts that an extension of time is in the public interest to the extent that it would enable a more comprehensive review of the proposed methodology.

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Staff believes that extending the Commission’s time to enter a declaratory order under WAC 480-07-930(5)(c) by an additional 60 days (to a total of 150 days after the petition was filed) would give Staff sufficient time to complete its review of PSE’s proposed methodology.<sup>2</sup> If the Commission agrees and extends the time to enter a declaratory order under WAC 480-07-930(5)(c) and WAC 480-07-930(6), Staff also requests that the Commission allow interested parties to file comments regarding PSE’s proposed methodology in this docket.

**B. Conversion of Proceeding**

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In the alternative, Staff requests that the Commission convert PSE’s petition for a declaratory order into a petition for an adjudication. WAC 480-07-930(4) authorizes the Commission to “convert the form of a declaratory order proceeding as provided under RCW 34.05.070 and conduct the matter as an adjudicative proceeding under Part III, subpart A of

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<sup>2</sup> In conversation between Staff and PSE, the company has stated that it would support a 60 day extension of the deadline for the Commission to enter a declaratory order under WAC 480-07-930(5)(c).

this chapter.” RCW 34.05.070(1) in turn states that the presiding officer shall convert an adjudicative or rulemaking proceeding into another form of proceeding if it becomes apparent that another form “is necessary, is in the public interest, or is more appropriate to resolve issues affecting the participants.” Part III, subpart A of the Commission’s procedural rules includes “petitions” as a form of original pleading other than a formal complaint or application. WAC 480-07-370(3).

6           If the Commission declines to extend the time to respond to a petition for a declaratory order under WAC 480-07-930(5)(c), it should convert PSE’s petition into a general, WAC 480-07-370(3) petition and set the matter for adjudication. Converting the proceeding to a WAC 480-07-370(3) petition would remove the need for the Commission to respond no later than ninety days after PSE filed its petition, which would allow Staff sufficient time to conduct a robust review of the proposed methodology. Staff maintains that the public interest is best served in this proceeding by affording sufficient time for review and additional consultation with PSE and other stakeholders. Similarly, Staff believes that the longer procedural timeline involved in an adjudication would be more appropriate under these circumstances, particularly given that PSE’s request for Commission approval is the first such request under the Commission’s recently adopted rules, Chapter 480-106 WAC.

### **III. CONCLUSION**

7           The Commission should (1) find that good cause exists under WAC 480-07-930(6) to extend the timeline for entering a declaratory order under WAC 480-07-930(5)(c), (2) extend the time the Commission has to enter a declaratory order to no later than 150 days after PSE filed its Petition for a Declaratory Order, and (3) allow additional comments to be

entered into the record. Alternatively, the Commission should convert this proceeding into an adjudication of a petition under WAC 480-07-370(3) pursuant to WAC 480-07-930(6).

DATED January 21, 2020.

Respectfully submitted,

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