[Service Date January 15, 2009]

BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,	)	DOCKETS UE-072300 and UG-072301 (consolidated)
Complainant,	)	ORDER 13
v.	)	FINAL ORDER RESOLVING CONTESTED ISSUES CONCERNING POWER COST ONLY RATE MECHANISM (PCORC); AMENDING PRIOR ORDER; DENYING MOTIONS TO STRIKE
PUGET SOUND ENERGY, INC.,	)	
Respondent.	)	
. . . . .	)	

***Synopsis**: The Commission determines that the Power Cost Only Rate Case mechanism and the Power Cost Adjustment mechanism, of which it is a part, should continue to be available to Puget Sound Energy, albeit with certain modifications to which Staff and the Company agree. The Commission, denying pending motions to strike portions of Public Counsel's and ICNU's briefs, considers and rejects certain other modifications to the PCORC proposed by these parties.*

SUMMARY

1 **PROCEEDINGS:** On December 3, 2007, Puget Sound Energy, Inc. (PSE or the Company), filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-60, Tariff G, Electric Service, and Tariff WN U-2, Gas Service. The tariff sheets bore a stated effective date of January 3, 2008. The Commission suspended the filing on December 12, 2007, and set the matter for hearing.

2 The Commission accepted for filing PSE's direct testimony, response testimony from Staff, Public Counsel and several intervenors, and rebuttal testimony from PSE, which the Company filed on July 3, 2008. Several parties proposed through their testimonies to either modify or eliminate the Power Cost Only Rate Case (PCORC)

mechanism, which was approved as part of a settlement in PSE's 2002 general rate case.[1] These proposals also implicated the related Power Cost Adjustment (PCA) mechanism, also approved in the Final order in the 2002 proceeding.

3 Between August 12 and 22, 2008, various parties filed a series of five unopposed settlement stipulations by which they collectively proposed to resolve all issues in this proceeding except certain policy questions raised in connection with the PCORC and PCA. The Commission suspended and revised the procedural schedule, setting September 3, 2008, for a hearing to take evidence concerning the parties' proposed resolution of the rate issues and the PCORC and PCA contested issues.

4 We entered Order 12 on October 8, 2008, approving and adopting the various stipulations that resolved all issues in the case except those related to the PCORC and PCA. As to these issues, the parties filed briefs on September 26, 2008. On October 3, 2008, Staff and PSE filed individually their motions to strike portions of the initial briefs filed by Public Counsel and ICNU. The challenged parties filed their respective responses on October 9, 2008.

5 **PARTY REPRESENTATIVES:** Kirstin S. Dodge, Sheree S. Carson and Jason Kuzma, Perkins Coie, Bellevue, Washington, represent PSE. Simon ffitch, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section of the Washington Office of Attorney General (Public Counsel). Robert D. Cedarbaum, Senior Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff or Staff).[2]

6 S. Bradley Van Cleve and Irion Sanger, Davison Van Cleve, Portland, Oregon, represent the Industrial Customers of Northwest Utilities (ICNU). Chad M. Stokes, Cable Huston Benedict Haagensen & Lloyd LLP, Portland, Oregon, represents Northwest Industrial Gas Users (NWIGU). Elaine L. Spencer, Graham & Dunn PC, Seattle, Washington, represents Seattle Steam Company (Seattle Steam). Michael L.

---

[1] *WUTC v. Puget Sound Energy, Inc.*, Docket Nos. UE-011570 & UG-011571, Twelfth Supp. Order (June 20, 2002).

[2] In formal proceedings, such as this case, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding ALJ, and the Commissioners' policy and accounting advisors from all parties, including Staff. *RCW 34.05.455.*

Kurtz and Kurt J. Boehm, Boehm, Kurtz & Lowry, Cincinnati, Ohio, represent the Kroger Co., on behalf of its Fred Meyer Stores and Quality Food Centers divisions (Kroger). Norman Furuta and Scott Johansen, Department of the Navy, San Francisco, California, and San Diego, California, respectively, represent the Federal Executive Agencies (FEA). Ronald L. Roseman, Attorney, Seattle, Washington, represents the Energy Project. Damon Xenopoulos and Shaun Mohler, Brickfield Burchette Ritts & Stone, Washington, D.C., represent Nucor Steel Seattle, Inc. (Nucor).

7 **COMMISSION DETERMINATIONS**: We determine that the PCORC mechanism should be retained, but modified as recommended by Staff and the Company. We reject other modifications proposed by ICNU and Public Counsel.

MEMORANDUM

I. Background and Procedural History

8 The background and procedural history of this case are fully described in Order 12, entered October 8, 2008. It is sufficient here to provide a brief overview of the PCORC and PCA mechanisms. These mechanisms were part of a multiparty settlement the Commission approved and adopted in PSE's 2002 general rate case.[3] In function, the PCORC mechanism provides an expeditious means for the Company to include new resource costs in rates.[4] On the other hand, the PCA mechanism addresses extreme, short-term imbalances between power cost recoveries and actual power costs, providing a means to keep the power cost rate up to date.[5] These imbalances reflect current market conditions and risks such as hydro and load volatility that PSE has little or no ability to control. The PCORC works in

---

[3] *WUTC v. Puget Sound Energy, Inc*., Dockets UE-011570 and UG-011571, Twelfth Supp. Order (June 20, 2002). PSE, Staff and Public Counsel were parties to the settlement. ICNU did not join or oppose the settlement.

[4] *Id.; see* Exhibit LS-1T (Lee Smith) at 7:11-14.

[5] *See WUTC v. Puget Sound Energy, Inc.*, Dockets UE-011570 and UG-011571, Exhibit 562T (Lott) at 13:7-13 (Note that this and subsequent references to the record in Dockets UE-011570 and UG-011571 reflect the parties frequent citations to that record in their briefs. We take official notice of the prior hearing record). The Commission recently reaffirmed that the PCA is intended to deal with extreme events. *See WUTC v. Puget Sound Energy, Inc.* Docket Nos. UE-060266 and UG-060267, Order 08 ¶ 20 (Jan. 5, 2007.

conjunction with the PCA by providing one means to adjust the power cost baseline around which the PCA operates.

9 Under the PCA, the Company tracks power costs that deviate from the mechanism's Power Cost Rate[6], which is the Company's baseline power cost determined by the Commission for each 12-month PCA period. The mechanism establishes bands around this baseline power cost that determine the sharing of the over- or under-recovery of power costs between customers and the Company within each PCA period. There is a "deadband" within which the first $20 million of under-recovered costs are absorbed by the Company or the first $20 million of over-recovered costs are retained by the Company. This is meant to reflect normal fluctuations in power costs. The PCA's additional bands and sharing structure establish ranges in which PSE either collects from, or refunds to, customers in varying proportions any over- or under-recovery of power costs, if and when the cumulative ending balances of the PCA periods reach $30 million, plus or minus.[7] This allows the mechanism to address power cost variability over time with the expectation that the over- and under-recoveries will offset each other. The objective is to minimize deferral balances by only capturing power cost variability that is extraordinary.[8] This balancing has occurred, in fact, and the surcharge has never been triggered.[9]

10 Complementing the PCA's purpose of addressing short-term, significant imbalances between expected and actual power costs, the PCORC was intended to adjust rates in response to long-term trends in production-related costs. The PCORC was designed to allow for adjustment of both fixed and variable power costs, and to allow for the more timely inclusion of resource acquisitions in rates.[10]

11 In terms of the relationship between the two mechanisms, the PCORC was designed to adjust the normalized production-related power costs used to determine the PCA Power Cost Rate. In turn, the Power Cost Rate is used in the PCA to determine the

---

[6] The PCA Settlement Stipulation defines Power Cost Rate as a term of art. See Exhibit JHS-8 (PCA Settlement Stipulation) at 3, ¶ 5.
[7] *Id.*at 2-3.
[8] *See WUTC v. Puget Sound Energy, Inc.*, Docket Nos. UE-011570 and UG-011571, Exhibit 551T (Lazar) at 3:1-20.
[9] TR. 593:24-25 (Story); *see also* Exhibit JHS-14T (Story) at 35:20-36:4; Exhibits JHS-27 and JHS-28 (showing deferral balance moved from $25 million to $5 million in 2006, and a credit of $3.2 million in 2007, leaving the customer deferral balance at $1.8 million).

over-or under-collection of actual power costs during a PCA period.[11] When the Company's portfolio changes, or when costs currently included in the Power Cost Rate change due to contractual agreements or market prices, PSE may file a PCORC to reset the power cost baseline, affecting the measurement of normalized power costs during the future PCA period.[12] The Commission recently confirmed the importance of resetting the baseline rate from time-to-time to reflect normalized power costs: "The Commission's goal is to set the Power Cost Baseline Rate as close as possible to what is expected to be experienced in the rate year and expect this to continue going forward."[13]

12 Another component of the PCA mechanism was the Least Cost Plan (also referred to as the "Integrated Resource Plan" ("IRP")), found in Section E of the PCA Settlement Stipulation. In Section E, the parties emphasized that the Company was expected to increase its capability of reviewing long-term resource development and move away from short-term, market purchases.[14]

13 The purpose of the PCA, including the IRP and the PCORC, therefore, was to have regulatory processes that would enable the Company to deal effectively with the financial pressures associated with dynamic market prices and to bring new resources into PSE's power portfolio. The PCORC in particular was meant to facilitate change in the Company's power resources by providing an incentive for it to rely less on short-term market purchases and to develop a utility-type generation asset portfolio. Aiding the Company's transition to greater reliance on long-term resources should promote more stable power costs in the future.[15] Thus, the PCORC complements traditional rate making by aligning PSE's goals with those of its customers. The PCORC also resolves issues of prudence in a timely fashion by allowing decisions to be evaluated near to the time they are made, and minimizes cash flow constraints the Company may experience during acquisitions or long-term changes to its power costs.

---

[10] Exhibit JHS-8 (PCA Settlement Stipulation) ¶ 8.
[11] Exhibit JHS-1CT (Story) at 61:8-62:4.
[12] *Id.* at 61:8-62:4; *see also WUTC v. Puget Sound Energy, Inc.*, Docket Nos. UE-011570 and UG-011571, Exhibit 562T (Lott) at 14:1-6.
[13] *WUTC v. Puget Sound Energy, Inc.* Docket Nos. UE-060266 and UG-060267, Order 08 ¶ 22 (2006).
[14] Exhibit JHS-8 (Story) at 7.
[15] *WUTC v. Puget Sound Energy, Inc.*, Docket Nos. UE-011570 and UG-011571, TR: 2175:24-2177:8 (Lazar) and TR. 2175:16-20 (Lott).

14 PSE has filed four PCORCs since the mechanism was approved. Three were associated with the acquisition of all or a part of a major new generating resource. The fourth updated the Power Cost Baseline Rate pursuant to an unopposed settlement agreement. Of the revenue increases sought by the Company in each filing, the majority was attributable to increased power costs not related to the addition of major new generating resources.

15 PSE's first PCORC filing, in Docket UE-031725, was on October 24, 2003. PSE sought prudence review and authorization for recovery in rates of capital costs in the range of $80 million for the acquisition of a 50 percent interest in Frederickson 1, which added a capacity of approximately 135 MW of gas-fired combined cycle combustion turbine generation to the Company's power supply portfolio. The annual revenue increase attributed to Fredrickson 1 was about $18.3 million of the $44.1 million overall revenue increase the Commission approved in this partly contested proceeding.[16]

16 PSE's second PCORC filing, on June 7, 2005, in Docket UE-050870, was made in connection with its acquisition of the Hopkins Ridge wind project (150 MW), with a capital cost of $190 million.[17] The Commission approved a full settlement, finding the acquisition prudent and allowing recovery of $5 million in annual costs attributable to it. The approved settlement also provided for PSE's recovery in rates of other increased power supply costs in the full amount PSE requested, approximately $50.6 million.

17 PSE's third PCORC filing, filed June 26, 2006, updated the Power Cost Baseline Rate pursuant to the full settlement agreement in Docket-050870.[18]

---

[16] *PSE's* proposed increase in revenue was uncontested except with respect to fuel costs for the Tenaska generation facility. The Company's decision to acquire Fredrickson 1 was found to be prudent and the associated costs were held to be reasonable for recovery in rates. *WUTC v. Puget Sound Energy, Inc.*, Docket UE-031725, Order 12 (April 7, 2004). However, with respect to Tenaska, the Commission ordered a one-time disallowance of certain costs. *WUTC v. Puget Sound Energy, Inc.*, Docket UE-031725, Order 14 (May 13, 2004).

[17] Exhibit DWS-1T (Schoenbeck) at 5:1.

[18] *WUTC v. Puget Sound Energy, Inc.*, Docket UE-060783, Order 1 (June 29, 2006). Dockets UE-050870 and UE-060783 were consolidated.

18 PSE's most recent PCORC filing, in Docket UE-070565, on March 20, 2007, was made when it acquired the Goldendale Generating Station (277 MW of gas-fired combined cycle combustion turbine generation) at a capital cost of $131 million.[19] Again, we approved a full settlement that allowed PSE to recover the full amount it requested, $64.7 million, including $31.4 million in annual costs attributable to Goldendale.

19 During this most recent PCORC several parties raised questions regarding whether the PCORC should be continued and, if so, whether it should be modified. The parties' settlement, among other things, provided for a collaborative stakeholder review of the PCORC process to consider these issues.[20] The parties reportedly met on eight occasions, assisted at times by an independent facilitator, in an attempt to reach a mutually agreeable resolution of the PCORC issues.[21] They were unable to do so and instead chose to bring these issues to us for resolution in the context of this general rate case.

II. Discussion and Decisions

A. Motions To Strike

20 The parties filed briefs on September 26, 2008. Staff, PSE, Public Counsel and ICNU addressed the issues concerning the PCORC and PCA. Staff supports retention of the PCORC with certain procedural modifications that relieve process burdens, in part by expanding the expected time-frame for PCORC proceedings to six months. PSE supports retention of the PCORC and agrees to the modifications that Staff recommends, with additional modifications that Staff supports. Public Counsel and ICNU recommend that the PCORC be eliminated or, if not eliminated, modified to limit its scope and expand the time available for process to eleven months, matching that of a general rate case.

---

[19] *Id.* at 5:1-3.
[20] *WUTC v. Puget Sound Energy*, Docket No. UE-070565, Order No. 7 (August 2, 2007) at ¶ 22.
[21] ICNU Brief ¶10.

21 On October 3, 2008, Staff and PSE filed individually their motions to strike portions of the initial briefs filed by Public Counsel and ICNU. The challenged parties filed their respective responses on October 9, 2008.

22 PSE and Staff argue that Public Counsel and ICNU, in proposing new terms and conditions for the PCORC, have raised issues for the first time in their briefs to which PSE and Staff have not had an opportunity to respond. They argue that the portions of Public Counsel's and ICNU's briefs that raise and argue these points should be struck. As framed by PSE[22]:

> ICNU introduced four (4) "additional" conditions that it proposes should be adopted if the PCORC is to continue.[23] These additional conditions were not included in ICNU's response testimony and have never been raised on the record in this proceeding. Specifically, in paragraphs 28 and 29 of its brief,[24] ICNU proposes that the Commission restrict the PCORC process as follows:
>
> 1. a PCORC can only be filed if PSE is seeking rate recovery for new resources that total at least 150 MW of capacity;
>
> 2. the PCORC process should be the same eleven months as a general rate case. In other words, the PCORC would be a single issue rate case for major new resources;
>
> 3. any cost update must be filed at least six weeks prior to the due date for Staff and intervenor testimony; and
>
> 4. no PCORC can be filed prior to April 1, 2009.
>
> Public Counsel makes similar new proposals in paragraphs 40 through 44 of its brief. Specifically, Public Counsel, for the first time, proposes that:
>
> 1. a PCORC filing should only be permitted for new resources of 150 MW or more in size;

[22] PSE Motion ¶¶ 5-6.
[23] ICNU Brief ¶¶ 3, 28 and 29.
[24] ICNU summarized these conditions in the last five sentences of paragraph 3 of its brief.

2. the PCORC should be limited to recovery of costs associated with a new resource (of 150 MW or more);

3. PSE should only be permitted to reset the PCA baseline in a GRC; and

4. a PCORC filing should not be permitted earlier than 12 months after the effective date of a rate change from a prior rate case.

23 Public Counsel responds that its recommendations "are logical outgrowths of the issues raised in the case."[25] He states these "reasonable and relevant alternative remedies" should be considered, but that the "procedural concerns" the motions raise could be addressed by allowing for reply briefs or reopening the record.[26] ICNU agrees, stating that the Commission can impose any additional conditions on the PCORC it deems reasonable and lawful, regardless of whether ICNU offered "specific details of its proposed PCORC conditions in its testimony."[27] Public Counsel and ICNU argue we can consider the remedies they suggest for the first time in their briefs because they are at least consistent with, or are supported by, the evidence.

24 While we disapprove of the approach Public Counsel and ICNU took in this matter, we will not strike portions of their briefs and deny PSE's and Staff's motions to strike. We caution, however, that our decision could easily tip the other way if we perceive an intentional effort by a party to prejudice others by raising for the first time on brief matters such as those complained of here. In this case, we believe the lengthy stakeholder review of PCORC issues that preceded the filing of this general rate case combined with the record before us suffice both to avoid prejudice to PSE and Staff and to provide a sufficient record for us to reach the merits. Public Counsel and ICNU may argue for remedies not suggested by their witnesses if they choose, but may be disadvantaged by the lack of support for their arguments such testimony may have provided.

---

[25] Public Counsel Response ¶ 3.
[26] *Id.* ¶ 5.
[27] ICNU Response ¶ 1.

B. Should the PCORC Be Eliminated?

25 The PCORC has proven to be a useful mechanism that allows for timely consideration of PSE's major resource acquisitions, which are part of an ongoing process to make the Company less dependent on **s**hort- and intermediate-term power transactions in sometimes volatile wholesale power markets. Furthermore, the PCORC and the PCA mechanisms have worked together to provide for timely updates to PSE's power costs in rates and to adjust the Company's power cost baseline, which has prevented the accumulation of unhealthy positive or negative imbalances in its power cost deferral accounts. In short, the benefits of the PCORC outweigh the arguments for its elimination. We now turn to the arguments raised by the parties.

26 Public Counsel and ICNU argue that the principal purpose of the PCORC is to provide for timely inclusion in rates of the costs of major new resources.[28] They argue that regular use of the PCORC to update all power costs and adjust the PCA baseline is an unacceptable departure from its intended use. We disagree. In our order approving this mechanism, we clearly stated its purpose :

> **Power Cost Only Rate Review:** In addition to the yearly adjustment for power cost variances, there could be a periodic proceeding specific to power costs that would true up the Power Cost Rate to *all power costs* identified in the Power Cost Rate. The Company can also initiate a power cost only proceeding to add new resources to the Power Cost Rate. In either case, the Company would submit a Power Cost Only Rate filing proposing such change.[29] (Emphasis in original)

Later in that same order, we clarified expressly that the PCORC allows single-issue rate making not only to add new resources, but also to recover all changes in power supply costs:

---

[28] *Public* Counsel Brief ¶ 4; ICUN Brief ¶ 5. These parties argue in the alternative that, if the mechanism is to be retained, its purpose should be limited to allowing for the timely recovery of costs associated with the acquisition of major new resources (*i.e.*, greater than 150 MW). Public Counsel Brief ¶ 41; ICNU Brief ¶ 28.

[29] *WUTC v. Puget Sound Energy, Inc*., Dockets UE-011570 and UG-011571, Twelfth Supp. Order at Appendix A, Exhibit A, ¶ 8 (June 20, 2002).

> [N]ew resources will not be recovered directly through the PCA, but the Company may periodically update its general rates to reflect increased power supply costs associated with new resources or increased costs of existing resources. These Power Cost Only rate proceedings are an exception to the general rule that a company should not be allowed to file single issue rate cases.[30]

Thus, as Staff contends, "the PCORC is as much about updating the level of power costs recovered in rates generally as it is about including in rates the cost of new resources on an expedited basis."[31] Both factors have been present in all but one of the PCORC filings so far, but, as even Public Counsel's and ICNU's witnesses acknowledge, the Company may file a PCORC to address changes in power supply costs even if new resources are not being acquired.[32]

27 Public Counsel and ICNU also argue that the PCORC, in practice, is not working as intended relative to the PCA. Public Counsel contends the PCA was established to accomplish four basic objectives:

> (1) to avoid frequent rate changes; (2) to incent the Company to hold down its power costs; (3) to treat customers and the Company symmetrically with regard to risk of changes in power supply costs; and (4) to prevent the Company from experiencing financially problematic under-collections of power costs.[33]

28 Public Counsel goes on to assert that the mechanism has led to more frequent rate changes rather than avoiding them, and concludes that operation of the PCA contravenes one of its basic objectives. In reaching this conclusion, he ignores specific recitations in the order as to its purpose and design.[34] For example, the PCA's objective relative to rates was to promote rate *stability* by establishing sharing bands and a deferral account that would avoid the necessity for frequent surcharges or bill credits:

---

[30] *Id.* Twelfth Supp. Order ¶25 (quoting from Exhibit 562 (Lott) at 14).
[31] Staff Brief ¶ 5.
[32] Exhibit DWS-1T at 3:8-10 (Schoenbeck); Exhibit LS-1TC at 8:1-3 (Smith).
[33] *Public* Counsel Brief ¶ 7 (citing *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-011570 & UG-011571, Twelfth Supp. Order, ¶¶ 22-24 (June 20, 2002)).
[34] *Id.* Twelfth Supp. Order ¶¶ 22-30.

> In addition to providing PSE incentives to control power costs, the PCA also is designed to promote rate stability even in the face of fluctuating power costs. *See Exhibit No. 551 (Lazar) at 2-3; see also Exhibit No. 562 (Lott) at 14*. Under the proposed mechanism, excess power costs or savings, beyond the $20 million "dead band" noted above, are posted to a power cost deferral account. The deferral balance, however, must reach $30 million, plus or minus, before a surcharge or credit is triggered. Thus, in a given year, "power costs would have to exceed normal levels by a total of about $62 million before a surcharge would be triggered." *Exhibit No. 551 (Lazar) at 3.*[35]

As Staff argues, rate stability has as much, or more, to do with the amount of rate increases as with frequency. There might, or might not have been fewer rate changes over the past six years without the PCORC but, according to Staff, "each rate change would have been proportionately larger to reflect the addition of new resources that had already gone into service and were providing electricity to PSE's customers."[36] Moreover, it is not all clear that there would have been fewer rate changes absent the PCORC.[37] Staff states that Public Counsel's own analysis shows the likelihood that since April 2004, absent the PCORC, "there would have been three to four rate changes due to general rate cases, and two rate surcharges resulting from the PCA deferrals reaching the level necessary to change rates."[38] This is the same number of rate changes that occurred with the PCORC in place.

29 Public Counsel and ICNU argue further that regular use of the PCORC mechanism to update the Power Cost Rate "allows PSE to avoid the risk sharing contemplated by the PCA."[39] However, they ignore the fact that the PCA was designed to address extreme, short-term imbalances between power cost recoveries and actual power costs.[40] It is important to remember in this connection that the PCA was developed in the wake of the 2001 Western energy crisis in which conditions in wholesale power markets were extremely volatile. This was also a time when the risks of unusual

---

[35] *Id.* Twelfth Supp. Order ¶ 24.
[36] Staff Brief ¶22.
[37] *Id*. ¶¶ 23-24.
[38] *Id.* ¶24.
[39] ICNU Brief ¶ 14.
[40] *See WUTC v. Puget Sound Energy, Inc*., Docket Nos. UE-011570 and UG-011571, Exhibit 562T (Lott) at 13:7-13. Additionally, as recently as 2006 the Commission reaffirmed that the PCA is intended to deal with extreme events. *See WUTC v. Puget Sound Energy, Inc.* Docket Nos. UE-060266 and UG-060267, Order 08 at ¶ 20 (Jan. 5, 2007.

hydro and weather conditions were significantly affecting power costs. The PCA's design manages the power cost volatility that results from these conditions, which are beyond the Company's ability to control. Ordinary deviations of power costs are expected to fall within the deadband and are absorbed or retained by PSE. The PCA was designed to track more extreme deviations of power costs relative to expected resource costs included in the Power Cost Rate[41] for each 12-month PCA period and establishes rules that govern how costs or benefits are shared if deferral balances grow large enough. The PCORC allows for the Power Cost Rate to be adjusted, when appropriate, in part to avoid the accumulation of large deferral balances. We find the mechanism works as it was contemplated – it manages risks for both the Company and its customers. We find no evidence that the PCORC inappropriately shifts risk away from the Company.

30 Public Counsel also argues that PSE has controlled the PCA, in part by its PCORC filings, so that "[t]here is little likelihood that customers will ever get a benefit resulting from PSE over-collections."[42] Public Counsel says there has been a "turnaround" in PSE's collection of power costs so that it has been over-recovering power costs in recent periods. He implies that there is something inappropriate or even manipulative about this, while ignoring that from the inception of the PCA in 2001 through June 2005, PSE under-recovered its actual power costs. Just as the Company now retains over-collected costs of up to $20 million in the so-called PCA deadband, it previously absorbed up to $20 million when it under-collected its costs. This is exactly the way the PCA was meant to work, accounting for periods of under-recovery of power costs and periods of over recovery. If the mechanism works as designed, the over and under balances, over time, offset each other and the deferrals are kept within reasonable bounds. In fact, this balancing has occurred, deferred power costs have been kept in reasonable bounds and the surcharge has never been triggered.[43]

31 Public Counsel further contends that there is no evidence showing "that continuation of the PCORC is necessary to protect the Company against dire financial

[41] For a definition of the PCA Power Cost Rate, see Exhibit JHS-8 (PCA Settlement Stipulation) at 3, ¶ 5.
[42] Public Counsel Brief ¶ 19.

outcomes."[44] The absence of such evidence is not surprising considering that no one, including the Company, argues the PCORC should be retained to avoid "dire financial outcomes." Public Counsel and ICNU point out the obvious and undisputed fact that PSE has other options, including seeking interim relief in a general rate case or an accounting petition, to protect it from financial harm. Public Counsel disputes, for example, that the PCORC is required to prevent cash flow problems in connection with resource acquisitions.[45] Finally, in this line of argument Public Counsel contends elimination of the PCORC would not affect PSE's resource acquisition decisions, including its willingness or ability to take advantage of "opportunistic" acquisitions.[46]

32 Although the Company does not predict "dire financial outcomes," it does argue that the PCORC enhances the Company's financial strength by addressing cash flow issues that arise as PSE acquires new resources and by improving the Company's opportunity to earn its allowed return. PSE points out new resources are generally more expensive in the first few years than the market power they replace. This is illustrated, for example, by the fact that the revenue deficiency for Fredrickson I in the 2003 PCORC was $18.3 million, in contrast to the $84.8 million net present value savings over 20 years. Similarly, the revenue deficiency for Goldendale in the 2007 PCORC was $31.4 million, as compared to the benefit associated with adding Goldendale to the portfolio, which exceeds $100 million over the remaining life of the project.[47]

33 If the PCORC is eliminated, the Company may be required to absorb the fixed costs of operating and financing its new resources (as well as the variable costs of operating the resources) for some period of time, instead of being able to begin recovering these costs when the new resource begins providing benefits to customers. The need for a mechanism that provides the Company a timely prudence determination and recovery in rates as it moves away from dependence on a market purchase portfolio by owning

---

[43] TR. 593:24-25 (Story); Exhibit JHS-14T (Story) at 35:20-36:4; s*ee* Exhibits JHS-27 and JHS-28 (showing deferral balance moved from $25 million to $5 million in 2006, and a credit of $3.2 million in 2007 leaving the customer deferral balance at $1.8 million).
[44] *Public* Counsel Brief ¶ 29. ICNU also argues the PCORC is not "necessary" to allow PSE to recover its costs. ICNU Brief ¶¶ 26-27.
[45] *Id.* ¶ 31.
[46] *Id.* ¶ 33.
[47] PSE Brief ¶ 34 (internal citations omitted).

and operating more of its own resources is as evident today as when the PCORC was approved. According to its recent IRP, PSE will continue to make significant resource additions into the foreseeable future and may reasonably seek timely recovery of the associated costs.

34 While it is true that accounting petitions, if approved, allow the Company to defer costs related to resource acquisitions, this does not support elimination of the PCORC.[48] Accounting petitions, once granted, protect PSE's income statement from expenses that should be borne by the customer and protect the Company from under-earnings. But, they provide for no cash flow until a prudence determination is made and resources are included in rates, usually through a general rate case.

35 Although the parties may dispute the time involved, it is generally true that a general rate case requires more time to prepare and litigate than a PCORC. Mr. Parvinen testified that past PCORCs have resulted in a time savings of about six months to bring new resources into rates.[49] "This savings in months helps the Company match more closely the in-service date of new resources with retail rates."[50] If the PCORC is eliminated PSE undoubtedly will experience financial pressures associated with cash flow constraints for longer periods after a resource is acquired. It is this increased cash flow that enables the Company to take advantage of "opportunistic" purchases, which provides a real benefit to ratepayers.

36 ICNU, albeit citing no evidence of its occurrence, argues the PCORC creates an unfair opportunity for "gaming."[51] ICUN argues that "PSE may choose between a general rate case and a PCORC depending on which mechanism produces the best result for shareholders."[52] The argument is that if PSE wishes to add a major acquisition to rate base in a declining capital cost market, or if other costs are declining, it will file a PCORC so as to retain its above-market rate of return or

---

[48] Even if an accounting petition is approved, the additional delay of several months or more before an acquisition is determined to have been prudent, which would only be done in a general rate case under Public Counsel and ICNU proposal, is perceived by the credit rating agencies and lenders as an additional risk to PSE's recovery of invested funds. Such delay and uncertainty are negative factors in financial markets, potentially leading to increased cost of capital.
[49] Exhibit MMP-1T (Parvinen) at 5:10-17.
[50] *Id* at 5:16-17.
[51] ICNU Brief ¶ 16.
[52] *Id.*

otherwise capture the benefit of its lower costs. Yet, if capital or other costs are increasing, ICNU argues, PSE will file a general rate case.[53] ICNU states that this "creates a 'heads I win, tails you lose' situation for ratepayers" and claims that "Mr. Parvinen for Staff virtually admitted as much."[54]

37 This both ignores the requirements associated with a PCORC filing and distorts what Mr. Parvinen said in his testimony. In fact, Mr. Parvinen explained that there is no meaningful opportunity for PSE to take advantage of the PCORC filing option in the manner ICNU suggests. The full colloquy between ICNU counsel and Mr. Parvinen on this point is as follows:

> Q. If the Company's trying to decide between filing a PCORC and a general rate case, and all else being equal, capital costs have declined since the last rate case, wouldn't they be incented to select the PCORC rather than the general rate case?
>
> A. All else being equal, I would say yes. And I guess on top of that, part of the design of the PCORC is that they be required to file a general shortly after to take into account the rest of the system. If power costs were changing and resources changing, then the Company could file a PCORC instead of a general but would be required to file a general within three months after the PCORC.[55]

In other words, "all else" is not "equal" because the general rate case filing requirement ensures that the Company's earnings and all of its costs will not escape timely Commission scrutiny:

> These Power Cost Only rate proceedings are an exception to the general rule that a company should not be allowed to file single issue rate cases. For that reason, these single issue rate cases are limited and under certain events will trigger a general rate case to true-up all costs.[56]

---

[53] Public Counsel makes a similar argument. Public Counsel Brief ¶ 24. There is no evidence in the record showing that PSE has used the PCORC in this way. In other words, these arguments are speculative.
[54] *Id.* (citing TR. 612:13).
[55] TR. 612:14-20.
[56] *WUTC v. Puget Sound Energy, Inc*., Dockets UE-011570 and UG-011571, Twelfth Supp. Order at ¶25 (June 20, 2002). See also, *WUTC v. Puget Sound Energy, Inc*., Dockets UE-060266

Thus, the Company cannot "game" the ratemaking process by choosing to file a PCORC to recover increasing power supply costs when other costs (*e.g.*, capital costs) are declining. The Company must file a general rate case shortly after the PCORC is concluded and bears the burden to prove that all of its costs are reasonable, prudent and appropriate for recovery in rates.

38 A final point that helps dissuade us from Public Counsel's and ICNU's arguments concerning the importance of retaining or rejecting the PCORC is that the mechanism, for good or ill, is perceived favorably in the financial markets.[57] The PCORC provides additional "assurance that PSE will be able to repay borrowed capital in a timely manner."[58] This may be especially important in today's volatile financial market. If rating agencies and the capital markets view the Company as a risky investment because it may have trouble raising cash or recovering its investments in a consistent and timely manner, investors will demand more return for their investment (*e.g.*, in the form of higher interest rates on debt). Higher capital costs mean higher rates for PSE's customers.

C. Should the PCORC Be Modified?

39 The short answer to this question is "yes." The parties and the Commission now have had enough experience in conducting PCORC proceedings to discover the strengths and weaknesses of this mechanism. After six years, it is time to refine the PCORC process, as discussed in detail below.

40 Staff proposes four procedural modifications to the PCORC mechanism. PSE agrees to these changes with one suggested modification that Staff does not oppose. The Company proposes two additional changes, which Staff supports. Public Counsel does not express support or opposition to these changes, but suggests four others that remain in contention. ICNU seems to support the proposed changes so far as they go, but argues they do not go far enough.

---

and UG-060267, Order 08 at ¶26 (January 5, 2007) (the post-PCORC general rate case "provides an important safeguard to ensure an earnings review and a true-up of all costs after the occurrence of a PCORC – a single issue ratemaking mechanism.")

[57] PSE Brief ¶ 30.

[58] *Id.*

41 The changes to which Staff and PSE agree are:

- Extend the expected procedural schedule from five to six months.
- Limit filing power cost updates to one per PCORC, with an additional update allowed as part of the compliance filing if the Commission determines the update is necessary due to increased gas costs and orders that such update be made as part of the compliance filing.
- Prohibit the overlap of PCORC and general rate cases, except for requests for interim rate relief.
- Shorten data request response time from ten to five business days at the outset. A further reduction can be considered during the prehearing conference.

42 Although the Commission has consistently made clear that it is not bound by the five-month time frame the parties established among themselves for conducting a PCORC, it has been followed for guidance when setting procedural schedules and the goal has been met in each case filed to date. Since the parties now prefer to have the Commission look to a six-month time frame, that can be easily accomplished in the existing process framework.

43 ICNU argues that the time frame for a PCORC should be the same eleven months as allowed for a general rate case. "In other words, the PCORC would be a single issue rate case for major new resources."[59] This, of course, would eliminate one of the key advantages of the process, which is the ability to consider the issues on an expedited basis.

44 We find that extending the contemplated period for completing a PCORC to six months strikes an appropriate balance by alleviating certain burdens the parties identified while maintaining the underlying goal of expedited power cost review.

[59] ICNU Brief ¶ 28.

45 The current PCORC process does not limit PSE's opportunities to file updates to its power cost evidence and the Company has, in practice, made more than one update during the course of an already abbreviated schedule. This has required significant effort by Staff and other parties to assess changing power cost projections, both in the preparation of their own testimony and in the review of the Company's rebuttal testimony. ICNU proposes that any cost update should be required to be filed "at least six weeks prior to the due date for Staff and intervenor testimony."[60] This seems to us overly prescriptive. Each case imposes its unique demands. It is reasonable to require that PSE be limited to a single update, the exact timing of which can be determined at a prehearing conference. The Company will be required to file all supporting documentation with its update.

46 The Commission may order a second update at the compliance stage if power costs have increased or decreased due to changes in natural gas prices. PSE agrees that any compliance filing update should be limited to calculating the three-month average forward gas price for the rate year, and updating the AURORA model to reflect these prices. We find this proposal to be reasonable as well, subject to the Commission's discretion to determine in an appropriate case that some other method should be used.

47 The potential overlap of a PCORC and a general rate case that is allowed currently may burden and complicate the Commission's and Staff's review. Further, potentially frequent rate changes could result in rate shock and ratepayer confusion. Prohibiting overlap between a PCORC and a general rate case reduces the potential for these consequences and improves the Commission's and the parties' ability to analyze and resolve complex power supply presentations. This proposal does not prohibit PSE from requesting interim rate relief when a PCORC is pending, if the Company can prove adverse financial conditions that meet Commission standards.

48 Under the Commission's current procedural rules parties are allowed ten business days to respond to data requests.[61] Staff and PSE agree that the data request response time should be reduced to five business days.[62] Any further reduction that might be needed can be considered at a prehearing conference or by motion. Reasonable extensions of the five-day response deadline should continue to be allowed, as under

---

[60] *Id.*
[61] WAC 480-07-405(7)(b).
[62] Exhibit RCM-1T (Martin) at 13:5-14.

current practice, when a timely response cannot be made despite a party's best efforts.[63]

49 We find this proposal consistent with the compressed case schedule of a PCORC. The proposal also mirrors and formalizes established practice where parties request a shortened response time at prehearing conferences.

50 PSE, responding to one of ICNU's concerns, agrees that in future PCORCs the Company will provide its AURORA model to Public Counsel and intervenors at the outset of a case, prior to issuance of a protective order, as long as the parties execute the standard form confidentiality agreement used in previous PCORCs and general rate cases.[64] This should facilitate the parties' ability to analyze the Company's PCORC filings and to prepare response testimony.

51 Staff supports the Company's recommendation that we reopen the record in Dockets UE-011570 & UG-011571 for the limited purpose of changing the current requirement that the Company provide with its filing "a calculation of pro forma production cost schedules that are consistent *with this docket,* including power supply and other adjustments impacting then current production costs."[65] (Emphasis added.) The Company asks the Commission to change the phrase "with this docket" to "with the Company's most recent general rate case".[66] This change makes sense considering the passage of time since the Commission approved the PCORC process. It recognizes that new methods and proposals for calculating power costs may be considered and approved in general rate proceedings, which should be reflected in subsequent PCORC filings.

52 ICNU proposed through Mr. Schoenbeck's testimony that PCORC's be prohibited unless the Company seeks to recover costs associated with a "major resource."[67] Mr. Schoenbeck did not define what he meant by major. On brief, ICNU and Public Counsel advance this proposal with a bit more definition, proposing that PCORC

---

[63] WAC 480-07-405(7)(b).
[64] TR. 551:22-552:4 (Carson).
[65] *WUTC v. Puget Sound Energy, Inc*., Dockets UE-011570 and UG-011571, Twelfth Supp. Order at Appendix A, Exhibit A, ¶ 8 (June 20, 2002).
[66] Exhibit JHS-1T (Story) at 34:18-35:4.
[67] Exhibit DWS-1T (Schoenbeck) at 6:15-16.

filings be permitted only for new resources of 150 MW or more.[68] Public Counsel argues this "would bring the mechanism back into line with the primary purpose for which it was intended.[69] ICNU argues this threshold "will ensure that the PCORC is limited to new resource additions."[70] Public Counsel also argues that only the costs associated with the new resource should be considered, not other power costs.

53 We previously determined that the PCORC was never intended to be limited to power cost updates associated with the acquisition of new resources. The PCORC's update of the power cost baseline under the PCA is an important feature that helps keep deferral balances within reasonable bounds, making the PCA better suited to its purpose, which is to address unexpected and acute volatility in power costs while generally avoiding the trigger of surcharges or bill credits. This likewise gives us reason to reject Public Counsel's related proposal that PSE be permitted to reset the PCA baseline only in a general rate case.

54 Public Counsel's final proposal is that a PCORC filing should not be permitted earlier than 12 months after the effective date of a rate change from a prior rate case. Public Counsel argues that, "if PSE has significant rate needs during that period, including acquisition of a new resource, it can file a [general rate case]."[71] Public Counsel says further that "a short "PCORC moratorium" period after a rate change would serve the rate stability goal of the mechanism as originally adopted, while at the same time, minimizing the single issue ratemaking problem."[72] ICNU makes a more pointed proposal that we impose a moratorium in this case, prohibiting PSE from filing a PCORC before April 1, 2009. ICNU ties this proposal to the parties' agreement in the partial settlement approved in this proceeding that prohibits PSE from filing a general rate case prior to April 1, 2009.

55 Both Public Counsel's and ICNU's proposals undercut the intended flexibility of the PCORC as a useful mechanism to better match cost recovery to the time a resource acquisition begins to provide benefits to customers, providing electricity to meet customer demands. This is among the several purposes the mechanism was designed

[68] Public Counsel Brief ¶ 41; ICNU Brief ¶ 28.
[69] Public Counsel Brief ¶ 41.
[70] ICNU Brief ¶ 29.
[71] Public Counsel Brief ¶ 44.
[72] *Id.*

to achieve. It does not make sense to undercut the ability to achieve this purpose as Public Counsel and ICNU propose.

FINDINGS OF FACT

56 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the parties and the reasons therefore, the Commission now makes and enters the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:

57 (1) The Washington Utilities and Transportation 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 electrical and gas companies.

58 (2) Puget Sound Energy, Inc., (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 otherwise are used in Title 80 RCW. PSE is engaged in Washington State in the business of supplying utility services and commodities to the public for compensation.

59 (3) The PCORC mechanism should be retained, but the process by which PCORC filings are processed will be improved by the following changes:

- Extend the expected procedural schedule from five to six months.
- Limit filing power cost updates to one per PCORC, with an additional update allowed as part of the compliance filing if the Commission determines the update is necessary due to increased gas costs and orders that such update be made as part of the compliance filing.
- Prohibit the overlap of PCORC and general rate cases, except for requests for interim rate relief.

- Shorten data request response time from ten to five business days at the outset. A further reduction can be considered during the prehearing conference.

- PSE will provide its AURORA model to Public Counsel and intervenors within three business days of filing a PCORC, even absent a protective order, subject to the condition that the parties execute the standard form confidentiality agreement used in previous PCORCs and general rate cases.

60 (4) The current requirement that PSE provide with its filing "a calculation of pro forma production cost schedules that are consistent *with this docket*, including power supply and other adjustments impacting then current production costs" fails to recognizes that new methods and proposals for calculating power costs may be considered and approved in general rate proceedings. Changing the phrase "with this docket" to "with the Company's most recent general rate case" will allow for recognition of any new or revised methods for calculating power costs to be reflected in subsequent PCORC filings.

CONCLUSIONS OF LAW

61 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:

62 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings.

63 (2) The Commission should modify its Final Order (Twelfth Supplemental Order) in Dockets UE-011570 & UG-011571 as necessary to effectuate the terms of this Order that modify the PCORC mechanism as described in findings of fact numbers four and five.

64 (3) The Commission Secretary should be authorized to accept by letter, with copies to all parties to this proceeding, any filing necessary to comply with the requirements of this Order.

65 (4) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order.

ORDER

THE COMMISSION ORDERS THAT:

66 (1) The Twelfth Supplemental Order entered in Dockets UE-011570 & UG-011571 on June 20, 2002, is modified to the extent necessary to effectuate the terms of this Order.

67 (2) PSE is authorized and required to make any filings necessary and sufficient to effectuate the terms of this Order.

68 (3) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order.

69 (4) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective January 15, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This is a Commission Final Order. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.