EXH. LCM-9
DOCKETS UE-220066/UG-220067
2022 PSE GENERAL RATE CASE
WITNESS: LAUREN C. MCCLOY

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, **Complainant,** **v.** **PUGET SOUND ENERGY,** **Respondent.**	**Docket UE-220066** **Docket UG-220067**

EIGHTH EXHIBIT (NONCONFIDENTIAL) TO THE PREFILED RESPONSE TESTIMONY OF

LAUREN C. MCCLOY

ON BEHALF OF NW ENERGY COALITION, FRONT AND CENTERED, AND SIERRA CLUB

JULY 28, 2022

TALEN MONTANA

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March 21, 2022

Ed Hayes
MDEQ
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Sent via e-mail

Jenny Harbine
EarthJustice on behalf of releasors Sierra Club, MEIC, and NWF
jharbine@earthjustice.org
Sent via e-mail

RE: Force Majeure
July 2016 General Release and Settlement Agreement

Pursuant to the July 2016 General Release and Settlement Agreement ("Settlement") entered into between Sierra Club, Montana Environmental Information Center, and the National Wildlife Federation ("Releasors") and Talen Montana, LLC ("Talen"), Avista Corporation, Puget Sound Energy, Portland General Electric Company, NorthWestern Corporation d/b/a NorthWestern Energy, and PacifiCorp ("Releasees" or "Colstrip Owners"), and approved by the Montana Department of Environmental Quality ("MDEQ"), the Colstrip Owners are obligated to convert to a non-liquid disposal system for CCR material generated by Colstrip Units 3 and 4's scrubbers no later than July 1, 2022 (the "Conversion Date"). We are writing to provide you with notice of a force majeure event that may delay the operational date of the non-liquid disposal system beyond July 1, 2022. At present, despite the force majeure event, Talen (as operator, on behalf of the Colstrip Owners) is undertaking every effort to get the system operational as close to July 1 as possible. However, due to the supply chain and labor issues described below, which are outside the control of the Colstrip Owners, Talen believes that the operational date may be delayed as much as three months (from July 1, 2022 to October 1, 2022). As such, on behalf of the Colstrip Owners, Talen requests your agreement to extend the Conversion Date to October 1, 2022, with the understanding that Talen will continue to strive to have the system operational as close to July 1, 2022 as feasible.

The Settlement provides that "[i]f through reasonable and diligent efforts, the conversion of liquid CCR material to non-liquid CCR material proves to be infeasible ... as a result of a force majeure event, the Conversion date *will be extended* until a reasonable time agreed to by the parties taking into account the timing needed to ... resol[ve] the force majeure event." (emphasis added). As described below, Talen and its contractors have been diligently working on the project for many years now to ensure that the operation of the non-liquid disposal facility would commence in a timely manner prior to the Conversion Date. However, as a result of supply chain disruptions caused by the COVID-19 pandemic, and related labor shortages, the ability of the Colstrip Owners to deliver the project in a timely manner has been challenged. These supply chain disruptions and labor shortages could not have been foreseen or avoided and plainly qualify as a force majeure event. The three-month extension requested is reasonable under the circumstances and is less than the actual six-month delay that occurred in receiving necessary equipment to complete the project. A timeline of the project, and a description of the force majeure event, follows.

Talen began working with consultants on the project design and to develop necessary engineering and pilot testing in June 2018. Based on its experience with prior projects, Talen believed that this was ample time to undertake the necessary testing, design, engineering, and construction to complete the project. But for the COVID-19 pandemic, this would have been the case. Following initial work on the project, Talen hired Worley Parsons and Patterson & Cook in 2019 to complete the project. The Design Basis Document for the project was received from Patterson & Cook on October 13, 2019. On November 12, 2019, Talen received the Interim Fly Ask Dewatering Test Work Results from Patterson & Cook and on November 13, 2019, received the Fly Ash Dewatering Trade-Off Report. These reports evaluated potential technologies and process options and concluded that pressure filtration technology was the preferred option for meeting project requirements. Following these reports, the effort turned to investigations, design work, development of technical specifications, bids, fabrication and construction. A complete timeline of these events is set forth in Appendix A. As the timeline shows, Talen and the Colstrip Owners have diligently moved the project forward over a period of several years to meet the Conversion Date. Through December 2021, the Colstrip Owners have expended approximately $30 million on the project and expect to spend another $11 million in 2022.

Despite Talen's best efforts on behalf of the Colstrip Owners, delays due to the pandemic started affecting the project in 2020, continued throughout 2021 and continued to occur in 2022. Talen undertook significant efforts to maintain the schedule despite the challenges, but at this point these events are likely to impact the completion of the

project and the operational date of the system. The issues began during the engineering design/bid specification phase in early-to-mid 2020, when COVID-19 restrictions (e.g., people unable to go to the office) delayed design and engineering work. Talen approved overtime to keep the schedule on track but estimates that one to two months were lost during this phase. In May 2021, Talen was informed that there would be delays in structural steel delivery due to COVID-19 impacts on structural steel suppliers. Talen has continued to evaluate, reschedule, and reorder work to address these delays (including the use of overtime), but still estimates a four-month delay in the original schedule as a result. Additionally, in mid-2021, the tank supplier (Affco) encountered material supply issues as a result of COVID-19, delaying the delivery of materials for the construction of tanks used in the dry disposal process. This delayed the building construction schedule. The Colstrip Owners paid extra to expedite materials and paid overtime, but still encountered a three-month delay. The conveyor supplier (MASABA) also encountered delays related to material delivery and availability of labor for fabrication of the equipment related to COVID-19. The Colstrip Owners paid extra to address the material supply issue and paid overtime to help address the labor issue, but this still resulted in a several months delay of delivery of these components.

An additional key delay relates to piping supply. The Colstrip Owners had paid a premium to facilitate piping design and have piping delivered by September 1, 2021. However, the piping supplier (Northwest Pipe) notified Talen in October 2021 that they encountered a significant delay in the pipe order. The pipe was on the ground in China, but Northwest Pipe could not indicate when the pipe would actually be shipped. Talen immediately re-ordered the necessary piping from other suppliers that could supply the piping on short notice at an additional cost of $1 million. As a result, the final piping shipment – which is a critical path item – was not received until March 2022, which is six months later than the original schedule. Once the piping is received, it must be fabricated (e.g., welded). Because the pieces are not all coming in at the same time, fabricators are welding as piping pieces come in, but this results in the double and triple handling of piping sections, with concomitant inefficiencies and delays in the schedule.

Overall, the schedule is continually being evaluated to determine ways to make up time. Talen will continue to do so, but given the multitude of delays, Talen believes that the operational date may be delayed as much as three months. Thus, on behalf of the Colstrip Owners, Talen requests your agreement to extend the Conversion Date to October 1, 2022, with the understanding that Talen will continue to strive to have the system operational as close to July 1, 2022 as feasible. Talen will commit to providing monthly updates on efforts to complete the project and any revisions to the project schedule.

We would be happy to set up a call to discuss these developments. Otherwise, please let us know whether you are amenable to this force majeure extension.

Thank You,

Gordon Criswell

Gordon Criswell
Director, Environmental & Compliance
Colstrip Power Plant
Talen Montana

cc: Nick Whitaker MDEQ
Damon Obie Talen
Josh Frank Baker Botts
Bill Mercer Holland & Hart
Shannon Brown Talen
Nancy Atwood PSE
Craig Udy PGE
Mike Barnes NWE
Thomas Dempsey Avista
Mike Johanson Pacificorp
Neil Dennehy Talen

APPENDIX A – Timeline of Project

- June 2018 initiated Dry Disposal design/engineering/pilot testing discussions with consultants
- June 2019 hired Worley Parsons and Patterson and Cook to undertake design/engineering/pilot testing work in 2019
- Oct 13, 2019 Patterson and Cook Design Basis document received
- Nov 12, 2019 Flyash Dewatering Test Work Results received from Patterson and Cook
- Nov 13, 2019 Flyash Dewatering Trade-Off Report received from Patterson and Cook
- December 2019 Borings conducted to evaluate potential Dry Disposal Equipment/Building locations
- February 2020 Boring data from 6 locations evaluated and Dry Disposal Equipment/Building location determined
- Mar 2, 2020 Process design work began with Patterson & Cook and Worley
- May 18, 2020 Grading Drawings and Foundation Design work began
- May 18, 2020 Building Structural Steel design work began
- June 2020 Dry Disposal Process Design Review completed
- July 16, 2020 Filter Press Supplier selected and design work began
- July 27, 2020 Earthwork excavation began
- July 31, 2020 HVAC design work began
- Aug 4, 2020 Pipeline sizing, Specs, & P&ID work began
- Sept 4, 2020 Bridge Crane tech specs developed and out for bid
- Sept 25, 2020 Tank/Agitator tech specs developed and out for bid
- Sept 25, 2020 Compressor tech specs developed and out for bid
- Oct 2, 2020 Filtrate Pumps, Wash Water Pumps, Slurry Pumps, Sump Pumps, GSW Booster Pumps tech specs developed, out for bid
- Oct 9, 2020 Filter Press design finalized, material order placed
- Oct 19, 2020 Foundation installation began
- Oct 29, 2020 Conveyor, Loadout Bin, Gates, Chutes, Hopper tech specs developed and out for bid
- Nov 30, 2020 Placement of Embedded Conduit began
- Jan 7, 2021 Cyclone Separator tech spec developed and out for bid
- Jan 13, 2021 Delivery of Building Materials began
- Feb 15 – May 7, 2021 Compressor fabrication and delivery
- Feb 21 – May 7, 2021 Tank/Agitator fabrication and delivery
- Feb 22 – May 1, 2021 Structural Steel Drawings finalized
- Feb 24, 2021 Building Pre-Construction work began
- Mar 4 – July 14, 2021 Bridge Crane fabrication and delivery
- Mar 22 – Aug 27, 2021 Filtrate Pumps, Wash Water Pumps, Slurry Pumps, Sump Pumps, GSW Booster Pumps fabrication and delivery

- April 5 – Aug 13, 2021 Conveyor, Loadout Bin, Gates, Chutes, Hopper fabrication and delivery
- April 10 – Oct 6, 2021 Structural Steel Delivery
- April 19 – July 16, 2021 Cyclone Separator fabrication and delivery
- May 10, 2021 Building Erection began
- May 10, 2021 Tank Field Erection began
- May 14, 2021 – Filter Press Material Delivery
- May 26, 2021 Air Receivers set
- Aug 16 – Oct 29, 2021 Conveyor/Chutes/Hoppers/Loadout Bin construction
- Sept 20 – Oct 8, 2021 Filter Presses set
- Oct 8, 2021 Carbon Steel Piping material received, fabrication and installation underway
- Oct 13, 2021 Bridge Crane set
- Oct 19, 2021 Stainless Steel Piping being received and installation underway
- Oct 25, 2021 Architectural Construction began
- Nov 26, 2021 Pumps set
- Dec 3, 2021 Compressor set
- Dec 6, 2021 Piping Construction began
- January 2022 Building roof installation
- January 2022 Air compressor installation
- January 2022 Loadout collection bins received and set
- February 2022 Building wall panel installation
- February 2022 Filter Press assembly underway
- February 2022 Electrical work underway
- March 2022 Building walls and roof complete
- March 2022 Filter Press assembly complete
- March 2022 Building interior walls complete
- March 2022 Conveyor belting installation
- March 2022 Control Room setup
- March 2022 Wire and cable pulls
- March 2022 Hydrotesting of piping systems