

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

BELLINGHAM COLD STORAGE)	
COMPANY AND GEORGIA-PACIFIC)	
WEST, INC.,)	
)	DOCKET NO. UE-001014
Complainants,)	
v.)	TENTH SUPPLEMENTAL
)	ORDER DISMISSING
PUGET SOUND ENERGY, INC.)	PROCEEDING WITH
)	PREJUDICE
Respondent.)	
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1 **PROCEEDINGS:** Bellingham Cold Storage Company (BCS) and Georgia-Pacific West, Inc. (Georgia-Pacific or G-P) filed a Formal Complaint, Request for Expedited Emergency Action, Including Waiver of Regular Notice Periods, Relating to Special Contract Transmission Obligations and Pricing Provisions against Puget Sound Energy, Inc. (PSE), on June 29, 2000. Complainants alleged that PSE has violated its Special Contracts by refusing “to provide BCS and G-P with 20-year transmission contracts, applicable both during and after the term of the Special Contracts providing BCS and G-P with nonfirm energy supply.” Complainants also alleged that they faced crisis conditions due to volatility in the West Coast spot market for electricity and that pricing provisions in their Special Contracts that are tied to the Mid-Columbia indices for spot market prices are no longer just and reasonable. Complainants asked the Commission to order PSE “to tender to BCS and G-P execution-ready transmission contracts incorporating the prices, terms, and conditions found in PSE’s Open Access Transmission Tariff on file with the Federal Energy Regulatory Commission;” to immediately provide unbundled transmission services to BCS and Georgia-Pacific so they could contract directly with third-party suppliers for their energy needs; and, pending other relief, to replace market-index pricing under the Special Contracts with a price based on PSE’s cost “of operating its least efficient power plant”

2 PSE filed its Answer to Formal Complaint on July 7, 2000, denying the essential elements of the Complaint, and stating affirmative defenses and counterclaims. The Commission conducted a prehearing conference on July 19, 2000, jointly with related proceedings pending in Docket No. UE-000735. Among other things, the

Commission established a procedural schedule including dates for dispositive motions and a date for hearings to commence.

3 On August 15, 2000, following substantial process, the Commission entered its Fifth Supplemental Order Granting Voluntary Dismissal, Without Prejudice. The effect of the Commission's Order was to remove the pricing claims from the case. Following a continuance that the Commission granted at the Parties' request, the Commission entered its Seventh Supplemental Order Granting Leave To Withdraw and Dismissing Claims and Counterclaims Without Prejudice [and] Granting Continuance. The Seventh Supplemental Order removed Georgia-Pacific from the case on its Motion requesting such relief. The claims and counterclaims between BCS and PSE remained open. BCS and PSE, however, requested an additional continuance to permit them an opportunity to pursue ongoing settlement negotiations. The Commission granted their request.

4 **PARTIES:** John A. Cameron, Traci Grundon, and James S. Smith, Davis Wright Tremaine LLP, Portland, Oregon, represent Bellingham Cold Storage Company (BCS). Melinda Davison, Davison Van Cleve, P.C., Portland, Oregon, represents Georgia-Pacific West, Inc., substituting as counsel for John Gould, Lane Powell Spears Lubersky L.L.P., on September 21, 2000. Ms. Davison also represents Intervenor "Schedule 48 Customers" (*i.e.*, Air Liquide America Corporation, The Boeing Company, Equilon Enterprises, Tesoro Northwest Company, and Air Products and Chemicals, Inc.). Markham A. Quehrn and Kirstin Dodge, Perkins Coie LLP, and James M. Van Nostrand, Stoel Rives LLP, Seattle, represent Puget Sound Energy, Inc. Michael Myers, attorney, Glendale, California, represents Atlantic Richfield Company. Adam Gravley, Carol S. Arnold, and Douglas H. Rosenberg, Preston Gates & Ellis LLP, Seattle, Washington, represent Public Utility District No. 1 of Whatcom County (Whatcom PUD). Simon ffitch, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section, Office of Attorney General (Public Counsel). Robert D. Cedarbaum, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Staff).

5 **SETTLEMENT AGREEMENT:** The Parties here, except Whatcom PUD, are among the signatories to a comprehensive settlement agreement filed on March 9, 2001, in related proceedings in Docket Nos. UE-001952 and UE-001959 (Consolidated). Whatcom PUD is an Intervenor in those proceedings; it takes no position on the settlement agreement. By the terms of their settlement agreement, the

principal Parties and all Intervenors to this proceeding, except Whatcom PUD, affirmatively agree that it should be dismissed with prejudice. Whatcom PUD does not object.

- 6 **COMMISSION:** The Commission has approved and adopted the Parties' comprehensive settlement agreement in Docket Nos. UE-001052 and UE-001959 (Consolidated). *Air Liquide, et al. v. PSE, Eleventh Supplemental Order Approving And Adopting Settlement Agreement, Subject To Conditions; Dismissing Proceedings; And Granting Other Relief, Docket Nos. UE-001952 and UE-001959 (Consolidated), (April 5, 2001)*. The Commission's Eleventh Supplemental Order requires, among other things, that the Complaint in this proceeding be dismissed with prejudice. Consistent with the requirements of our Eleventh Supplemental Order in Docket Nos. UE-001952 and UE-001959 (Consolidated), and for the reasons stated in that Order, we find and conclude that it is in the public interest to dismiss with prejudice the proceedings pending in this Docket No. UE-001014.

ORDER

- 7 THE COMMISSION ORDERS That the Complaint in this proceeding and Puget Sound Energy, Inc.'s Counterclaims are dismissed with prejudice.

DATED at Olympia, Washington, and effective this day of April, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. 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 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).

