

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

PUGET SOUND ENERGY,

Petitioner,

For an Order Authorizing the Use of
Liquidated Damages Under Schedule 139
Voluntary Long-Term Renewable Energy
Purchase Rider

DOCKET UE-200865

ORDER 01

GRANTING PETITION

BACKGROUND

- 1 On November 27, 2019, Puget Sound Energy (PSE or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition in Docket UE-190991 requesting an order authorizing the use of deferred accounting for liquidated damages (LDs) received as part of the Green Direct service and use of these proceeds for other costs not currently being recovered through the Company’s tariff Schedule 139.
- 2 Docket UE-190991 was consolidated into PSE’s general rate case (GRC) in Dockets UE-190529 and UG-190530. In Final Order 08 of the consolidated GRC dockets, the Commission granted deferred accounting treatment for the LDs, but did not “reach the question of how the LDs should be applied[.]”¹
- 3 PSE filed a tariff revision updating Schedule 139 in Docket UE-200817, which revised the rates to be paid by Green Direct customers, intending to implement the Commission’s direction in the GRC final order. The updates to Green Direct rates included the amortization of LDs throughout the Skookumchuck Wind Energy Project power purchase agreement’s (PPA) 20-year term. In reviewing this tariff, the Company and Commission Staff (Staff) identified some components of the tariff revision that it believes may be misaligned with the Commission’s direction in Final Order 08.
- 4 To address these components, on October 14, 2020, PSE filed a petition in this Docket under WACs 480-07-885 and 480-07-370(3) (Petition) requesting the Commission take

¹ Dockets UE-190529 and UG-190530, Final Order No. 08, ¶454.

the following actions: (1) permit the Company to use deferred LDs prior to the commercial operation date of the Skookumchuck Wind Energy Project; (2) allow PSE to use LDs to purchase and retire Renewable Energy Credits (also known as Renewable Energy Certificates or RECs) for the benefit of Green Direct customers; (3) authorize PSE to offset the cost of Skookumchuck PPA by including the benefits of the LDs in rates under Schedule 139 Resource Option Charges; and (4) clarify that the amortization of the deferred LDs should follow the Skookumchuck PPA costs.

5 On October 26, 2020, PSE filed a revised petition to provide more details regarding the Company’s proposed accounting treatment. The revised petition also clarified that, in the unlikely event that the Green Direct program is undersubscribed, , PSE will seek a determination from the Commission for the ultimate disposition of any undistributed LDs

1. LD determination prior to PPA in-service date

6 In Final Order 08, the Commission “reserve[d] any decision related to the use of the funds until such time as the PPAs are in service and the final amount of the LDs is known.”²

7 In its Petition, PSE states that the final amount of the LDs is known, and the Skookumchuck PPA is “anticipated to be online by early November 2020.”³ The Company notes, “While the Skookumchuck PPA is not yet in service, any updates to Green Direct customer rates must be made prior to this date as new rates necessitate new agreements with participating Schedule 139 customers, which will take some time to finalize prior to the online date of the project.”⁴ PSE argues that, if the benefits of the LDs are to be reflected in rates, then a determination regarding the LDs’ use must be made prior to the PPA in-service date. Accordingly, PSE contends that granting its Petition will address this potential misalignment between the language of Final Order 08 and the Green Direct program design.

8 Staff agrees with PSE’s analysis and supports granting this component of the Company’s Petition.

² Dockets UE-190529 and UG-190530, Final Order No. 08, ¶454.

³ Docket UE-200865, Revised Petition of Puget Sound Energy, ¶7.

⁴ *Id.*

2. Use of LDs to purchase RECs

9 In Final Order 08, the Commission “encourage[d] PSE to work collaboratively with its Green Direct customers to determine how to best use the LDs in compliance with statutory requirements.”⁵

10 In its Petition, the Company requests that the Commission allow it to use a small portion of the LDs to purchase and retire RECs sufficient to match the energy use of Green Direct Phase 1 customers from July 2019 until the Skookumchuck project is online. PSE states that the proposal to purchase and retire RECs on behalf of Green Direct Phase 1 customers came about through conversations with these customers.

11 Staff sees this use of LDs as an appropriate matching of the benefits of the LDs to the customers who were most harmed by the project delays. Staff recommends the Commission grant this component of the Company’s Petition.

3. Authorization to include LDs in Green Direct rates

12 In Final Order 08, the Commission stated that LDs should “only be used to benefit program participants.”⁶

13 In its Petition, the Company states that “PSE and its Green Direct customers agreed that the remainder of the net proceeds should be used to offset the cost of the Skookumchuck Power Purchase Agreement (“PPA”), and in turn lower the Schedule 139 Resource Option Charges to Green Direct customers.”⁷ Accordingly, PSE requests that the Commission permit the use of LDs to offset Skookumchuck PPA project costs.

14 Staff supports this request and recommends the Commission grant this component of the Company’s Petition.

4. Clarify that LD benefits should follow treatment of Skookumchuck PPA costs

⁵ Dockets UE-190529 and UG-190530, Final Order No. 08, ¶453.

⁶ Dockets UE-190529 and UG-190530, Final Order No. 08, ¶454.

⁷ Docket UE-200865, Revised Petition of Puget Sound Energy, ¶7.

15 In its Petition, the Company notes that the tariff revision filed in Docket UE-200817 applies the LD benefits across the full 20 years of the PPA. However, the Green Direct program offers participant agreement terms of 10, 18, or 20 years. This means some portion of the LDs are associated with PPA costs and Green Direct subscriptions that are not yet subscribed. If the Green Direct program is unsubscribed, then LD benefits are not clearly assigned to any party, which may conflict with the Commission's direction that LDs "only be used to benefit program participants."⁸ PSE argues, "Because the LDs have been tied to the Skookumchuck PPA in developing the Schedule 139 rates, the amortization will follow the rates in which the LDs are included."⁹ PSE clarifies that "in the unlikely event that the liquidated damages are not fully passed back due to the product not being fully subscribed over the full 20 year term of the PPA, any residual balance of LDs will be held in the regulatory liability account and PSE will seek a determination from the Commission for the ultimate disposition of any undistributed LDs."¹⁰

16 Staff supports this request. PSE currently assigns all PPA costs and related LD benefits to the Green Direct program. Any unsubscribed shares raises questions regarding how to use the LDs for the benefit of program participants, but this question will not arise for at least ten years, if at all. Staff believes that PSE's commitment to seek a determination from the Commission if this situation arrives alleviates any concerns.

DISCUSSION

17 PSE's Petition brings to our attention a misalignment of the direction in Final Order 08 with the Green Direct program design. We understood this issue when we allowed the recent Green Direct tariff revision in Docket UE-200817 to go into effect prior to considering this Petition. We grant this request but note that the Company should have identified and brought this issue to us prior to, or in conjunction with, the Company's tariff filing in Docket UE-200817.

18 We grant PSE's request to apply LD benefits to offset the cost of RECs purchased and retired for the benefit of Green Direct customers. We appreciate the Company's productive collaboration with Green Direct customers in finding an application for these funds that aligns with customer preferences.

⁸ Dockets UE-190529 and UG-190530, Final Order No. 08, ¶454.

⁹ Ibid., ¶10.

¹⁰ Ibid., ¶14.

19 We also confirm that PSE’s application of LD benefits within Schedule 139 rates is an appropriate use of these funds. Accordingly, we grant this request.

20 Finally, In Final Order 08, we “reiterate[d] the requirement that they [LD benefits] only be used to benefit program participants.”¹¹ This direction was based on two assumptions: first, that the Skookumchuck PPA costs are assigned exclusively to the Green Direct program consistent with RCW 19.29A.090; and second, that the Green Direct program would be fully subscribed for its duration. The Company’s proposal to seek a determination from the Commission regarding any undistributed LDs is appropriate. We expect that the Company will identify any such issue before it occurs and will seek a Commission determination before the LDs can be considered undistributed.

FINDINGS AND CONCLUSIONS

- 21 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including electric companies.
- 22 (2) Puget Sound Energy is an electric company and a public service company subject to Commission jurisdiction.
- 23 (3) WAC 480-07-370(3) allows companies to file petitions including that for which Puget Sound Energy seeks approval.
- 24 (4) Staff has reviewed the Petition in Docket UE-200865.
- 25 (5) Staff believes the proposed order PSE requests is reasonable and should be granted.
- 26 (6) This matter came before the Commission at its regularly scheduled meeting on October 29, 2020.
- 27 (7) After reviewing PSE’s Petition filed in Docket UE-200865 on October 29, 2020, and giving due consideration to all relevant matters and for good cause shown, the Commission finds that the petition filed should be granted.

¹¹ Dockets UE-190529 and UG-190530, Final Order No. 08, ¶453.

ORDER

THE COMMISSION ORDERS:

- 28 (1) Puget Sound Energy's Petition is granted.
- 29 (2) This Order shall not affect the Commission's authority over rates, services, accounts, valuations, estimates, or determination of costs, on any matters that may come before it. Nor shall this Order granting Petition be construed as an agreement to any estimate or determination of costs, or any valuation of property claimed or asserted.
- 30 (4) The Commission retains jurisdiction over the subject matter and Puget Sound Energy to effectuate the provisions of this Order.
- 31 The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective October 29, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
Executive Director and Secretary