

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

PUGET SOUND ENERGY, INC.'S

Renewable Energy Target Progress Report
under RCW 19.285.070 and WAC
480-109-040

DOCKET UE-131072

ORDER 01

ORDER APPROVING COMPLIANCE
WITH ELIGIBLE RENEWABLE
ENERGY TARGET REPORTING
REQUIREMENTS FOR 2013

BACKGROUND

- 1 The Energy Independence Act (EIA or Act)¹ requires qualifying electric utilities to obtain certain percentages of their electricity from eligible renewable resources. The Washington Utilities and Transportation Commission (Commission) enforces compliance with the EIA by investor-owned utilities.² Commission rules implementing the Act require that “[b]y January 1 of each year beginning in 2012 and continuing through 2015, each [qualifying investor-owned] utility must use sufficient eligible renewable resources, acquire equivalent renewable energy credits (RECs), or a combination of both, to supply at least three percent of its load for the remainder of each year.”³ The Act requires a utility to file a report demonstrating that it met that obligation⁴ and describing “the steps [it] is taking to meet the renewable resource requirements for the current year.”⁵ Ultimately, the Commission must determine “whether the utility complied with its . . . renewable resource targets.”⁶

¹ RCW Chapter 19.285.

² RCW 19.285.060(6).

³ WAC 480-109-020(1)(a). For a detailed discussion of the Commission’s implementation of the EIA and the meaning of the terms used in the statute, see *In re Puget Sound Energy, Inc.’s Renewable Energy Target Progress Report under RCW 19.285.070 and WAC 480-109-040*, Docket UE-120802, Order 01, Order Regarding 2012 Renewable Energy Target (Sept. 13, 2012).

⁴ RCW 19.285.070; WAC 480-109-040.

⁵ WAC 480-109-040(1)(d).

⁶ WAC 480-109-040(2)(c).

- 2 The Commission has implemented these requirements by establishing a two-step compliance process.⁷ Because a utility may comply with its renewable portfolio standards (RPS) obligation by using RECs acquired in the year after the target year, ultimate compliance for 2012, for example, may be demonstrated as late as June 1, 2014. Accordingly, there will be two commission decisions for each year's compliance: (1) a determination that the company has enough resources to meet the 3 percent target; and (2) the retrospective compliance decision. Before the Commission is the initial resource-adequacy filing made by Puget Sound Energy, Inc. (PSE or Company) for its 2013 obligation. The Commission will consider PSE's compliance with its 2013 target when the Company requests such a finding, which PSE must do no later than June 1, 2015.⁸
- 3 On May 31, 2013, PSE filed with the Commission a compliance report under RCW 19.285.070 and WAC 480-109-040, and on July 22, 2013, the Company filed with the Commission an updated compliance report ("RPS Reports"). PSE seeks an order from the Commission confirming that the Company has complied with EIA and Commission reporting requirements and accepting PSE's calculations and eligibility of the renewable resources identified in the RPS Report for 2013.
- 4 On June 7, 2013, the Commission issued a Notice inviting interested persons to file written comments on PSE's RPS Report. During the comment period, the Commission received written comments from Commission Staff and joint written comments from Renewable Northwest Project and NW Energy Coalition (RNP/NWEC). At the July 26, 2013, Open Meeting, the Commission heard oral comments from Commission Staff, PSE, and RNP/NWEC. The Commission also considered Staff's Open Meeting memorandum of that date. At that Open Meeting, the Commission accepted Staff's recommendation.⁹ The Commission indicated that a formal order would follow. This is that order.

⁷ *In re Puget Sound Energy, Inc.'s Renewable Energy Target Progress Report under RCW 19.285.070 and WAC 480-109-040*, Docket UE-120802, Order 01, Order Regarding 2012 Renewable Energy Target ¶ 38 (Sept. 13, 2012).

⁸ To keep these various filings and decisions organized, the Commission will include all filings for a utility's compliance for a given year under one docket number. Accordingly, PSE's compliance with the 2013 target should be made under this docket. Compliance with the 2012 target will be considered under Docket UE-120802.

⁹ Staff's July 26, 2013, Open Meeting memorandum recommended that the Commission issue an order in this docket finding: (1) The 2013 renewable energy target for PSE is 639,514 megawatt-hours; (2) PSE has complied with the June 1, 2013, reporting requirements; (3) PSE has demonstrated that, by January 1, 2013, the Company acquired at least 639,514 megawatt-hours of eligible renewable resources, equivalent renewable energy credits, or a combination of them, for

DISCUSSION

A. PSE’s RPS Reports

5 PSE’s RPS Reports included all items required by WAC 480-109-040 and RCW 19.285.070(1). Based on its average annual load for 2011 and 2012, PSE calculated that its 2013 renewable energy target was 639,514 megawatt-hours. PSE has at least 1,358,822 banked credits and expected eligible generation available for its use in 2013, as follows:

Facility Name (Location)	Resource Type and Vintage	Amount (MWh)	Facility On-Line Date	Ownership/ Contract
Wild Horse	Wind, 2012	570,160	12/2006	PSE-owned
Hopkins Ridge	Wind, 2012	412,490	12/2005	PSE-owned
Hopkins Ridge Phase II	Wind, 2012	18,150	12/2007	PSE-owned
Lower Snake River – Dodge Junction	Wind, 2012	217,084	02/2012	PSE-owned
Lower Snake River – Phalen Gulch	Wind, 2012	136,307	02/2012	PSE-owned
Wanapum Fish Bypass (Columbia R., WA)	Water (Incremental Hydro), 2013	4,631	4/2008	Contract w/ Grant Cnty PUD
Lower Baker	Water (Incremental Hydro), 2013	TBD ¹⁰	2013	PSE-owned
Snoqualmie Falls	Water (Incremental Hydro), 2013	TBD ¹¹	2013	PSE-owned

its use in 2013; and (4) PSE must file a second report no later than June 1, 2015, that provides the information necessary to determine whether the Company met the January 1, 2013, target.

¹⁰ PSE projects annual incremental generation of 109,480 MWh at this facility. See PSE’s amended filing (Attachment 4B, pg. 14). That amount will be prorated based on when the facility actually enters service. The Commission has not endorsed the methodology that produced this figure.

¹¹ PSE projects annual incremental generation of 22,030 MWh at this facility. See PSE’s amended filing (Attachment 4A, pg. 14). That amount will be prorated based on when the facility actually enters service. The Commission has not endorsed the methodology that produced this figure.

PSE reported that it generated an excess of 1,354,191 RECS in 2012 that the Company will apply to its 2013 target. PSE will also purchase an additional 4,631 megawatt-hours of eligible hydropower in 2013 and generate a yet-to-be determined amount of eligible hydropower at upgraded company facilities expected to be completed during the year.

- 6 The Company specified two types of eligible renewable energy resources on which it intends to rely to comply with the EIA's requirements: (1) wind generated power (which comprises 1,354,391 megawatt-hours or 99.6 percent of the total claimed eligible renewable resources); and (2) incremental electricity produced as a result of hydropower efficiency improvements (representing at least 4,631 megawatt-hours or less than one percent of the total).
- 7 PSE seeks an order from the Commission confirming that the Company has complied with EIA and Commission reporting requirements and accepting the Company's calculations and eligibility of the renewable resources identified in the RPS Report.

B. Eligible Renewable Resources

- 8 The EIA defines "eligible renewable resource" to mean:
- (a) Electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located in the Pacific Northwest;^[12] or (ii) the electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services;
 - (b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest or to hydroelectric generation in irrigation pipes and canals located in the Pacific Northwest, where the additional generation in either case does not result in new water diversions or impoundments; and

¹² "Pacific Northwest" is defined in RCW 19.285.030(15) and WAC 480-109-007(15) by reference to the federal Pacific Northwest Electric Power Planning and Conservation Act. Section 3(14) of that act, 16 U.S.C. § 839a(14), defines "Pacific Northwest" to mean Washington, Oregon, Idaho, and Montana west of the Continental Divide, the remainder of the Columbia River basin south of Canada, and contiguous areas served by the Bonneville Power Administration.

(c) Qualified biomass energy.¹³

The EIA also allows the utility to be considered in compliance with the EIA if “for a given year” “the utility invested four percent of its total annual retail revenue requirement in the incremental costs of eligible renewable resources, the cost of renewable energy credits, or a combination of both.”¹⁴

C. PSE’s Eligible Renewable Resources

9 PSE claims two types of facilities as eligible renewable resources in its Report: wind facilities and efficiency improvements to its hydroelectric facilities (also known as “incremental hydropower” facilities). There is no dispute as to the eligibility of the wind facilities. The wind facilities in the RPS Report are renewable resources that are not powered by freshwater and commenced operation after March 31, 1999. Accordingly, on its face, no issue arises as to the status of the Wild Horse, Hopkins Ridge, or Lower Snake River wind facilities as eligible renewable resources. The eligibility of the incremental hydropower identified in the RPS Report, however, requires more detailed inquiry.

1. PSE’s Inclusion of Incremental Hydropower to Meet Its RPS Obligation

10 The EIA does not specify how to measure or calculate incremental hydropower. The RPS Workgroup convened under Docket UE-110523 agreed on three optional methodologies for calculating incremental hydroelectric efficiency improvements.¹⁵ Method 1 requires an annual calculation, based on actual water flows or generation during that year. Method 2 also requires an annual calculation, multiplying actual

¹³ RCW 19.285.030(11). In 2012, the Washington Legislature amended RCW 19.285.030 and other sections of the EIA to alter the extent to which biomass energy qualifies as an eligible renewable resource. Laws of 2012, ch. 22. This Order 01 uses the RCW numbering in effect as of May 31, 2013.

¹⁴ RCW 19.285.050(1)(a). RCW 19.285.050(1)(b) states that the incremental cost of an eligible renewable resource “is calculated as the difference between the levelized delivered cost of the eligible renewable resource, regardless of ownership, compared to the levelized delivered cost of an equivalent amount of reasonably available substitute resources that do not qualify as eligible renewable resources, where the resources being compared have the same contract length or facility life.”

¹⁵ In 2011, in Docket UE-110523, Commission Staff convened a Renewable Portfolio Standards Workgroup (RPS Workgroup) to coordinate planning for the filing of utilities’ June 2012 RPS reports. The RPS Workgroup included representatives from utilities, state agencies, and other interested groups. PSE participated in the RPS Workgroup, which reached some common understandings about the content and format of the June 2012 reports.

generation by a fixed percentage to determine the generation attributable to efficiency upgrades. Method 2 is similar to the methodology that the Oregon Department of Energy adopted under that state's counterpart to the EIA.¹⁶ Method 3 requires a one-time calculation of the increase in annual megawatt-hours attributable to the efficiency upgrades under average historical water flows.

- 11 PSE identifies eligible incremental hydropower generated by two Company-owned facilities in the Pacific Northwest and purchased from the Grant County Public Utility District (PUD). Each of those types is described in further detail below.

a. Upgrades at PSE's Hydroelectric Projects

- 12 PSE owns and operates two hydroelectric dams in Washington.¹⁷ Recently, PSE has been performing upgrades at its hydroelectric facilities that aim to increase their generation capacity. PSE has sought an order from the Federal Energy Regulatory Commission (FERC) certifying incremental hydropower generation for a renewable energy production tax credit under the federal Energy Policy Act of 2005. For purposes of the production tax credit, incremental hydropower generation is calculated under a method similar to Method 3 developed by the RPS Workgroup, but expressed as a percentage of average annual hydropower production rather than as a megawatt-hour amount.¹⁸

- 13 The EIA does not recognize RECs produced from electricity generated by freshwater. Thus, whereas a REC can be used in multiple years, incremental hydropower can be used for EIA compliance only in the year it is generated.¹⁹ The EIA does not specify whether incremental hydropower that is used for compliance in another state, through RECs or otherwise, may also be used for EIA compliance in Washington. This raises a potential for double-counting which could affect PSE. Other utilities have instituted the practice of registering all owned hydroelectric generation in the Western Renewable Energy Generation Information System, which is the most certain way to satisfy the Commission that double counting is not taking place.

¹⁶ See OAR § 330-160-0050.

¹⁷ PSE's dams are located on the Lower Baker River and at Snoqualmie Falls.

¹⁸ 26 U.S.C. § 45(c)(8)(B).

¹⁹ RCW 19.285.030(19).

b. Eligible Purchases from Grant County PUD

- 14 Grant County PUD, a qualifying utility that is not an investor-owned utility, operates the Priest Rapids Hydroelectric Project under a license issued by FERC.²⁰ The Priest Rapids Project includes two dams, Priest Rapids and Wanapum, both located on the Columbia River in central Washington State. The Mid-Columbia River is home to various species of salmon and steelhead, some of which are federally listed as threatened or endangered.²¹ The Federal Power Act license for the continued operation of the Priest Rapids Project requires Grant County PUD to replace the Wanapum Dam turbines with a more fish-friendly design less lethal to juvenile fish, and to install and maintain an external structure that allows juvenile salmon and steelhead to pass Wanapum Dam safely without going through the turbines. Before these measures were implemented, FERC required Grant County PUD to spill water over the dam during the months when juvenile salmon and steelhead are migrating downstream. Grant County PUD completed the external juvenile fish bypass structure in 2008.²² Turbine upgrades are underway.
- 15 WAC 194-37-130 allows non-investor-owned qualifying utilities that generate incremental hydropower to sell that power to other utilities as an eligible renewable resource.²³ Grant County PUD used some of the incremental hydropower attributable to the Wanapum Dam juvenile fish bypass for its own EIA compliance in 2012 and again in 2013, and it sold some of the remaining power to other utilities, including PSE, as an eligible renewable resource.²⁴ PSE relies on Grant County PUD's calculation of incremental hydropower efficiency gains. Grant County PUD is required to use the

²⁰ *PUD No. 2 of Grant Cnty.*, 123 FERC ¶ 61,046 (2008).

²¹ 50 C.F.R. §§ 223.102(a), 224.101(a).

²² *PUD No. 2 of Grant Cnty.*, 123 FERC ¶ 61,046 (2008); *PUD No. 2 of Grant Cnty.*, 109 FERC 62,216 (2004); *PUD No. 2 of Grant Cnty.*, 108 FERC ¶ 62,075 (2004). *See generally* *Confederated Tribes & Bands of the Yakima Indian Nation v. FERC*, 746 F.2d 466 (9th Cir. 1984) (FERC must consider effects on fisheries before issuing licenses for mid-Columbia dams).

²³ *See* WAC 194-37-130(1)(a); WAC 194-37-130(3)(f); Wash. Dep't of Community, Trade, & Economic Development, *Concise Explanatory Statement, Chapter 194-37 WAC (Energy Independence Act, RCW 19.285)* at 12 (March 2008). The Commission did not address this issue in its EIA rulemaking.

²⁴ *See* Grant County PUD's 2012 and 2013 Renewable Energy Reports under WAC 194-37-110, posted on the Department of Commerce's website at <http://www.commerce.wa.gov/Programs/Energy/Office/Utilities/Pages/EnergyIndependence.aspx>.

method in WAC 194-37-130, which is similar to Method 3 developed by the RPS Workgroup.

2. Comments of Staff and Interested Parties

- 16 RNP/NWEC commended PSE for acquiring sufficient renewable energy to meet the 2013 target. RNP/NWEC expressed concerns about allowing purchases of incremental electricity from Mid-Columbia hydropower generation facilities, such as Grant and Chelan County, without adequate assurances that those generators' calculation methodology was at least as accurate as that used by investor owned utilities. Even so, RNP/NWEC recommended that the Commission accept the incremental hydropower figures in PSE's RPS Report for 2013 compliance.
- 17 In addition, RNP/NWEC expressed concern that PSE, Avista Corporation (Avista), and PacifiCorp d/b/a Pacific Power and Light Company (PacifiCorp) had not used consistent methods for calculating the incremental cost of eligible renewable resources under RCW 19.285.050(1)(b) and WAC 480-109-030(1).
- 18 Staff stated its belief that PSE had procured sufficient resources to meet the three percent target throughout 2013. Staff then detailed its three main concerns with PSE's filing. First, like RNP/NWEC, Commission Staff is concerned about the differing methods each of the utilities relied on for calculating the incremental cost of eligible renewable resources under RCW 19.285.050(1)(b) and WAC 480-109-030(1). Staff recommends provisional acceptance of each utility's reported calculations for 2013 but seeks additional time to work with the utilities, the Department of Commerce, and other stakeholders to refine and develop a uniform methodology for future compliance filings.
- 19 Second, following PSE's revised filing acknowledging the company's share of incremental generation at Grant County's Wanapum facility, Staff raised concerns with Grant County's model for incremental hydroelectric generation at the Wanapum Dam. Although Staff notes improvements in Grant County's approach from 2012, Staff believes the model continues to suffer from a misrepresentation of the historical average because of the selected time period (1978 to 1990) to establish that average. Staff is pursuing these concerns with the State Auditor's office and recommends against finalizing PSE's 2012 compliance until this issue is resolved. Staff points out that PSE has until June 1, 2014, to request a final compliance determination for 2012 in Docket UE-120802.

20 Staff raised an additional concern in the Open Meeting based on information discovered after drafting its memo. Staff reviewed testimony from a previous PSE proceeding in another docket that indicated that the Company was acquiring RECs from a biogas facility, but the Company did not report any RECs from that facility in its RPS filings. RCW 19.285.070(1) requires a qualifying utility's RPS report to include "the amount of megawatt-hours of each type of eligible renewable resource acquired," and Staff believed that if the biogas facility was producing RECs that the Company had not reported, then PSE had not met its reporting requirements. If PSE could explain to the Commission's satisfaction why it had not claimed any RECs from the facility, and confirm that there were no additional eligible renewable resources, Staff was willing to stand by the recommendation in its memo indicating that PSE had complied with its reporting requirements.

21 PSE stated that the company did not claim any RECs from the biogas facility because the biogas can be used to generate Renewable Identification Numbers (RINs), which are used by refiners to comply with the federal Renewable Fuels Standard. PSE stated that RINs have a higher value than RECs, so the Company can earn more money for ratepayers by generating RINs, and is in the process of becoming certified to do so. Commission Staff will report back to the Commission at a future open meeting regarding its investigation into any additional eligible renewable resources.

3. Commission Decision

22 The Commission accepts PSE's calculation of its renewable energy target for 2013 and determines that the Company has identified sufficient resources to meet that target. The Commission will make its final determination on whether PSE has met its 2013 target when the Company requests such a finding, which PSE must make no later than June 1, 2015.

23 The Commission agrees with PSE, RNP/NWEC, and Commission Staff that the methodology PSE used to calculate incremental electricity from hydropower efficiency improvements, as well as the numbers PSE has derived from using the methodology, are acceptable for determining whether PSE has met its 2013 renewable energy target under RCW 19.285.040(2)(a)(i). For the purpose of meeting the June 1, 2013 reporting requirements only, the Commission accepts the conclusions PSE reached in its RPS Report but may determine in the future that a different method is more appropriate for determining EIA compliance in other years. Staff will review PSE's use of Method 3 and recommend any necessary modifications when PSE files its 2014 report.

24 The Commission notes the concerns of RNP/NWEC and Commission Staff regarding the manner in which utilities calculate the incremental cost of eligible renewable resources. The Commission directs the Staff to engage with PSE, Avista, and PacifiCorp to develop a uniform, acceptable methodology for making the “incremental cost” calculation, either through rulemaking or informal workshops.

D. Discussion of 2014 Targets

25 As required by Commission rule, PSE also described “the steps [it] is taking to meet the renewable resource requirements for the current year.”²⁵ NWEC/RNP argued that this language also requires the Company to report on the progress in 2013 toward meeting the January 1, 2014 target. Staff disagreed, stating that the term “current year” in this regulatory requirement means that the utility must demonstrate its progress toward meeting the 2013 requirement. We agree with Staff on this point and will not require PSE to describe its steps toward meeting the 2014 target in this filing.

FINDINGS AND CONCLUSIONS

- 26 (1) The Washington Utilities and Transportation 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 electrical companies.
- 27 (2) PSE is an electrical company and a public service company subject to Commission jurisdiction.
- 28 (3) PSE serves more than 25,000 customers within the State of Washington, and it is a “qualifying utility” within the meaning of RCW 19.285.030(18).
- 29 (4) PSE has properly calculated its renewable energy target for 2013 to be 639,514 megawatt-hours.
- 30 (5) All of the hydroelectric facilities listed in PSE’s RPS Report are located in the Pacific Northwest, and all are owned by a qualifying utility. All of the hydroelectric efficiency improvements listed in PSE’s RPS Report were completed after March 31, 1999. PSE has demonstrated that, as of January 1, 2013, it had the right to at least 4,631 megawatt-hours of eligible renewable resources attributable to these hydroelectric efficiency improvements to apply

²⁵ WAC 480-109-040(1)(d).

toward its 2013 target. PSE will also have a prorated amount of generation from upgrades at the Company's Snoqualmie Falls and Lower Baker facilities available for use in 2013; the exact amount will be determined in the Company's 2014 filing based on when the facilities enter service.

- 31 (6) All of the wind facilities listed in PSE's RPS Report are located in the Pacific Northwest and will have commenced operation after March 31, 1999. The electricity they generate is an eligible renewable resource. PSE's Wild Horse Phase II, Lower Snake River – Dodge Junction, and Lower Snake River – Phalen Gulch facilities are eligible for the apprenticeship credit permitted under RCW 19.285.040(2)(h), under which a utility may count the energy at 1.2 times its base value; PSE is claiming additional apprenticeship credits for these facilities at this time. PSE has demonstrated that, as of January 1, 2013, it had the right to at least 1,354,191 megawatt-hours of eligible wind renewable resources attributable to these wind facilities to apply toward its 2013 target.
- 32 (7) By January 1, 2013, PSE had used or acquired sufficient eligible renewable resources to supply at least three percent of its load for the remainder of 2013.
- 33 (8) PSE has met the reporting requirements of RCW 19.285.070 and WAC 480-109-040(1), including PSE's plan for meeting its RPS obligation for the remainder of 2013.
- 34 (9) Pursuant to WAC 480-109-040(5), PSE must provide a summary of its RPS Report to its customers, by bill insert or other suitable method, within ninety days of the date of this Order 01.
- 35 (10) The Commission makes no findings or conclusions concerning whether Grant County Public Utility District has complied with the EIA.
- 36 (11) The Commission directs PSE to work with the other electric utilities and the Staff to develop a uniform, acceptable methodology for making the "incremental cost" calculation, either through rulemaking or informal workshops.

ORDER

THE COMMISSION ORDERS:

- 37 (1) The Commission accepts the calculation of 639,514 megawatt-hours as the 2013 renewable energy target for Puget Sound Energy, Inc.

- 38 (2) Puget Sound Energy, Inc., has identified eligible renewable resources and renewable energy credits sufficient to supply at least three percent of its load for 2013.
- 39 (3) Puget Sound Energy, Inc., has complied with the June 1, 2013, reporting requirements pursuant to WAC 480-109-040.
- 40 (4) Puget Sound Energy, Inc., must file a second report no later than June 1, 2015, that provides the information necessary to determine whether PSE met the 2013 renewable energy target of 639,514 megawatt-hours.

DATED at Olympia, Washington, and effective September ____, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

JEFFREY D. GOLTZ, Commissioner