

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKET UE-100177

COMMISSION STAFF
COMMENTS ON PUGET SOUND
ENERGY'S RE-FILED REPORT

1 As requested in the July 1, 2010 Notice of Opportunity to Comment in this docket, Washington Utilities and Transportation Commission Staff (“Staff”) hereby provides comments about Puget Sound Energy’s (“PSE’s”) re-filed “Report Identifying PSE’s Ten-Year Achievable Conservation Potential and Biennial Conservation Target” (“Re-filed Report”), which PSE filed on June 18, 2010. Staff also provides a recommendation about how the Washington Utilities and Transportation Commission (“Commission”) should proceed in determining “whether to approve, approve with conditions, or reject” PSE’s ten-year achievable conservation potential and biennial conservation target under WAC 480-109-010(4)(c).

COMMENTS

A. Puget Sound Energy’s Re-Filed Report Complies With the Requirements in the Commission’s Order 04.

2 On June 4, 2010, the Commission issued Order 04 in this docket. In Paragraph 68,

the Commission directed:

We find that PSE's biennial target in its [January 29, 2010] Report is inconsistent with the potential projection the Company identified, in its December 31 e-mail. Therefore, we grant Staff's and NWEC's Motions on this issue. A utility must still comply with the Act and our rules governing its Report even if it modifies its original potential projection. As a result, we reject PSE's Report and find that PSE should re-file its Report in compliance with the Act and our rules within ten business days following the effective date of this order. Specifically, PSE's Report should contain a ten-year conservation potential that is either based on its December 31 projection or based on its December 31 projection with modification. Should PSE modify this projection, it shall explain why such a modification is necessary, including any material changes in circumstances that have occurred since its December 31 filing that have affected its original projection of conservation potential. PSE must also file a new biennial target that is consistent with its potential projection filed in its December 31 e-mail.¹

In Paragraph 104, the Commission said “the details necessary for PSE to demonstrate its burden” of proof during the Commission’s review process under WAC 480-109-010(4) “guides the utility on the detail it needs to file with its Report.”

3

In its Re-filed Report, PSE identified a ten-year achievable conservation and biennial conservation target that are consistent with Paragraph 68 of Order 04. The ten-year conservation potential is based on PSE's December 31 projection, and the biennial target is consistent with the potential projection filed in PSE's December 31 e-mail. PSE submitted ten attachments with background about how those numbers were derived, as suggested in Paragraph 104. PSE's Re-filed Report complies with the requirements in the Commission's Order 04.

¹ See also Order 04 ¶¶ 99, 105, 135, 142.

B. The Commission Should Allow the Parties to Develop Conditions for Approval of PSE's Ten-Year Achievable Conservation Potential and Biennial Conservation Target.

4 Though the Commission's June 4 Order 04 was a "Final Order" for purposes of RCW 34.05, it is not the final act of the Commission with respect to Puget Sound Energy's ten-year achievable conservation potential and 2010-2011 biennial conservation target. Under RCW 19.285.040(1)(e), the Commission has authority to approve investor-owned utility conservation targets. That step has not yet occurred in this case.

5 WAC 480-109-010(4) describes the process for the Commission's final decision. The rule provides that the Commission may make its decision during an open public meeting or through some other process. According to WAC 480-109-010(4)(c), the Commission may attach conditions to any approval:

 Upon conclusion of the commission review, the commission will determine whether to approve, approve with conditions, or reject the utility's ten-year achievable conservation potential and biennial conservation target.

6 The Commission approved Avista's ten-year achievable conservation potential and biennial conservation target during an Open Meeting, with conditions that were developed through negotiation.² Staff has used a similar process for PacifiCorp and expects to recommend approval with conditions at an Open Meeting.³ The conditions in the Avista order, which include schedules for reporting and public involvement, are designed to provide the Commission with the information it needs to carry out its statutory responsibility of determining compliance with RCW 19.285.⁴ Should the Commission decide to approve the ten-year potential and biennial target identified in PSE's Re-filed Report, Staff believes

² *In re Avista Corp.*, Docket UE-100176, Order 01 (May 13, 2010).

³ *See In re Pacific Power & Light Co.*, Docket UE-100170.

⁴ *See* RCW 19.285.060; *In re Avista Corp.*, Docket UE-100176, Order 01 (May 13, 2010) at ¶¶ 57-67.

the approval should be subject to conditions. Such conditions could, for example, incorporate Paragraphs 51, 132, and 138 of Order 04, which state that, in the future, PSE should file its projected ten-year conservation potential with the Commission and should provide program details if the potential is based on PSE's integrated resource plan.

7 Staff's intent is that the remaining steps for a final determination on PSE's ten-year achievable conservation potential and biennial conservation target be handled as an Action Item through the Commission's Open Meeting process. Under that procedure, Staff would seek input from interested parties, including PSE, to develop conditions for approval, to be presented to the Commission at an Open Meeting.

8 Staff recommends that the Commission direct the parties to develop proposed conditions for approval of PSE's ten-year achievable conservation potential and biennial conservation target, for presentation to the Commission no later than the September 16, 2010 Open Meeting. The Commission should encourage the parties to seek agreement on a proposed conditions list.

CONCLUSION

9 The Commission should find that Puget Sound Energy's Re-filed Report complies with the requirements in the Commission's Order 04. All of the legal issues that were presented to the Commission in the parties' motions for summary determination have been resolved. The remaining steps for the Commission's final determination on "whether to approve, approve with conditions, or reject [PSE's] ten-year achievable conservation potential and biennial conservation target"⁵ can be addressed through the Commission's Open Meeting process. The Commission should encourage the parties to seek agreement on

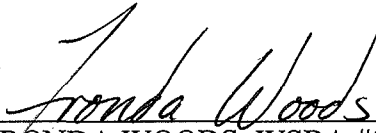
⁵ WAC 480-109-010(4)(c).

conditions for approval of PSE's ten-year achievable conservation potential and biennial conservation target. The Commission should direct the parties to develop proposed conditions for approval, for presentation to the Commission no later than the September 16, 2010 Open Meeting.

DATED this 9th day of July 2010.

Respectfully submitted,

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