

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	
	)	DOCKET NOS. UG-040640 and UE-
Complainant,	)	040641 (consolidated)
v.)	
)	
PUGET SOUND ENERGY, INC.,)	
)	
Respondent.)	
.....)	
In the Matter of the Petition of	)	DOCKET NO. UE-031471
PUGET SOUND ENERGY, INC.,	)	(consolidated)
)	
For an Order Regarding the)	
Accounting Treatment For Certain)	
Costs of the Company's Power Cost)	
Only Rate Filing)	
.....)	
In the Matter of the Petition of	)	DOCKET NO. UE-032043
PUGET SOUND ENERGY, INC.,	)	(consolidated)
)	
For an Accounting Order Authorizing	)	ORDER NO. 07: GRANTING IN
Deferral and Recovery of Investment	)	PART AND DENYING IN PART
and Costs Related to the White River	)	MOTIONS FOR CLARIFICATION;
Hydroelectric Project	)	DENYING PETITION FOR
.....	)	RECONSIDERATION

Synopsis: The Commission clarifies Order No. 06 in these proceedings by correcting an error in the calculation of PSE's power costs. The Commission rejects PSE's request for "clarification" with respect to the determination of normalized rate case expense, and Public Counsel and ICNU's Joint Motion for clarification with respect to the "mechanism for collecting deferred accounts." The Commission denies Public Counsel and ICNU's Joint Petition for Reconsideration concerning the amount of rate case expense to be reflected in rates. The result of the Commission's decisions here is to

increase the previously determined electric revenue requirement deficiency by \$1,096,821.

SUMMARY

- 1 **PROCEEDINGS:** The Commission entered Order No. 06, its Final Order in these consolidated dockets, on February 18, 2005. On February 25, 2005, Puget Sound Energy, Inc. (“PSE” or “the Company”) filed its Motion for Clarification pursuant to WAC 480-07-835. PSE asks the Commission to clarify two matters set forth in Order No. 06. One matter concerns the calculation of power costs. The other matter concerns the determination of a normalized level of rate case expense to be recovered prospectively in PSE’s rates.

- 2 Public Counsel and ICNU filed their Joint Petition for Reconsideration and Clarification on February 28, 2004. These parties ask us to clarify the mechanism by which PSE will collect that portion of its rate case expense the Commission authorized for recovery via amortization. They also ask that we reconsider our determination in Order No. 06 not to expressly disallow a portion of PSE’s rate case expense.

- 3 **PARTY REPRESENTATIVES:** Kirstin S. Dodge and Jason Kuzma, Perkins Coie, Bellevue, Washington, represent PSE. Michael L. Kurtz and Kurt J. Boehm, Boehm, Kurtz & Lowry, Cincinnati, Ohio, represent the Kroger Co., on behalf of its Fred Meyer Stores and Quality Food Centers divisions (collectively “Kroger”). Elaine L. Spencer, Graham & Dunn PC, Seattle, Washington, represents Seattle Steam Company (“Seattle Steam”). S. Bradley Van Cleve and Matthew W. Perkins, Davison Van Cleve, Portland, Oregon, represent the Industrial Customers of Northwest Utilities (“ICNU”). Norman Furuta, Department of the Navy, represents the Federal Executive Agencies (“FEA”). John Cameron, Davis Wright Tremain, LLP, Portland, Oregon, represents AT&T Wireless Services, Inc. (“AWS”) and Cost Management Services, Inc. (“CMS”). Edward A. Finklea and Chad M. Stokes, Cable Huston Benedict Haagensen & Lloyd LLP, Portland,

Oregon, represent Northwest Industrial Gas Users (“NWIGU”). Danielle Dixon, Senior Policy Associate, NW Energy Coalition (“NWECC”), represents the NWECC. John O’Rourke, Director, Citizens’ Utility Alliance (“CUA”), represents the CUA. Ronald L. Roseman, Attorney, Seattle, Washington, represents Energy Project and A World Institute for a Sustainable Humanity (“A W.I.S.H.”). Simon ffitich, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section of the Washington Office of Attorney General (“Public Counsel”). Robert C. Cedarbaum, Senior Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (“Commission Staff or Staff”).¹

COMMISSION DECISIONS: The Commission clarifies Order No. 06 by correcting an error in the calculation of PSE’s power costs. The Commission denies PSE’s Motion with respect to rate case expense, and Public Counsel and ICNU’s request that we “clarify the mechanism for collecting deferred accounts.” We deny Public Counsel and ICNU’s Joint Petition for Reconsideration of our determination to not expressly disallow a portion of PSE’s rate case expense as proposed by ICNU’s witness, Mr. Schoenbeck, and otherwise advocated on brief.

MEMORANDUM

I. Power Cost Calculation

- 4 The Company states that the Commission erred in its calculation of PSE's pro forma test year power costs with respect to the disallowance associated with Tenaska. PSE points out that the Commission's calculation incorporated the rate of return the Company requested in this case, 7.78% net of tax per PSE’s rebuttal

¹ In formal proceedings, such as this case, the Commission’s regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an “*ex parte* wall” separating the Commissioners, the presiding ALJ, and the Commissioners’ policy and accounting advisors from all parties, including Staff. *RCW 34.05.455*.

case, rather than the net of tax rate of return established by Order No. 6, which is 7.01%. PSE states that the authorized rate of return should be input into the power cost baseline calculations.

5 PSE shows the impact of applying the lower rate of return in “Attachment A” to its Motion. The change in the rate year Tenaska disallowance and the impact for PSE’s rate year power costs results in test year power costs that are lower by \$7,719,364. PSE states that correcting for these lower test year costs result in a decrease in net operating income (“NOI”) of \$53,713,400, rather than the \$53,032,522 reflected in Order No. 06. PSE says: “The difference between these two amounts is \$680,000, which is 50% of the change in the test year return on Tenaska due to the change in the net of tax rate of return.”²

6 PSE asks us to clarify that the electric revenue requirement deficiency set forth in Order No. 06 should be increased by \$1,096,821.³ The Company states its understanding that Staff and ICNU agree that this correction to the power costs approved in Order No. 06 should be made.

7 PSE is correct that the Commission should have used the net of tax rate of return established by Order No. 6, which is 7.01%, in its power cost calculations. As recalculated using the correct rate of return factor, electric Adjustment 2.03—Power Costs, is a decrease in NOI of \$53,713,400. We clarify Order No. 06 to reflect this recalculation of the power cost adjustment and find that the electric revenue requirement deficiency is \$1,096,821 higher than previously determined.

II. Rate Case Expense

8 The second “clarification” PSE seeks concerns our determination of the normalized level of rate case expense to be included prospectively in rates. PSE

² PSE Motion at 3 (citing Attachment A, lines 34 and 48).

³ \$680,878 divided by the conversion factor of 62.0774% equals \$1,096,821.

states its belief that we need to “correct the application of principle to data,” as expressly provided in WAC 480-07-835.

- 9 In Order No. 06, we accepted Staff’s recommendation for the treatment of rate case expense. The results of applying the principles on which we relied are correctly stated in Order No. 06. Thus, there is no error that we need to correct insofar as the application of principle to data is concerned. Accordingly, as discussed in more detail below, we conclude that PSE’s Motion for Clarification, in this regard, should be denied.
- 10 PSE states its belief that our intent in Order No. 06 was to determine normalized rate case expense by first adding its full costs incurred in this proceeding (*i.e.*, \$3,054,844 in costs incurred both before and after August 2004) to one-half of the costs of its 2003 PCORC proceeding (*i.e.*, \$650,000), then dividing the result by 3. As PSE points out, however, the Commission’s discussion and calculation in Order No. 06 of a normalized level of rate case expense going forward does not include the \$1,540,590 in costs PSE incurred in this case through August 2004. PSE states that this results “in an effective disallowance or reduction in the level of rate case costs of nearly 50%,” despite the Commission’s express rejection of proposals by various parties to disallow approximately that amount of PSE’s actual rate case expense.⁴
- 11 In Order No. 06, we accepted Staff’s case on this point and based our determination of normalized expense on the post-August 2004 costs PSE incurred in this proceeding, plus a portion of PSE’s 2003 PCROC costs, as discussed above. We allowed for recovery of PSE’s rate case costs through August 2004 via deferral and amortization, again adopting Staff’s recommendation on this issue. Our rejection in Order No. 06 of arguments by ICNU, supported by Public Counsel and NWIGU, that we should disallow a portion of PSE’s rate case expenses, did not represent an alteration of the

⁴ PSE Motion at 4-5.

methodology proposed by Staff and accepted by the Commission for purposes of setting rates in this proceeding.

- 12 Anticipating the obvious objection to its request for clarification on this point, PSE states that:

Restoring the costs incurred through August 2004 to the baseline from which a normalized level of general rate case costs is calculated would not constitute double recovery of this amount because the calculations involve two entirely separate sets of costs. The Commission's authorization of recovery of prior rate case costs through August 2004 results in recovery of costs that have already been incurred and were deferred for future recovery. By contrast, the normalized level of rate case costs represents costs that the Company is expected to incur on an ongoing basis going forward that should be built into and collected in rates on an ongoing basis. Even if the Commission grants the Company's motion for clarification on this issue, Order No. 6 will result in a write-off of the actual costs the Company incurred for this proceeding after August 2004.

- 13 We allowed PSE to include its rate case expenses incurred through August 2004 in prospective rates via amortization. The amortization amount, unless revised in a subsequent rate proceeding, will remain embedded in rates even after full recovery of these costs. To that extent, these costs will be reflected as part of the Company's ongoing rate case expense recovery. Because the timing of future rate case filings is uncertain, we would risk allowing excessive recovery of rate case expense were we to authorize both the amortization of the pre-September 2004 costs and allow them to be included in the calculation of normalized expense going forward.
- 14 When PSE files future rate cases, whether before or after the deferred balance is fully recovered, the Commission can revisit the question of normalized rate case expense on a new record. In the present case, we reached a fair and balanced

result considering the facts before us. We would not change that result, even were we to construe PSE's Motion in this regard to be one for reconsideration.⁵

- 15 We emphasize that the methodology we approved to resolve this issue in Order No. 06 is a transition mechanism. Any write-off of the actual costs the Company incurred for this proceeding simply is a consequence of PSE's inappropriate treatment of these costs in the past coupled with the Commission's decision to accept Staff's argument that we should order appropriate treatment of rate case expense going forward, yet give PSE the benefit of the doubt with respect to certain costs that never should have been deferred in the first place.
- 16 Our discussion above also responds to Public Counsel and ICNU's request for clarification by again explaining the mechanism by which rate case expenses are to be reflected in rates, as set forth in Order No. 06. We see no need for further explication on this point.
- 17 We turn next to Public Counsel and ICNU's Joint Petition for Reconsideration. ICNU, through Mr. Schoenbeck, recommended that Puget be allowed to recover only 50% of its outside legal and consulting expenses for activities determined by the Commission to be prudent.⁶ ICNU argued that PSE's legal costs and outside consulting costs had become excessive and that the Company had no incentive to control costs.⁷ Public Counsel and NWIGU supported ICNU on brief.
- 18 Although these parties, and even Staff whose proposal we adopted on this issue, "raised concerns about the level of expense" PSE incurred in prosecuting this case, we do not find that the evidence in our record, on balance, supports a

⁵ WAC 480-07-395(4); WAC 480-07-850. PSE states: "in the event the Commission intended the rate case cost results set forth in Order No. 6, the Company is not seeking reconsideration of the Commission's decision." PSE Motion at ¶ 14.

⁶ Exh. No. 371HC at 29:11-13.

⁷ We note that Staff also commented unfavorably on PSE's high levels of spending for outside counsel and consultants in rate proceedings.

finding that some specific part of PSE's costs were unreasonable or imprudent.⁸ The Commission addressed these parties' concerns by adopting Staff's recommendation to allow for recovery of only a portion of the costs PSE incurred in this proceeding via deferral and amortization, and future rate case costs as an expense. Adopting Staff's transition approach in this proceeding means that PSE will not recover its post-August 2004 rate case expenses via deferral and amortization. PSE states in its Motion for Clarification that "[t]his results in an effective disallowance or reduction in the level of rate case costs of nearly 50% (2004 total rate case costs of \$3,054,844 less costs incurred through August 2004 of \$1,540,590)."

- 19 Looking to the future, our determination that PSE will recover rate case costs as a normalized expense means the Company will have an incentive to keep its costs down. In addition, we believe that the Commission's analysis of this issue in Order No. 06 will signal PSE that it should consider in future cases imposing tighter controls on its costs.
- 20 In sum, we are not persuaded by Public Counsel and ICNU's arguments to reconsider our determinations in Order No. 06 concerning the treatment of rate case expense. We conclude that Public Counsel and ICNU's Joint Petition for Reconsideration should be denied.

III. Summary

- 21 On the basis of our preceding discussion we clarify Order No. 06 and find that PSE's electric revenue requirement deficiency is higher than previously stated by \$1,096,821. PSE should be allowed to recover this additional revenue requirement deficiency in the rates established via the Company's compliance filing in this Docket.

⁸ It is noteworthy in this regard that Mr. Schoenbeck's proposal to disallow a portion of PSE's costs does not depend on an assertion that the costs are imprudent.

ORDER

THE COMMISSION ORDERS THAT:

- 22 (1) Order No. 06 in this proceeding is clarified and revised to the extent
necessary to reflect our determinations in this Order.
- 23 (2) Public Counsel and ICNU's Joint Petition for Reconsideration is denied.
- 24 (3) The Commission Secretary is authorized to accept by letter, with copies to
all parties to this proceeding, a filing that complies with the requirements
of this Order considered together with Order No. 06.
- 25 (4) The Commission retains jurisdiction to effectuate the terms of this Order
and its prior Orders in this proceeding.

DATED at Olympia, Washington, and effective this 28th day of February 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner