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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

)	
In the Matter of the Petition of)	No.: U-111663
PUGET SOUND ENERGY,)	COMMENTS IN SUPPORT OF PSE’S
For a Declaratory Order of the Extra Credits)	PETITION BY PENINSULA LIGHT
for Apprenticeship Labor Provision of RCW)	COMPANY
19.285.040(2)(h))	
)	

INTRODUCTION

The following comments are submitted on behalf of Peninsula Light Company (“Peninsula”) in response to the Commission’s September 20, 2011 notice to “Interested Persons” of an opportunity to submit comments on the Petition of Puget Sound Energy (Docket U-111663) for a declaratory ruling interpreting Chapter 19.285.040(2)(h) of the Washington Energy Independence Act (the “Act”), providing extra credits for use of apprentice labor.

Peninsula is an electric cooperative that provides electric distribution service to more than 25,000 customers in West Pierce County. Peninsula’s service areas include the areas west of the Tacoma Narrows Bridge up to Kitsap County line, including the City of Gig Harbor and the Key Peninsula.

1 Peninsula wishes to be absolutely clear that it does not seek intervenor status in this
2 proceeding. There is no reason to intervene because Peninsula is a not-for-profit electric
3 cooperative and, as such, the PSE's Petition and the WUTC's ruling on the Petition have no
4 applicability to Peninsula under the Act. These Comments are offered only to provide a helpful
5 perspective to the Commission because Peninsula faces some of the same issues under the Act as
6 PSE. I.e., Peninsula is a qualifying utility that has acquired an eligible resource using apprentice
7 labor and like PSE is entitled to the extra or bonus credits under RCW 19.285.040(2)(h).
8

9 Peninsula would like to be placed on the list of Interested Persons to receive any notices
10 provided to Interested Persons in this proceeding. All such notices should be sent to the
11 following individuals:

12 13 14 15 16	Joel C. Merkel 1001 4 th Ave., Suite 4050 Seattle, WA 98154 206-389-8240 joel@merkellaw.com	Ray Grinberg Power Manager Peninsula Light Company P.O. Box 78 Gig Harbor, WA 98335-0078 253-857-1548 Ray@penlight.org
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17 **COMMENTS OF PENINSULA LIGHT COMPANY**

18 Peninsula is a "qualifying utility" under the Act and as such is subject to the requirements
19 of the Act. As a not-for-profit consumer owned electric cooperative, Peninsula's compliance
20 with the Act is not subject to the jurisdiction of the WUTC and the outcome of this proceeding is
21 not applicable to or enforceable by the WUTC on Peninsula. Under RCW 19.285.060 (7) the
22 responsibility for compliance by Peninsula is with its governing board and its auditor and
23 enforcement is the responsibility of the Washington attorney general, as follows:
24

1 (7) For qualifying utilities that are not investor-owned utilities, the auditor is responsible
2 for auditing compliance with this chapter and rules adopted under this chapter that apply
to those utilities and the attorney general is responsible for enforcing that compliance.

3 However, Peninsula is an Interested Person in this proceeding because, like PSE,
4 Peninsula is a qualifying utility that is required to “use eligible renewable resources” to meet
5 specified percentages of its load beginning in 2012. In addition, like PSE, Peninsula has
6 acquired and owns eligible renewable resources using apprentice labor that qualify for the 20%
7 additional credit specified in RCW 19.285.040(2)(h). Peninsula may in the future acquire and
8 own additional eligible renewable resources utilizing apprentice labor. As such, Peninsula will
9 face similar compliance issues internally and with the Washington Attorney General to the issues
10 that PSE is addressing in its Petition.
11

12 Peninsula agrees with PSE’s interpretation of RCW 19.285.040(2)(h), and expects to
13 take a similar position in the compliance reports that Peninsula is required to file with the
14 Department of Commerce under WAC 194-37. As PSE notes, the applicable provision in the
15 statute is RCW 19.285.040(2)(h), which provides an incentive for use of apprentice labor in the
16 development of renewable facilities. The provision reads as follows:
17

18 (i) A qualifying utility that *acquires an eligible renewable resource*
19 *or renewable energy credit* may count that acquisition at one and
two-tenths times its base value:

20 (A) Where the eligible renewable resource comes from a facility
21 that commenced operation after December 31, 2005; and

22 (B) Where the developer of the facility *used apprenticeship*
23 *programs approved by the council during facility construction.*

24 (ii) The council shall establish minimum levels of labor hours to be 19
25 met through apprenticeship programs to qualify for this extra 20
credit.

1 (Emphasis added.)
2

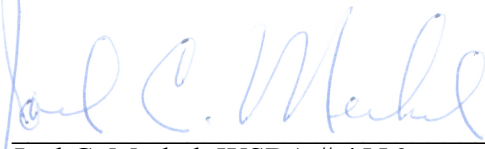
3 This provision clearly allows a qualifying utility that “acquires” an eligible resource (or
4 RECs from an eligible resource) to take a 20% bonus credit from that “acquisition” toward its
5 percentage requirement. Like PSE, Peninsula has acquired eligible renewable resources
6 constructed with apprentice labor. To the extent that PSE, or any other qualifying utility, has
7 acquired an eligible resource or has entered into a bundled power purchase agreement from an
8 eligible resource, it owns and is entitled to “take” the apprenticeship bonus. PSE correctly states
9 that this bonus credit is not an “environmental” or “non-power” attribute. It is an entirely
10 separate property interest or right created by the statute, the purpose of which was to encourage
11 “creat[ing] high quality jobs in Washington,” RCW 19.285.020.
12

13 Peninsula agrees with PSE that as long as any sale to a third party of RECs from an
14 eligible resource acquired by a qualifying utility does not result in double counting of the bonus
15 apprenticeship credit, it may be used by the qualifying utility toward its I-937 requirement. The
16 additional credit is a property interest created by the Act that is entirely severable from the REC
17 itself and any environmental or “non-power” attributes that may be sold to a third party with the
18 REC. In that circumstance, the bonus credit may still be used by the qualifying utility that
19 acquired the eligible resource, but may have sold the REC itself.
20

21 Any other interpretation undermines the incentive of qualifying utilities to acquire or
22 construct facilities using apprentice labor and therefore undermines one of the stated purposes of
23 the Act.

24 The Commission should grant the relief requested by PSE in its Petition.
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1 Dated this 28th day of September, 2011.

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4 Joel C. Merkel, WSBA # 4556
5 Attorney for Peninsula Light Company

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COMMENTS OF PENINSULA LIGHT COMPANY - 5

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