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May 23, 2007

VIA EMAIL AND OVERNIGHT MAIL

Ms. Carole J. Washburn
Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
Olympia, WA 98504

**Re: Puget Sound Energy, Inc.'s Petition for Accounting Order
(Residential Exchange Credit)**

Dear Ms. Washburn:

Enclosed for filing are the original and twelve (12) copies of the Petition of Puget Sound Energy, Inc. for an Accounting Order Authorizing Deferred Accounting Treatment for Residential and Farm Energy Exchange Benefit Amounts Credited to Customers that Have Not Been Reimbursed by Bonneville Power Administration, and a Proposed Order.

We are also filing this electronically today.

Very truly yours,

Sheree Strom Carson

SSC:cgm

Enclosures

cc: Bob Cedarbaum
Simon ffitc

91004-1100/LEGAL13270003.1

**BEFORE THE
WASHINGTON UTILITIES & TRANSPORTATION COMMISSION**

In the Matter of the Petition of

PUGET SOUND ENERGY, INC.

For an Accounting Order Authorizing Deferred
Accounting Treatment for Residential and
Farm Energy Exchange Benefit amounts
credited to customers that have not been
reimbursed by Bonneville Power
Administration

Docket No. UE-07 _____

PETITION OF
PUGET SOUND ENERGY, INC.
FOR AN ACCOUNTING ORDER

I. INTRODUCTION

1. In accordance with WAC 480-07-370(b), Puget Sound Energy, Inc. ("PSE" or the "Company") respectfully petitions the Commission for an order that authorizes the deferred accounting treatment detailed in this Petition related to Schedule 194 - Residential and Farm Energy Exchange Benefit.

2. PSE requests that the Commission issue the requested order authorizing the deferred accounting treatment for the amounts credited to customers under Schedule 194 that have not been reimbursed by Bonneville Power Administration ("BPA")

commencing as of the date the Schedule 194 tariff changes to zero. This filing reflects the recent decision by BPA to suspend payments under the Amended Settlement Agreement¹ due to the uncertainties created by the recent decisions by the United States Court of Appeals for the Ninth Circuit (the "Ninth Circuit").

3. PSE is requesting in this Petition that the Commission approve:

(1) deferred accounting treatment for the amounts credited to customers under Schedule 194 that have not been reimbursed by BPA; (2) the monthly booking of carrying charges on that deferral at PSE's approved net of tax rate of return until the deferral is recovered; and (3) amortization of the total deferred balance including carrying charges over a time period to be determined in the Company's next General Rate Case ("GRC").² (The total deferred balance to be amortized might be reduced by any future Residential Exchange benefits received by PSE, but any such reduction will be dependent on future events.)

4. This accounting treatment is necessary for PSE to recover the amounts credited to customers that have not been reimbursed by BPA. These amounts credited to customers, and the associated carrying costs, would not otherwise be recovered absent the Commission approval of the deferral accounting treatment requested herein. The Commission will have before it in the next GRC, the evidence and arguments necessary

¹ Amended Settlement Agreement, Contract No. 01PB-10885 (including the Firm Block Power Sales Agreement, Contract No. 01PB-10886), as such agreement is heretofore or hereafter supplemented or amended, between PSE and BPA.

² PSE is required to file a GRC no later than April 15, 2008, after the conclusion of Docket No. UE-070565.

to address the rate treatment issues, and it will be able to rule upon the recovery period in that proceeding.

5. PSE is engaged in the business of providing electric and gas service within the State of Washington as a public service company, and is subject to the regulatory authority of the Commission as to its retail rates, service, facilities and practices. Its full name and mailing address for purposes of this proceeding are:

Puget Sound Energy, Inc.
Attn: Karl R. Karzmar
Director, Regulatory Relations
P.O. Box 97034
Bellevue, Washington 98009-9734

PSE's representative for purposes of this proceeding is:

Sheree Strom Carson
Perkins Coie LLP
10885 N.E. Fourth Street, Suite 700
Bellevue, WA 98004-5579
Phone: 425-635-1422
Fax: 425-635-2400
scarson@perkinscoie.com

6. Rules and statutes that may be brought at issue in this Petition include RCW 80.01.040, RCW 80.28.020, and WAC 480-07-370(b).

II BACKGROUND

7. Schedule 194 reflects a pass through of the benefits provided to PSE for its residential and small farm customers received under the Amended Settlement Agreement. These benefits have been in the form of monthly payments from BPA to PSE. PSE received the most recent payment under the Amended Settlement Agreement

of \$8,789,062 on April 30, 2007. As discussed above, BPA has notified PSE that further payments have been suspended.

8. In the Ninth Circuit's recent opinions of May 3, 2007, in *Golden Northwest Aluminum v. Bonneville Power Administration*, No. 03-73426 ("*Golden Northwest*"), and *Portland General Electric Company v. Bonneville Power Administration*, No. 01-70003 ("*PGE*"), the Ninth Court concluded that certain BPA actions in entering residential exchange settlements with the region's investor owned utilities were not in accordance with law. On May 21, 2007, BPA notified the region's investor-owned utilities that BPA concluded that the uncertainty created by the Ninth Circuit's decisions means that BPA must immediately suspend payments (including conservation and renewable discounts and any other credits) under the challenged BPA agreements pending final decisions by the Ninth Circuit in the outstanding Ninth Circuit challenges. Attached as Exhibit A to this Petition is a copy of BPA's letter notifying the Company of the suspension of payments.

9. The credit under Schedule 194 has been determined based on the expected Amended Settlement Agreement benefits to be received from BPA over a future time period. The credit is an average for the twelve-month time period ending September 30, each year based on the payments from BPA expected to be received on a monthly basis. The difference between the amount credited to customers and the amount received from BPA is tracked using various balance sheet accounts. Due to timing differences between the Schedule 194 credit and receipt of payments from BPA, at any point in time there may be (i) moneys received from BPA that have not yet been passed through to

customers or (ii) Company moneys that have been credited to customers but payments have not yet been received from BPA. The level of the credit has been designed such that, over the total time period that the credit was expected to be in effect, customers would receive all Amended Settlement Agreement benefits received from BPA.

10. As of April 30, 2007, the Company has credited customers eligible for Schedule 194 \$24,710,240 more than received by PSE from BPA. Coincident with the filing of this petition, and due to the uncertainties created by the decisions of the Ninth Circuit and BPA's letter notifying the Company of the suspension of payments, the Company filed tariff revisions to discontinue paying the Schedule 194 credits effective May 31, 2007. By the end of May 2007, it is estimated that the Company will have credited such customers approximately \$32 million more than the Amended Settlement Agreement benefits received from BPA. In light of BPA's suspension of payments under the Amended Settlement Agreement, this \$32 million amount credited to customers by PSE will have been funded by the Company. This Petition seeks deferred accounting treatment for all the amounts credited to customers under Schedule 194 that have not been reimbursed by BPA.

11. The current credit became effective October 1, 2006. Because PSE experiences higher electric consumption in the winter months, it has a receivable balance at the end of winter, which, absent the suspension by BPA, would then reverse during the lower load summer period. In this regard, actual loads (and thus credits) were significantly higher than assumed when establishing the credit.

12. Going forward, the Company expects to join other investor owned utilities in seeking rehearing of the Ninth Circuit decisions. It is not possible at this time to predict the outcome of such rehearing requests or how any BPA Residential Exchange benefits will be determined and paid by BPA to PSE for the benefit of its residential and small farm customers.

III. PROPOSED ACCOUNTING TREATMENT

13. The Company proposes in this Petition to (1) defer the Schedule 194 Amended Settlement Agreement benefits credited to customers that have not been reimbursed by BPA, as a regulatory asset in other regulatory assets account 182.3, commencing as of the date the Schedule 194 tariff changes to zero³, (2) accrue in a separate 182.3 account, monthly carrying charges on such deferred amounts, at PSE's net of tax rate of return for the period, currently 7.06%, until the deferral is recovered; and (3) amortize the total deferred balance including carrying charges in regulatory credits account 407.4, over a time period to be determined in the Company's next GRC. As discussed in this petition, the amounts credited to customers under Schedule 194 that have not been reimbursed by BPA might be reduced by future Residential Exchange benefits received by PSE, but any such reduction will be dependent on future events.

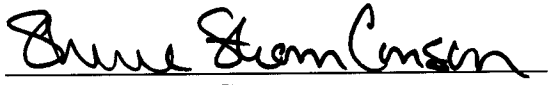
³ It is estimated that by the end of May 2007, the Company will have credited such customers approximately \$32 million more than the benefits received by PSE from BPA.

IV. PRAYER FOR RELIEF

15 Based on the foregoing, PSE respectfully requests that the Commission issue an Accounting Order in the form attached as Exhibit B.

DATED this 23 day of May 2007.

PERKINS COIE LLP

By 
Sheree Strom Carson
Attorneys for Puget Sound Energy, Inc.

VERIFICATION


STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

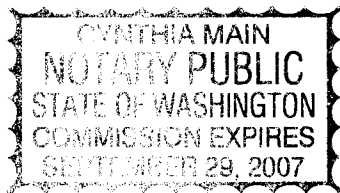
Karl R. Karzmar, being first duly sworn, on oath deposes and says:

That he is Director of Regulatory Relations with Puget Sound Energy, Inc., that he has read the foregoing Petition of Puget Sound Energy, Inc. for An Accounting Order, that he knows the contents thereof, and that he believes the same to be true to the best of his knowledge and belief.


Karl R. Karzmar

SUBSCRIBED and SWORN to before me this 23rd day of May 2007.


Print Name: CYNTHIA MAIN
Notary Public in and for the State of
Washington, residing at Kimblewood, WA
My commission expires: 9-29-07



VERIFICATION

Perkins Coie LLP
10885 N.E. Fourth Street, Suite 700
Bellevue, WA 98004-5579
Phone: (425) 635-1400
Fax: (425) 635-2400

Exhibit A
Letter from BPA



Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

POWER SERVICES

May 21, 2007

In reply refer to: PS-6

Ms. Kimberly Harris, Senior Vice President
Regulatory Policy and Energy Efficiency
Puget Sound Energy
10885 NE. 4th Street
Bellevue, WA 98004-5591

Dear Ms. Harris:

As we have recently informed you or your representatives, the law provides that a Federal Certifying Officer is personally responsible and accountable for certifying the legality of a proposed payment, and is personally accountable for making a payment prohibited by law. *See* 31 U.S.C. § 3528; Principles of Federal Appropriations, Second Edition, Volume II, 9-88 – 9-145. In the Ninth Circuit Court of Appeal's (Court) recent May 3, 2007, *PGE and Golden Northwest Aluminum* decisions, the Court concluded that certain Bonneville Power Administration (BPA) actions in entering residential exchange settlements in 2000 with your company and other Investor Owned Utilities were "not in accordance with law." This quite understandably raised substantial question whether the BPA Certifying Officer could certify additional payments under the settlement agreements; indeed, the Court has asked for briefing as to the effect of its rulings on pending challenges to other outstanding settlement agreements.

We have concluded that this uncertainty created by the Court's decisions means that we must at this time suspend payments. You have acknowledged that BPA is, thus, currently prevented by reasons beyond its control from continuing payment pending final decisions by the Ninth Circuit in the outstanding Ninth Circuit challenges, and that in light of this uncertainty created by the Court's decisions you agree not to assert BPA is in breach of contract as a result of the suspension. Accordingly, BPA is immediately suspending payments (including conservation and renewable discounts and any other credits) under the challenged BPA agreements pending final decisions by the Ninth Circuit in the outstanding Ninth Circuit challenges. Such temporary suspension and acknowledgement shall not constitute an admission or waiver of, and is subject to, any statutory, contractual and other rights and obligations of the parties that may exist, so the suspension is without prejudice to the issue of whether the suspended amounts must at some later point be paid (or credited). BPA's suspension in no way affects the continued existence of the settlement agreements.

We very much regret that it is necessary for us to suspend payments at this time, since we understand that this will rapidly result in large and, for some, severe rate consequences for your

residential and small farm customers. We have spent considerable effort seeking to find means to continue the payments to allow more time for the parties to find a way to address the issues raised by the Court, but without success.

BPA currently anticipates that such suspension will continue at least until any petitions for rehearing on the Court's decisions are finally resolved. We believe the Court's decisions on the settlements are in error, and we are exploring all potential viable avenues for rehearing, including by the full Court if possible. BPA agrees that this suspension is only an interim measure and does not represent a final action by the Administrator, and it will not assert otherwise. BPA agrees it will inform you of its final decision regarding the suspended and any remaining payments (and credits) within a reasonable period of time after the decisions by the Ninth Circuit are final in the outstanding Ninth Circuit challenges.

In the interim we will be consulting with key stakeholders informally as to any ideas for finding a way to resolve these issues consistent with the Court's decision. This is made more challenging by the fact that the Court has not ruled yet on the significant 2001 and 2004 amendments to the contracts that the Court did rule on. We want to resolve this issue as quickly as possible, but also recognize that any work now may be undone by further rulings from the Court.

This is a most vexing problem, and we look forward to working with you and others in the Pacific Northwest region to find a resolution that best serves the interest of all Northwest citizens.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark O. Gendron', with a stylized flourish at the end.

Mark O. Gendron
Vice President, Requirements Marketing

cc:
Doug Faulkner

Exhibit B
Proposed Order

BEFORE THE
WASHINGTON UTILITIES & TRANSPORTATION COMMISSION

In the Matter of the Petition of

PUGET SOUND ENERGY, INC.

For an Accounting Order Authorizing Deferred
Accounting Treatment for Residential and
Farm Energy Exchange Benefit Amounts
Credited To Customers that Have Not Been
Reimbursed by Bonneville Power
Administration

Docket No. UE-07_____

ORDER (PROPOSED)

BACKGROUND

- 1 (1) On May 23, 2007, Puget Sound Energy, Inc. ("PSE" or the "Company") filed a petition seeking an Accounting Order under WAC 480-07-370(b)(i) requesting deferred accounting treatment for residential and farm energy exchange benefit amounts credited to customers under Schedule 194 - Residential and Farm Energy Exchange Benefit, that have not been reimbursed by Bonneville Power Administration ("BPA").
- 2 (2) Schedule 194 reflects a pass through of the benefits provided to PSE for its residential and small farm customers received under an Amended Settlement Agreement with BPA and the region's investor-owned utilities. These benefits have been in the form of monthly payments from BPA to PSE. The United States Court of Appeals for the Ninth Circuit (the "Ninth Circuit") on May 3, 2007, in *Golden Northwest Aluminum v. Bonneville Power Administration*, No. 03-73426 ("*Golden Northwest*"), and *Portland General Electric Company v. Bonneville Power Administration*, No. 01-70003 ("*PGE*"), concluded that certain BPA actions in entering residential exchange settlements with the region's investor owned utilities were not in

accordance with law. On May 21, 2007, BPA notified the region's investor-owned utilities that BPA concluded that the uncertainty created by the Ninth Circuit's decisions means that BPA must immediately suspend payments (including conservation and renewable discounts and any other credits) under the challenged BPA agreements pending final decisions by the Ninth Circuit in the outstanding Ninth Circuit challenges.

- 3 (3) Coincident with the filing of its petition, and due to the uncertainties created by the decisions of the Ninth Circuit and BPA's letter notifying the Company of the suspension of payments, the Company filed tariff revisions to discontinue paying the Schedule 194 credits effective May 31, 2007. However, due to timing differences between the Schedule 194 credit and receipt of payments from BPA and because of the suspension of payments from BPA, the Company estimates that it will have credited to customers approximately \$32 million more at May 31, 2007, than the Amended Settlement Agreement benefits received from BPA. As explained in its Petition, the Company's seeks deferred accounting treatment for all such amounts credited to customers that have not been reimbursed by BPA.
- 4 (4) PSE requests in its Petition that the Commission approve: (1) deferred accounting treatment for the amounts credited to customers under Schedule 194 that have not been reimbursed by BPA; (2) the monthly booking of carrying charges on that deferral at PSE's approved net of tax rate of return until the deferral is recovered; and (3) amortization of the total deferred balance including carrying charges over a time period to be determined in the Company's next General Rate Case ("GRC").
- 5 (5) The Company states in its Petition that the total deferred balance to be amortized might be reduced by future Residential Exchange benefits received by PSE, but any such reduction will be dependent on future events. The Company expects to join other investor owned utilities in seeking rehearing of the Ninth Circuit decisions. Accordingly, the Company says that it is not possible at this time to predict the outcome of

such rehearing requests or how any BPA Residential Exchange benefits will be determined and paid by BPA to PSE for the benefit of its residential and small farm customers in the future.

FINDINGS AND CONCLUSIONS

- 6 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate rates, rules, regulations, practices, accounts, securities, and transfers of public service companies, including electric companies. *RCW 80.01.040, RCW 80.04, RCW 80.28, RCW 80.08 and RCW 80.12.*
- 7 (2) PSE is a combination electric and gas company and is a public service company subject to the jurisdiction of the Commission.
- 8 (3) WAC 480-07-370(b)(i) allows companies to file petitions for accounting treatment, including treatment for which PSE seeks approval.
- 9 (4) Staff has reviewed the petition in Docket UE-07____ including related workpapers. Staff believes the proposed accounting petition requested by PSE is reasonable and should be approved.
- 10 (5) This matter was brought before the Commission at its regularly scheduled meeting on June __, 2007.
- 11 (6) After examination of the petition filed in Docket UE-07____ by PSE on May 24, 2007, and giving due consideration to all relevant matters and for good cause shown, the Commission finds that the petition filed should be approved.

O R D E R

THE COMMISSION ORDERS:

- 12 (1) Puget Sound Energy's request to defer the amounts credited to customers under Schedule 194 that have not been reimbursed by BPA, book carrying charges on the deferral at PSE's approved net of tax rate of return until the deferral is recovered; and amortize the total deferred balance including carrying charges over a time period to be determined in the Company's next GRC, is approved.
- 13 (2) This Order shall not affect the Commission's authority over rates, services, accounts, evaluations, estimates, or determination of costs in any matters that may come before it, nor be construed as an acquiescence in any estimate or determination of costs claimed or asserted.
- 14 (3) The Commission retains jurisdiction over the subject matter and Puget Sound Energy to effectuate the provisions of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective June __, 2007.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK SIDRAN, Chairman

PHILLIP JONES, Commissioner

PATRICK OSHIE, Commissioner