EXHIBIT NO. TAD-3HCT DOCKET NO. UE-070725 WITNESS: TOM DE BOER

### BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**Amended Petition of** 

**PUGET SOUND ENERGY, INC.** 

Docket No. UE-070725

For an Order Authorizing the Use of the Proceeds From the Sale of Renewable Energy Credits and Carbon Financial Instruments

# PREFILED REBUTTAL TESTIMONY (HIGHLY CONFIDENTIAL) OF TOM DE BOER ON BEHALF OF PUGET SOUND ENERGY, INC.

IN SUPPORT OF AMENDED PETITION FOR AN ORDER AUTHORIZING THE USE OF THE PROCEEDS FROM THE SALE OF RENEWABLE ENERGY CREDITS AND CARBON FINANCIAL INSTRUMENTS

REDACTED VERSION

**FEBRUARY 18, 2010** 

#### PUGET SOUND ENERGY, INC.

## PREFILED REBUTTAL TESTIMONY (HIGHLY CONFIDENTIAL) OF TOM DE BOER

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#### PUGET SOUND ENERGY, INC.

## PREFILED REBUTTAL TESTIMONY (HIGHLY CONFIDENTIAL) OF TOM DE BOER

#### I. INTRODUCTION

- Q. Are you the same Tom DeBoer who provided in this proceeding prefiled direct testimony, Exhibit No. TAD-1T, on October 7, 2009, on behalf of Puget Sound Energy, Inc. ("PSE" or "the Company")?
- A. Yes.

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- Q. What is the purpose of your prefiled rebuttal testimony?
- A. My prefiled direct testimony, Exhibit No. TAD-1T, explained and supported PSE's proposal for the use of proceeds from PSE's sale of Renewable Energy Credits ("REC") and Carbon Financial Instruments ("CFI") (collectively "REC Proceeds") to fund certain low income programs, to satisfy a portion of PSE's California Receivable and to return the bulk of the revenues to electric customers. I address the latter two issues in my prefiled rebuttal testimony, and the Joint Parties address the low income funding in their prefiled rebuttal testimony, Exhibit No. JOINT-2T. My rebuttal testimony responds to the testimony of several parties opposing or suggesting modifications to PSE's proposal, including:
  - 1. Michael P. Parvinen, witness for the Staff of the Washington Utilities and Transportation Commission ("Staff"),

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credit REC Proceeds to the special purposes proposed by PSE and the Joint Parties. Kroger recommends that the timing of the credits should give more weight to rate relief to customers as a whole if the Commission approves a portion of the REC Proceeds for low income and the California Receivable.

ICNU recommends rejection of PSE's proposed use of the REC Proceeds and advocates the revenues should be credited to customers using the same allocation as the costs of the resources generating the RECs. ICNU does not support using a portion of the REC funds for low income programs, but advocates that if such funding occurs, any monies earmarked for increasing low income programs should come from the net benefit assigned to the residential class, based on a theory that the direct beneficiaries of these program commitments are the residential class

# II. RATEPAYERS ARE NOT ENTITLED TO ALL THE REC PROCEEDS SIMPLY BECAUSE THE WIND RESOURCES ARE INCLUDED IN RATES

- Q. How do you respond to the arguments made by several parties that because the facilities generating the RECs are included in rates, ratepayers should receive 100 percent of the REC Proceeds?
- A. The Company agrees with the parties that the customers should receive some, if not the majority, of the benefits attributable to the sale of the RECs. In fact, under the Company's proposal in this proceeding, customers would receive over

percent of the REC Proceeds. However, the parties' arguments that customers should receive all of the benefits of the RECs based solely on the fact that the operating and carrying costs of generating plants that generate the RECs are included in rates is based on a false premise.

The capital cost of such projects, like all utility plant, are provided for in the first instance by the providers of debt and equity capital. Customers purchase an energy service related to such investments and receive the full benefit of these plants being in the Company's portfolio before even considering the benefits received from REC transactions. The wind resources that create the REC benefits were added to the Company's resource portfolio based on the following financial considerations: capital costs invested by the Company plus the operating costs, net of PTCs, compared to the other resource alternatives available. The Commission found that these wind resources were prudent and cost effective – absent any REC benefits—based on the Commission's prudency review.

- Q. Was the value of RECs considered in the decision to purchase Hopkins Ridge and Wild Horse or enter into the Klondike III power purchase agreement?
- A. No. At the time these projects were being developed, the markets for compliance and voluntary RECs were in their infancy; values were *de minimis*, renewable attribute definitions were evolving, market terms and conditions were evolving and state regulatory rules governing markets and transactions were evolving, and indeed, are still very much in a state of flux. This is especially true in the state of

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California, which has become one of the largest compliance markets in the country. Accordingly, the decision to acquire both the Hopkins Ridge and Wild Horse projects and the decision to enter into the Klondike III power purchase agreement were all made without giving weight to any potential benefits associated with prospective REC sales. Such prospective benefits were not part of PSE's formal economic analysis of those plants. These projects were determined to be cost effective long-term energy resources without taking into consideration any value of prospective REC sales or even potential carbon related values, the markets for which were even more undeveloped at that time.

- Q. Did any party to those cases object to the fact that PSE's analyses of these wind plants did not include the value of prospective REC sales or that PSE would bear the risk of ownership prior to the Commission's final order on those matters?
- A. No. In those proceedings, the parties did not object to the fact that the analyses of the wind resources did not include the value of prospective REC sales, nor did they object to the fact that the Company would own the plants and bear the risks of ownership. While it is not possible to know with certainty why the parties then ignored potential REC values, it is quite possible it was for the reasons noted above: the marketplace was in its infancy and little or no value in the intangible attributes of wind power were evident or reasonably predictable. Indeed in the 2004-2006 time frame, a great many forces were arrayed opposing the creation of

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a Washington state renewable portfolio standard ("RPS") and even those parties that favored such a standard often expressed opposition to creating a tradable REC product. Such policy controversies continue today. It is therefore, disingenuous and inequitable now for these parties to argue that the Company should be required to provide the full benefit associated with the RECs to customers without allowing the Company to recover any of the costs that gave rise to the opportunity or giving any consideration for the Company's ingenuity in creating this added value for its customers.

- Q. When customers pay their electric bill are they assuming ownership rights to the underlying electric generation plant?
- A. Absolutely not. The Company supplies the capital to fund construction of its generation facilities. When customers pay their electric bill they are paying for "Electric Service." Electric Service is a defined term in PSE's Commission-approved tariff book. In Schedule 80, Electric Service is defined as: "The availability of electric energy at the Point of Delivery for use by the Customer, irrespective of whether electric energy is actually used." It is absurd to suggest that every time electric customers pay their electric bill, they are purchasing a piece of an electric generation plant. Owning and operating these plants is a risk the Company manages not the customer.

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Mr. Schoenbeck testifies that the prices received for the REC sales to

Q.

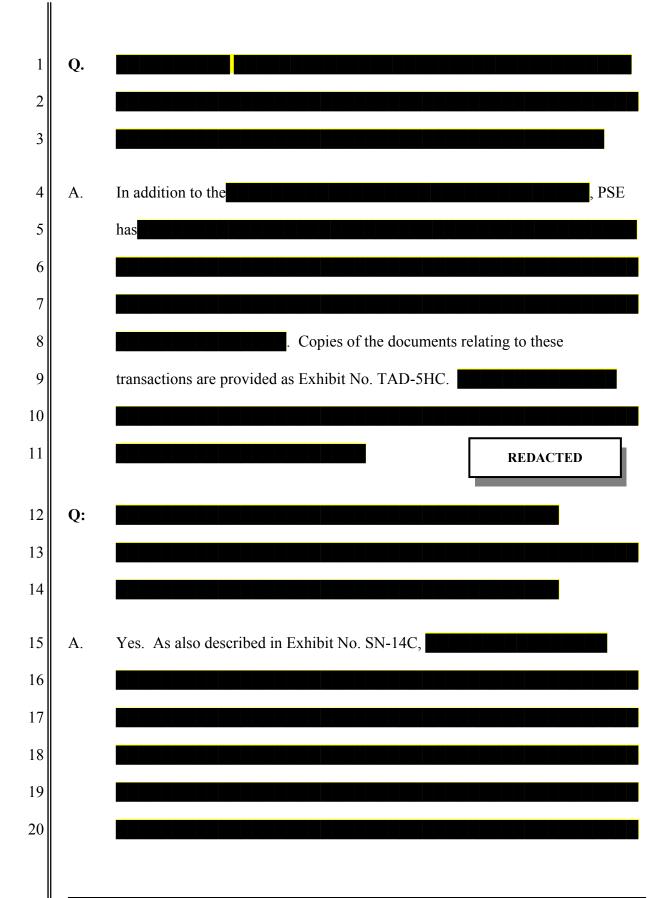
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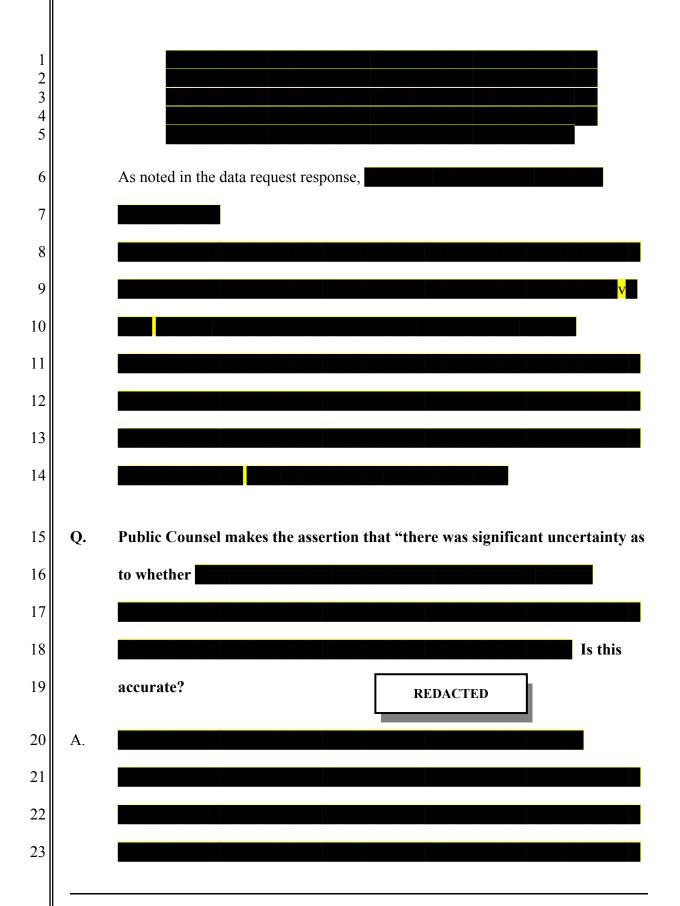
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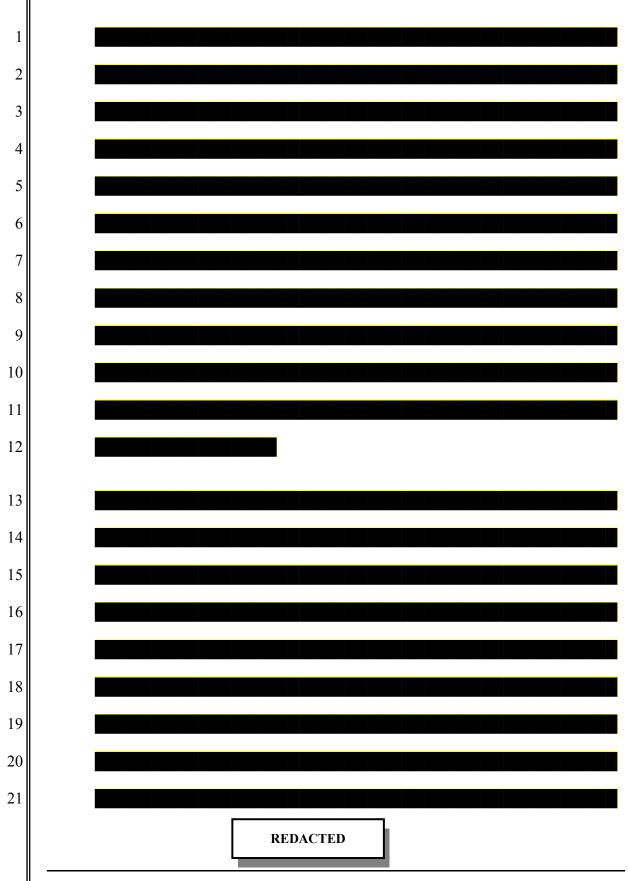
For example, in PSE received an indicative term sheet from an interested party seeking to engage in transactions in the California compliance market with a price of for California RPS-eligible RECs plus energy. The term sheet is provided as Exhibit No. TAD-4HC. While such transaction was not ultimately consummated, it does provide a benchmark with respect to California compliance REC prices – at least in the view of one market participant, and indicates a

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4	Q.	What do you conclude from these data points into the California Compliance
5		REC market?
6	A.	While the market data are not plentiful,
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10		Even Public Counsel
11		recognized the price differences. Public Counsel witness Scott Norwood
12		observed:
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Prefiled Rebuttal Testimony

(Highly Confidential) of Tom De Boer in Support of Amended Petition

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**Public Counsel also implies that** 

How do you respond?

Again Public Counsel completely misses the point. First, the "prices" for power sold (and which created the first step in calculating the amount due as the California Receivable) were determined in the California-created market auction process of the Independent System Operator ("ISO"). Second, Public Counsel misinterprets PSE's Response to Public Counsel Data Request No. 10, which is provided as Exhibit No. TAD-7C. None of PSE's California Receivables claim arose from a direct sale to the California utilities, SCE, PG&E or SDG&E. Rather the California market structure dictated by California law during the energy crisis generally precluded direct purchases by these utilities. Instead, their purchases (except for "grandfathered" arrangements) had to be through the Power Exchange ("PX") and ISO market auctions. In 2000 and 2001 these California utilities did not make timely or complete payments to the ISO and the PX for power received. It was this lack of funding which created the unpaid bills, or receivables, for energy suppliers such as PSE. Finally, the amount of PSE's California Receivable was consistent with the net amount remaining to be paid to PSE *after* the price adjustments that were being imposed in the FERC process.

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3	Q.	
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5	A.	PSE voluntarily gave up its opportunity to collect on the California Receivable
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9		. In exchange, PSE is requesting a small
10		portion of these revenues to equitably compensate it for the lost litigation
11		opportunity. PSE pursued the litigation over many years because it believed it
12		would ultimately prevail. In addition, had PSE prevailed in the litigation, it
13		would have received interest on the \$21 million receivable.
14	Q.	
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16	A.	Yes. As noted by Kroger witness Kevin Higgins, "[t]he sale of RECs and CFIs is
17		a very positive development for PSE and its customers." (Higgins, p.5, lines 10-
18		11).
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6	Q.	Why does PSE claim that it could have collected more than the \$21 million  California Receivable it is seeking in this docket?
8	A.	The \$21 million receivable is the amount PSE maintains on its books for financial
9		accounting purposes. In addition, FERC rules allow for interest on this amount.
10		PSE requested only to recover the remaining \$21 million it has on its books and is
11		not requesting recovery of any interest on that amount.  REDACTED
12	Q.	
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15	A.	
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7	Q.	Do you agree with ICNU's statement that "PSE's claim that the substantial
8		net revenue amount is attributable or tied to its California receivable claim is
9		wrong, based upon publicly available information"?
10	A.	No. Mr. Schoenbeck's argument seems to be that because the
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 Q. Should the Commission require REC reporting by PSE as suggested by Public Counsel?

- A. No, separate reporting is not necessary. Public Counsel attempts to justify the need for reporting through vague allegations of "questions" about PSE's treatment of RECs and by pointing to the reporting requirements placed on PacifiCorp. There are significant differences between PSE and PacifiCorp, the "model" Public Counsel is proposing. In addition, quantification of REC transactions is exactly what this proceeding will decide. Regardless of the mechanism the Commission selects to credit the REC Proceeds to customers, it will require annual compliance or tariff filings. These filings will provide all the information necessary rendering a separate REC reporting obligation superfluous.
- Q. What is your response to Public Counsel's vague allegations of "questions" about PSE's treatment of RECs?
- A. In response to PSE Data Request No. 1, Exhibit No. TAD-8, Public Counsel did not articulate any actual issues with PSE's treatment of RECs other than the fact that PSE filed this petition seeking Commission approval of the disposition of REC proceeds. In fact, PSE itself raised the issue of REC revenues as far back as 2005 and specifically in April 2007 when it filed the original accounting petition