



*The Energy To Do Great Things*

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***Filed Via Web Portal***

January 3, 2014

Mr. Steven King  
Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250

**Re: Comments in Response to Staff Open Meeting Memo  
Dockets UE-120767 and UG-120768**

Dear Mr. King,

Puget Sound Energy, Inc. (“PSE”) submits these comments in response to Commission Staff’s Open Meeting Memo dated January 6, 2014. PSE agrees with Commission Staff’s recommendation to issue a letter acknowledging that PSE’s 2013 Integrated Resource Plan (the “2013 IRP”) complies with WAC 480-100-238 and 480-90-238. Further, PSE has no objection to the Commission establishing by rule, policy statement, or other means, a preapproval process for major upgrades or investments in coal plants, rather than the post-investment prudence review that the Commission currently undertakes. However, PSE has procedural concerns about the manner in which Commission Staff proposes to attach “determinations” to the IRP acknowledgement letter, as it is not clear what effect they would have (e.g., whether they would constitute a final order from which PSE could seek judicial review; whether they are binding on PSE or just “comments”). Further, some of Commission Staff’s recommendations arguably ask the Commission to exceed its jurisdiction, while others are burdensome.

These comments have two parts: The body of the letter addresses three general topics regarding Commission Staff’s Open Meeting Memo. The attachment to this letter responds to specific Commission Staff proposals, explaining where PSE disagrees with this proposal and recommending alternative language.

### **Procedural Concerns**

There are internal inconsistencies with Commission Staff's Open Meeting Memorandum that raise procedural concerns for PSE. In its opening and closing paragraphs, Commission Staff asks the Commission to issue a letter acknowledging that the 2013 IRP complies with WAC 480-100-238 and 480-90-238 and to "include attachments with *comments* consistent with this memorandum." In contrast, the remainder of Commission Staff's Open Meeting Memorandum asks the Commission to make "*determinations*" regarding the 2013 IRP and "*determinations*" regarding the Colstrip Study included as part of the 2013 IRP. In terms of due process, direction from the Commission, and effect on PSE, there is a significant difference between Commission "comments" and "determinations." "Determinations" would indicate a final order that could be appealed, after due process and an opportunity to be heard on the issues. "Comments" would indicate something less formal and binding.

Further, as Commission Staff acknowledges, the 2013 IRP complies with WAC 480-100-238 and 480-90-238. Commission Staff's proposal is a significant departure from the Commission's past practice of issuing a letter acknowledging compliance with such rules. To attach a list of "determinations" to an acknowledgement letter would send unclear and conflicting messages.

### **Transparency of the IRP Process**

Several Commission Staff recommendations broadly seek to allow for more transparency in the IRP process. PSE is committed to improving transparency in its 2015 IRP process, as articulated in the 2013 IRP Action Plan. It is important for the Commission to avoid micromanaging the process for how to improve transparency. Some of Staff's detailed recommendations may do little to actually improve transparency, while driving up the cost of developing an IRP. Additionally, it is not realistic to expect every stakeholder will be able to see or understand every detail. PSE has contractual obligations not to disclose third-party proprietary information. Additionally, making models available to the IRP Advisory Group does not further the goal of transparency when models are in SAS code, Aurora Data Bases, Sendout files, etc. if stakeholders haven't purchased licenses for these software systems. PSE made any and all data available to Commission Staff through the IRP process. That included stepping Staff through the Colstrip capital budget forecast and how that budget was converted to annual revenue requirements; thus, while every stakeholder will not realistically have access to every detail, PSE remains committed to ensuring Commission Staff are fully informed about as much of the IRP details as they wish to be.

The attachment to this letter responds to specific Commission Staff proposals regarding the IRP.

### **Colstrip Study Included as Part of the IRP**

Commission Staff asks the Commission to include an attachment to the letter acknowledging compliance with the 2013 IRP, and in that attachment to include certain determinations "regarding the Colstrip study included as part of the IRP." Again, it is not clear what

Commission Staff is proposing in terms of the Colstrip study. Is Commission Staff asking the Commission to “determine” in the attachment to the acknowledgement letter that the Colstrip study assumptions were incorrect? Is Commission Staff asking the Commission to determine that PSE should rerun the Colstrip study with different assumptions? Now? In its next IRP?

Additionally, PSE questions the inferences in Commission Staff’s Open Meeting Memo that the Commission has the power to shut-down Colstrip--a power plant located in another state with multiple owners, including owners outside the jurisdiction of the Commission. Although the Commission does have the ability to determine whether Colstrip is a least-cost resource for PSE and other investor-owned utilities in Washington, it is outside the jurisdiction of the Commission to order an “early closing date”<sup>1</sup> for the plant, or to make a decision on the “economic viability of the continued operation of Colstrip.”<sup>2</sup> PSE agrees with Commission Staff that these issues are outside the scope of the 2013 IRP review; however, to the extent Commission Staff is proposing a proceeding to consider whether to shut down Colstrip, such a proceeding is also outside the scope of the Commission’s jurisdiction.

Although Colstrip continues to be an efficient baseload resource, PSE understands there is significant uncertainty relating to whether Colstrip will remain a least-cost resource in the future, depending on carbon costs, future environmental regulations, gas prices, and other factors. As such, PSE agrees that a preapproval process could be established by the Commission in consultation with all of the Colstrip owners. This process could set thresholds levels for major investments which would trigger a preapproval process by the Commission before such level of expenditure is made.

The attachment to this letter responds to specific Commission Staff proposals regarding the Colstrip Study in the IRP.

### **Conclusion**

Commission Staff acknowledges that the 2013 IRP complies with WAC 480-100-238 and 480-90-238, and, as in the past, the Commission should send a letter acknowledging PSE’s compliance. Further, PSE has no objection to the Commission establishing by rule or policy statement a preapproval process for major upgrades or investments in coal plants, rather than the post-investment prudence review that the Commission currently undertakes.

Finally, PSE requests that the Commission confirm in the acknowledgement letter that PSE does not need to initiate an RFP solicitation process because PSE does not have an electric peak hour capacity need until the year 2017, and does not have a renewable energy need until the year 2022, as PSE noted in its IRP submission letter.

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<sup>1</sup> Open Meeting Memo p. 2.

<sup>2</sup> Open Meeting Memo p. 3.

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Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Johnson". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Ken Johnson  
Director, State Regulatory Affairs

**Attachment**

## **Staff Recommendations from Open Meeting Memo in Bold Followed By PSE Comments and Recommendations**

### **1. With regard to the electric component of the next IRP, PSE must:**

#### **a. Include a nonzero cost of CO<sub>2</sub> emissions in the base case;**

This proposal misunderstands the purpose of the base case, which perhaps would be better understood if described as “reference case.” It also seems to ignore that there were 28 different scenarios in the IRP. There is too much uncertainty with regard to how CO<sub>2</sub> may become regulated before 2020. Such regulation could be in the form of taxes, cap and trade, or different kinds of command and control. This is why PSE examined several possible carbon taxes along with command-control shut down of Colstrip even in scenarios where continued operation appeared cost effective. There are two reasons the Commission should revise the statement as recommended below:

- Bias in Analysis—
  - We need to understand how different kinds of policies will impact our customers’ bills and future resource selections.
  - This is the same reason the Energy Information Administration’s (“EIA”) Long-Term Energy Outlook does not impose a carbon tax in the reference case—not because they believe it will never happen. They need a clean starting point for assessing impacts of policy changes.
  - Creates internal inconsistency in the analysis, because the industry (including EIA) is not factoring in CO<sub>2</sub> prices in developing base gas price forecasts because the form of future regulations are too uncertain.
- Misunderstanding of the Purpose of Scenario Analysis: Focusing on the base case ignores the purpose of the comprehensive scenario and stochastic analyses presented in the IRP. Under most scenarios, capacity needs would most cost effectively be filled by a combination of peakers with market purchases. The amount of capacity needed is impacted by load-growth assumptions (medium/high/low) and whether Colstrip remains cost effective.

Suggested Alternative Language: PSE’s 2013 IRP analyzed the uncertainty of future GHG regulation across more than two dozen scenarios of gas prices, power prices, carbon prices, future environmental compliance costs at Colstrip, as well as command/control shut-down of Colstrip in the 2013 IRP. In the 2015 IRP, along with carbon tax scenarios, the Commission recommends the Company include impacts of alternative possible command/control regulations and recommends the Company present results of internalizing externality cost of carbon in its analysis, to the extent practical.

**b. Model distributed generation growth and its contribution to meeting peak and energy demand;**

Distributed Generation was modeled as part of the demand-side resource analysis, since it is a demand-side resource. The bundle included Energy Efficiency, Distributed Generation and Fuel Conversion. A full discussion can be found in Appendix N, Demand-Side Analysis. The Company agrees expanding that analysis in the next IRP would be helpful.

**c. Include load forecasts that account for interruptible capacity, that compare expected variability in the relationship between peaking load and average load to determine the required resources, and that include greater explanation of changes in the rate of load growth over the IRP's 20-year planning horizon;**

PSE is not sure what this statement means or how the concepts are linked. Specifically:

- What does “interruptible capacity” mean in this context?
- Why and how would capacity (presumably of a supply-side resource) impact a forecast of demand?
- Why is staff asserting load factors have a significant impact on the least-cost mix of resources in a robust wholesale market?
- This is the first time PSE has received such feedback. It would be helpful if the Commission’s letter includes specific, actionable feedback in sufficient detail that the Company can act on it in the next IRP.

*Recommendation:* The statement needs to be clarified before PSE can provide helpful suggestions on how to revise it, or it should be deleted in its entirety since it is unclear.

**d. Model demand response separately from energy efficiency; and**

While demand response is a demand-side resource, PSE agrees and this was done in the 2013 IRP. In the 2013 IRP we modeled 5 separate DR programs in the optimization model.

1. Residential Direct Load Control (DLC) Space Heating and Water Heating
2. Residential DLC Room Heating and Water Heating
3. Residential Critical Peak Pricing (CPP)
4. Commercial and Industrial CPP
5. Curtailment

A complete discussion can be found in Appendix N. The capacity and costs model can be found in Appendix K, starting on page K-64. The optimal measures chosen for each scenario can be found on page K-68.

**e. Evaluate transmission constraints in the Puget Sound region and its impact on resource selection.**

PSE is concerned that disclosing an analysis of such transmission constraints could put customers at risk of higher costs, so this is a topic that would be appropriate to discuss in a public document. Reflecting local transmission constraints would not impact the resource mix; i.e., reflecting such potential constraints would not make combined cycle gas plants appear cost effective.

*Recommendation:* PSE suggests the Commission not include this item in its response letter due to the commercially sensitive nature of this topic.

**2. With regard to the gas component of the next IRP, PSE must assess whether early acquisition of specific blocks of pipeline capacity will impact the timing of selection of other resources.**

If the interest behind this statement is to understand whether timing of future Northwest Pipeline expansions impact the results, PSE is supportive of this statement.

*Recommendation:* PSE should assess whether the assumptions on timing of future pipeline capacity expansions affects the resource plan.

**3. With regard to public participation, PSE will:**

**a. Make information and models available to allow advisory group participants to examine PSE's planning reserve margins;**

PSE supports developing a process to enhance the transparency of the planning margin analysis. However, there is a significant difference between an "analysis" and a "model." Handing stakeholders a set of SAS coding they cannot understand or use will not help with transparency. PSE is committed to improving transparency of this analysis and will share input assumptions, the model, and results with stakeholders in a way that will be helpful.

*Recommendation:* PSE should improve the transparency of its Planning Margin analysis. In the 2015 IRP, the Company should develop a process to allow stakeholders to better understand the assumptions, how the analysis works, and results of the Company's planning margin analysis.

**b. Use an outside facilitator;**

PSE started using an outside facilitator in the 2013 IRP process in response to WUTC Staff's request. We have signed a contract with Milepost Consulting to help PSE restructure its stakeholder process for the 2015 IRP as well as to facilitate large stakeholder meetings.



**c. Provide written responses to all advisory group questions; and**

PSE is supportive of improving communication and documentation of the IRP Advisory Group Process. This will be addressed in restructuring the IRP Advisory Group process mentioned above. A more structured IRP Advisory Group process will facilitate written responses to reasonable questions. Staff's recommendation here, however, is too broad. It could be interpreted to mean PSE should be required to respond in writing to any question (written or verbal) posed by any member of the public at any time. Such requirement would be unduly burdensome both in the potential scope of work required and the cost to prepare responses that may require complex legal judgments.

*Recommendation:* PSE should better document its IRP Advisory Group process, including making some provisions to facilitate written responses to reasonable questions posed by IRP Advisory Group members. The Company's Work Plan filing for its 2015 IRP should clarify how the Company will accomplish this interest.

**d. File input data as part of the draft and final IRP, using existing rule provisions to protect confidential information.**

PSE is supportive of enhancing transparency, but this requirement is too vague. Does this mean the Commission is requiring PSE to file all Aurora input data files and every software file the Company uses to perform analysis for the IRP? Filing such inputs overwhelm stakeholders with data in useless formats, will not address the interest of improving transparency. Also, filing confidential information at the Commission in a process that has no protective order does not increase transparency at all. Public requests for such information will end up being legally protected in court. PSE may be able to manage some disclosure issues more efficiently; e.g., PSE may be able to facilitate a non-disclosure agreement with Wood Mackenzie to allow at least stakeholders to review gas price forecasts under certain conditions.

*Recommendation:* PSE should work with stakeholders to develop a reasonable set of input assumptions and reasonable set of results in a format that will be useful for stakeholders, to the extent practical. These input assumptions and results should be included in the IRP filing. If there are specific inputs or outputs that PSE believes need to be treated as confidential, the Company should provide a written explanation to stakeholders as to why the Company believes those specific items are confidential and to develop, to the extent practical, solutions to allow stakeholders (or a subset of stakeholders) to review the data. The Company's Work Plan filing for its 2015 IRP should specifically address how the Company will develop this process.

## **Colstrip Study Included in the IRP:**

- 1. Based on the information presented in the Colstrip study, it is unclear whether continued operation of Colstrip should or should not be a component of the Resource Plan selected by PSE.**

First, PSE did not prepare a separate Colstrip study—Colstrip was integrated into the entire IRP process, which entailed 28 separate scenarios.

PSE disagrees with this statement. The IRP, along with the Company's presentation at the October 10<sup>th</sup> Open Meeting demonstrated that continued operation of Colstrip would probably continue to be a least-cost resource for customers into the future, though the IRP also clearly identified risks to Colstrip's continuing economic viability: very high disposal costs for Coal Combustion Residuals, very high carbon costs, or very low natural gas prices for a very long time. Slide 30 of the Presentation showed for units 1 & 2, under current market conditions, a potential \$70 million investment had less than a 2-year payback for customers. Thus, even if Colstrip were shuttered by some command and control regulation by the end of 2020, making such investments would still be least cost.

*Recommendation:* While PSE's IRP concludes continued operation of Colstrip appears cost effective for now, it is also important to note the Company also identified numerous market conditions or policies that could render Colstrip uneconomic in the future. Other resource types were quite durable across numerous scenarios, such as peakers being more cost effective than CCCT plants for PSE, renewal of transmission contracts for capacity, or the cost effective amount of conservation. The Commission recommends the Company continue to analyze and identify specific regulatory or policy changes that could render Colstrip uneconomic in its 2015 IRP and further to specifically address how the Company plans to manage the uncertainty associated with the potential for Colstrip to become uneconomic in the future.

- 2. In some places, the inclusion of more information would clarify the analysis. In other places, the adjustment of just one or two variables within the range of possible reasonable values would render an early closing date of some or all Colstrip units more cost-effective for customers than continued operation. For example:**
  - a. The assumption of zero CO<sub>2</sub> cost in the Base Case over the 20-year plan is unrealistic in light of state and federal action on greenhouse gases as well as CO<sub>2</sub> costs currently reflected in the market.**

Please refer to comments above with respect to GHG and carbon cost risk.

- b. The projected gas prices in the Base Case are on the upper end of expected gas prices, leading to a high-end estimate of savings from avoided natural gas and market purchases of electricity provided by Colstrip.**

This is the first PSE has received such feedback from Staff. The gas price forecasts were discussed a year and a half ago. PSE did not create its own gas price forecast to bias the IRP

analysis. A full description of the gas prices used can be found in the 2013 IRP, Chapter 4, page 4-7. Additionally, in the Commission's letter in the 2011 IRP, the Commission recommended the Company keep an eye toward the potential for higher gas prices in the future<sup>1</sup>. Finally, Staff's concern here seems incomplete. If PSE's gas price forecast was chosen to artificially inflate the value of Colstrip, then Staff should also be stating the Company's gas conservation targets based on the IRP are too aggressive.

Recommendation: The Commission should not reflect this comment in its letter.

**c. The projected level of load growth in the Base Case, which supports the economics of Colstrip, lacks sufficient explanation and justification.**

PSE is similarly surprised at Staff's criticism of the load forecast, though it is also equally peculiar that it appears in the section on Colstrip. PSE shared a draft of the IRP 60 days before it was filed and Staff provided no feedback at that time that the discussion in Chapter 4-Key Assumptions or Appendix H lacked sufficient explanation and justification. Perhaps Staff's statement is too strongly worded.

Recommendation: Rather than cast doubt on the entire foundation of the IRP by stating the Company's load forecast is suspect, the Commission should provide specific, actionable items and information that would be helpful to include in the 2015 IRP.

**d. The analysis does not include costs of all the outstanding environmental risks that Colstrip faces. It is reasonable to imagine EPA requiring more stringent pollution controls.**

PSE's has included all costs associated with existing and proposed environmental rules in its analysis. The only exception is carbon costs, and those costs were included in the modeling scenarios. It is unrealistic for the Commission to ask PSE to model additional "imaginary" regulatory costs beyond the range of proposed laws and rules, without providing specific guidance. It is possible that some unexpected policy change could render Colstrip uneconomic in the future, which is reflected in PSE's IRP analysis by forcing the plant to retire even in scenarios where continued operation otherwise appears cost effective.

Recommendation: PSE should continue to consider the potential impact of expected or potential environmental regulations on the continued economic viability of Colstrip. Furthermore, the Company should also continue considering the potential that unknown factors could render the plant uneconomic.

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<sup>1</sup> In the 2011 acknowledgment letter the Commission stated: "Even though a future of low priced natural gas may be an increasingly held view, the Company should continue to model sensitivities under high gas conditions to present upper-end risk analysis."

- e. **The study omitted the quantification of decommissioning costs and the potential to mitigate environmental compliance costs through settlement.**

This specific statement is true and it was appropriate for PSE to omit those items. It is not clear what Commission Staff means when it references a “settlement.” But one thing is clear. Currently there is *not* a settlement of environmental compliance costs on the table for PSE to model. It is unreasonable and prejudicial for PSE to assume a hypothetical settlement position for purposes of its IRP.<sup>2</sup> Additionally, reflecting decommissioning costs has the effect of making continued operation of Colstrip appear MORE cost effective, not less. Pushing what are essentially sunk costs further into the future will improve the net present value of continuing operation. When the time is ripe, it is possible that early retirement as a way to reduce decommissioning costs prove cost effective. Again, PSE’s analysis of replacing Colstrip even in scenarios where it would otherwise appear cost effective addresses this potential situation.

*Recommendation:* PSE’s IRP did not reflect potential decommissioning costs at Colstrip as such requirements have yet to be specified by the State of Montana. As decommissioning obligations are clarified, PSE should reflect the cost of those costs in future IRP analyses.

- f. **Some cost projections are based on assumptions that PSE will be successful in administrative or court challenges to proposed EPA rules. If PSE challenges environmental requirements in court, it should expect to justify its challenge, and the costs associated with it, as being in the best interests of ratepayers.**

This is incorrect. Sierra Club challenged the Regional Haze/EPA Best Available Retrofit Technology (“BART”) rules relating to Colstrip, and PSE followed suit by also challenging the rules. PSE’s cost projections assumed that neither PSE nor Sierra Club would prevail on their challenges to the BART rules. In light of the arbitrary and capricious standard that must be met in order to overturn the rules, this is a reasonable approach to take. Furthermore the IRP examined four different “cases” of future requirements and future costs.

*Recommendation:* This section should be dropped from the Commission’s letter.

- 3. **To embark on major investments in Colstrip with so much uncertainty could be harmful to PSE, its ratepayers and the broader public interest. Historically, post-investment prudence review has been used to protect ratepayers from excessively risky investment. Reliance on that regulatory mechanism may not serve the public interest in this unique situation.**

PSE agrees that continued operation of Colstrip is different. The public interest implications of imprudently continuing to operate a coal plant are broader than just making ratepayers whole,

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<sup>2</sup> PSE and the other owners of Colstrip have been sued by Sierra Club in Montana. The litigation is still in the discovery phase. If Commission Staff is proposing that PSE model a hypothetical settlement of the lawsuit to which PSE has not agreed, such action could put PSE at a significant disadvantage in the ongoing litigation. Similarly, if Commission Staff is proposing that PSE model a hypothetical settlement with EPA or Montana Department of Environmental Quality regarding future environmental regulations, that too would put PSE at a significant disadvantage.

while the imprudent investments to keep the coal plant running are now sunk. PSE supports development of some alternative regulatory process such as preapproval .

**4. Any commission decisions on the economic viability of the continued operation of Colstrip or an alternative closure or partial-closure plan would be made in the context of a separate proceeding, but not in the context of an IRP.**

PSE agrees that the IRP process is not one where utility resource decisions are made nor where the Commission assesses prudence of those decisions. Further, as discussed in the letter, the Commission does not have jurisdiction to determine the economic viability of the continued operation of a coal plant located in another state, and jointly owned by numerous parties, some of which are not within the jurisdiction of the Commission.