

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

WASHINGTON UTILITIES AND)	DOCKET NO. UE-050870
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	
)	ORDER 06
v.)	
)	
PUGET SOUND ENERGY, INC.,)	
)	AMENDING ORDER 04
Respondent.)	
.....)	
.)	

MEMORANDUM

¹ The parties to the settlement of Puget Sound Energy, Inc.’s (“PSE’s”) 2005 Power Cost Only Rate Case in Docket UE-050870, agreed to a Production Tax Credit (PTC) Tracker, Schedule 95A, relating to a subsidy provided by the U.S. Government for generating electricity from wind.¹ The settlement provided for the PTC Tracker to pass through to the customers the actual PTCs as they are generated.² Because the customers would receive the benefits of the tax credits as they were generated, but the Company would not receive a credit from the Internal Revenue Service until the tax credits were utilized, the settlement provided that the Company would be reimbursed its carrying costs for funds through this calculation.³ In Order 04, the Commission approved the settlement, Schedule 95A, and the accounting treatment for Schedule 95A. The accounting treatment is set forth in Appendix B to Order 04.

¹ *Washington Utilities & Transp. Comm'n v. PSE*, Docket UE-050870: Approving and Adopting Settlement Agreement, Authorizing and Requiring Compliance Filing, and Granting Other Relief, ¶¶ 13, 14, App. B at 5 (October 20, 2005).

² *Id.* at App. B.

³ *Id.*

- 2 PSE, by a revised motion filed on November 9, 2010,⁴ now asks the Commission to enter an order modifying Appendix B to Order 04 to reflect changes to the manner in which PTCs and other federal incentives are passed through to customers through Schedule 95A. Concurrent with the filing of this motion, PSE filed a tariff revision for Schedule 95A in Docket UE-101767.
- 3 PSE asks the Commission to modify page 5 of Appendix B to Order No. 04⁵ as follows:

To properly flow these tax credits through to the customer, the Company proposal is to create a PTC tracker (“Schedule 95A”) that will pass through to the customer the actual realized production tax credits and other federal incentives. Production tax credits and similar credits are realized when utilized by the Company on its annual tax return rather than when generated. Other federal incentives may also become available to the Company as defined in Schedule 95A. Schedule 95A describes the timing of filings to pass through the credits and incentives to the customer. ~~as they are generated and t~~ The tracker would not be subject to the sharing bands in the PCA. ~~This pass through will be adjusted by the carrying costs for the deferred tax account for the PTCs that have been generated but have not been used for the current years tax credit. As the customer is receiving the benefit of the tax credits as they are generated and the Company does not receive a credit from the IRS until the tax credits are utilized the Company is reimbursed its carrying costs for funds through this calculation.~~ This tracker would initially be used for the Hopkins Ridge Project, but would also be available for the PTCs and other federal incentives that may be associated with other ~~wind~~ generating facilities that the Company may acquire in the future.

⁴ PSE styled its filing as a “motion,” but the Commission treated it as a petition to allow for longer time frames for responses from interested persons. PSE states that it gave formal notice to all parties to this proceeding. Only Staff responded, filing its response in support of PSE’s request on November 12, 2010. The time for any other responses expired on November 29, 2010.

⁵ Although the pages of Appendix B are not numbered, the paragraph at issue appears on the fifth page of the appendix.

4 PSE's petition provides the full background of this matter, dating from 2005. Most pertinent here are two recent orders in which the Commission recognized and responded to changes in federal tax law that have limited PSE's ability to use PTCs against any tax liability.⁶ In Docket UE-091703, the Commission approved a tariff revision filed by PSE that revised the PTC Tracker rates to zero. In its order the Commission stated:

PSE has been unable to realize in recent federal income tax filings the production tax credits (PTCs) that it has been and is currently passing through the Tracker. The revision of the Tracker rates to zero, which is a departure from the original tracker mechanism approved by the Commission, will cease greater accumulation of interest-bearing cash balance advanced by PSE to the customer. To address the existing balance and to craft a workable mechanism to pass realized PTCs and Treasury grant benefits to the customers, PSE commits to work with Commission staff and other interested parties to undertake necessary modifications of the pass-through mechanism.⁷

5 In Docket UE-070725, the Commission approved a Joint Proposal submitted by PSE, Commission Staff and the Industrial Customers of Northwest Utilities allowing PSE to use a portion of the Renewable Energy Credit proceeds it received from December 2009 through December 2011 to offset the balance in the PTC Tracker that had accumulated as a result of PTCs that had been passed through to customers but had not been used by the Company on its tax return.⁸

6 PSE states that its petition in this docket, and the related tariff filing in Docket UE-101767, respond to the Commission's direction in Docket UE-091703 that PSE

⁶ *Id.*; *Washington Utilities & Transp. Comm'n v. PSE*, Docket UE-091703 Order 02: Order Dismissing the Complaint and Order Suspending Tariff Revisions and Allowing Tariff Revisions, at ¶3 (June 24, 2010).

⁷ *Washington Utilities & Transp. Comm'n v. PSE*, Docket UE-091703 Order 02: Order Dismissing the Complaint and Order Suspending Tariff Revisions and Allowing Tariff Revisions, at ¶3 (June 24, 2010).

⁸ *In the Matter of the Amended Petition of Puget Sound Energy, Inc. For an Order Authorizing the Use of the Proceeds from the Sale of Renewable Energy Credits and Carbon Financial Instruments*; Docket UE-070725 and UE-101581 (Consolidated) Order 06: Granting Joint Petition for Approval of Joint Proposal and Request for Amendment of Order 03; Consolidating Proceedings and Granting Accounting Petition, at ¶¶14-15 (October 26, 2010).

should undertake modifications to the pass-through mechanism and craft a workable mechanism to pass realized PTCs and Treasury grant benefits to customers.

According to PSE, the revised tariff implements changes to pass through an amount the Company has received from a U.S. Treasury grant as approved by the Commission's Order 01 in Docket No. UE-091570. Further, the Company is proposing changes to the tracker so that production tax credits will only be passed through to customers following their use, rather than in the same year when they are generated.

- 7 As mentioned above, PSE's revised petition resulted from discussions with Commission Staff. Staff filed a response to PSE's petition offering support for PSE's proposed modification of Appendix B to Order 04 and the related tariff filing. Staff states that "the amendment is an appropriate response to tax changes adopted by the federal government and prior Commission orders responding to those changes, as detailed by PSE in its motion." Furthermore, Staff recommends in the way of process that the Commission simply grant in this docket PSE's Petition to Modify Order 04 and take up the revisions to Schedule 95A, as filed in filed in Docket UE-101767 as "a non-controversial compliance filing that can be placed on the No Action agenda of an open public meeting."
- 8 It appears from PSE's unopposed petition, and Staff's response in support, that the Company's proposal here and in Docket UE-101767 would implement a workable mechanism to pass realized PTCs and Treasury grant benefits to customers, as the Commission directed the Company to do in Docket UE-091703. We determine that it is in the public interest to modify Order 04 and PSE's tariff Schedule 95A as the Company requests. We effect the necessary amendment to Order 04 by this Order. Given that PSE's tariff revision in Docket UE-091703 has not been suspended and is on the Commission's open meeting agenda for December 30, 2010, the tariff change can be implemented by our taking no action on the filing, allowing the tariff to become effective, as filed, by operation of law. No further compliance filing by PSE should be required.

ORDER

THE COMMISSION ORDERS THAT:

- 9 (1) Order 04 in this docket is amended as discussed in the body of this Order and
in PSE's revised petition, filed on November 9, 2010.
- 10 (2) The Commission retains jurisdiction to enforce the terms of this, and all prior
orders, in this proceeding.

DATED at Olympia, Washington, and effective December 21, 2010.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This is a Commission Final Order. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.