

Via Electronic Mail

February 8, 2017

Chairman David Danner
Commissioner Philip Jones
Commissioner Ann Rendahl
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
Olympia, WA 98504-7250

Re: Puget Sound Energy Schedule 91 – Cogeneration and Small Power Production, Docket No. UE-161240 – Comments of Renewable Northwest

Dear Commissioners:

Renewable Northwest appreciates the opportunity to comment on Puget Sound Energy's ("PSE") third revised advice filing proposing to reduce its Schedule 91 avoided cost rates ("2017 Schedule 91"). We recommend that the Washington Utilities and Transportation Commission (the "Commission") delay ruling on PSE's proposed 2017 Schedule 91 rates so that parties can further delve into PSE's proposed reduction in capacity payments, but approve the proposed 2017 Form Power Purchase Agreements ("PPAs"). This approach would allow PSE to complete negotiations with Qualifying Facilities ("QF") using the 2017 Form PPAs and the current 2016 Schedule 91 rates, pending further investigation of the proposed 2017 Schedule 91 rates.

For decades, the Public Utility Regulatory Policies Act ("PURPA") has been a cornerstone of U.S. energy policy, encouraging small and independent power production and reducing our reliance on fossil fuels. Over the years, PURPA has facilitated the development of independent renewable energy generation, increasing competition in the supply of energy and driving down prices for consumers. PURPA remains an important pathway for independent renewable energy generation in parts of the country like the Pacific Northwest where renewable energy generators do not have access to a vibrant energy market.

Other stakeholders, including QF developers under PURPA, have raised concerns that PSE has unjustifiably delayed the provision and execution of PPAs for mature projects that should, under normal circumstances, already have executed PPAs.¹ To the extent that this delay may be occurring, the QF developers that might otherwise have an executed PPA would be at risk of receiving lower avoided cost rates solely as a result of PSE delaying the execution of a PPA. If this delay is occurring, we encourage the Commission to not allow PSE to avoid or postpone its must-purchase obligation under PURPA by delaying the execution of QF PPAs.

A utility that imposes obstacles to the execution of QF PPAs acts inconsistently with PURPA and its associated regulations. The Federal Energy Regulatory Commission ("FERC") addressed concerns about utilities avoiding their must-purchase obligation under PURPA by refusing to enter into PPAs when it set a Legally Enforceable Obligation ("LEO") standard that does not

¹ Comments of Renewable Energy Coalition at 3-5 (February 6, 2017).

necessarily require a signed PPA.² FERC considers that a LEO exists when the QF has obligated itself to deliver energy to the utility.³ Additionally, utilities cannot delay “the signing of a contract so that a later and lower avoided cost is applicable.”⁴

Our understanding is that PSE has indicated it is not executing certain PPAs with QFs that otherwise meet its requirements for a “mature project” on the basis that it is waiting for the Commission to approve these new 2017 Form PPAs. To this end, we recommend that the Commission approve the proposed 2017 Form PPAs in order to facilitate PSE’s execution of PPAs with mature QF projects.

Renewable Northwest is also concerned about the lack of opportunity for stakeholders and affected parties to properly vet PSE’s proposed reduction in capacity payments. The drastic reduction in PSE’s proposed capacity payments to QFs deserves careful consideration as part of a process that allows thorough vetting by Commission Staff, stakeholders, and affected parties. In light of the concerns the Renewable Energy Coalition raises about assumptions underlying such a drastic reduction, we encourage the Commission to allow stakeholders the opportunity to vet, and, if appropriate, challenge the assumptions underlying PSE’s filing.

In summary, we recommend that the Commission delay ruling on PSE’s proposed 2017 Schedule 91 rates so that parties can further delve into PSE’s proposed reduction in capacity payments, but approve the proposed 2017 Form PPAs. This approach would allow PSE to complete negotiations with mature QF projects using the 2017 Form PPAs and the current 2016 Schedule 91 rates pending further investigation of the proposed 2017 Schedule 91 rates.

Thank you for the opportunity to comment.

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² Order No. 69, FERC Stats. & Regs. ¶ 30,128, at 30,880; Cedar Creek Wind, LLC, 137 FERC ¶ 61,006 at ¶ 32 (explaining that Section 292.304(d) and the LEO were adopted to prevent utilities from ignoring their must purchase obligation under PURPA); See Order No. 69, 45 Fed. Reg. at 12,224; see also Grouse Creek Wind Park, LLC, 142 FERC ¶ 61,187, at ¶ 40 (2013).

³ Order No. 69, 45 Fed. Reg. at 12,224; see also 18 C.F.R. § 292.304(b)(5).

⁴ Cedar Creek Wind, LLC, 137 FERC ¶ 61,006 at ¶ 36.