

STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

621 Woodland Square Loop S.E. • Lacey, Washington 98503

P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY 1-800-833-6384 or 711

October 28, 2024

Jeff Killip, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250

Re: *Wash. Utils. and Transp. Comm'n v. Puget Sound Energy*  
Dockets UE-220066, UG-220067, and UG-210918 (*Consolidated*)

Dear Jeff Killip,

On December 22, 2022, the Washington Utilities and Transportation Commission (Commission) issued Order 24/10<sup>1</sup> in the above referenced dockets. Among other things, Order 24/10 required Puget Sound Energy ("Company" or "PSE") to file a Multi-Year Rate Plan Annual Report ("the Report") to allow the Commission and parties to the case the opportunity to review whether capital included provisionally in rates has been placed in service during the rate-effective period and to assess whether the costs for those projects or services for that year were prudently incurred. If so, the Commission considers those costs should no longer be subject to refund,<sup>2</sup> and the Company transfers the revenue requirement associated with the project from "subject to refund" (Schedule 141R) to "not subject to refund" (Schedule 141N). PSE is also required to report on the Inflation Reduction Act (IRA) and Infrastructure Investment and Jobs Act (IIJA) funding options and offsetting benefits in all retrospective reviews of capital projects.

On March 29, 2024, the Company submitted its second annual Report, which concerned PSE's actual 2023 capital investments compared to what was used to set provisional rates in accordance with Order 24/10.

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<sup>1</sup>UE-220066, etc. Order 24/10, Rejecting Tariff Sheets; Approving Settlements with Conditions; Authorizing and Requiring Compliance Filing in the above-referenced dockets. The procedure for the review applied this year is stipulated in the Settlement Agreement to the 2022 General Rate Case. Order 24/10 p. 237 referencing UE-220066 ,etc. Prefiled Direct Testimony of Susan Free, Exh-SEF-1T

<sup>2</sup>U-190531 Policy Statement on Property that Becomes Used and Useful after Rate Effective Date.

To allow flexibility in utility operations, under the stipulated procedure the costs should be evaluated on a portfolio basis subject to a test for significance of the variance for under-investing. If the portfolio fails this "threshold test," the difference between forecasted and actual costs representing the amount under-invested may be refunded to customers as well as any significant imprudent expenditures, Prefiled Direct Testimony of Susan Free, Exh-SEF-1T p 143 Table 1.

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Commission staff (Staff) reviewed PSE's compliance filing. Staff issued informal data requests and met with the Company to discuss variances between forecasts and actual costs for several of the capital projects. Staff's review identified deficiencies in PSE's initial filing, including an error in the categorization of a project and a lack of documentation to support the prudence of the significant cost variance associated with the Energize Eastside project. In the course of discovery, PSE stated that expenditures on AMI and the Energize Eastside project were not as initially reported: AMI was not underspent at all and Energize Eastside overspent less than reported.

After those discussions, PSE refiled its report on October 18, 2024, correcting the errors and withdrawing its request to deem the costs for the Energize Eastside project to "not subject to refund." Instead, PSE will continue to recover the costs of the Energize Eastside project provisionally. Company will submit full support for the prudence of Energize Eastside's costs when it files its 2024 Report.

#### Finding of Compliance

Staff has reviewed PSE's revised compliance filing and determined that the Report and accompanying workpapers meet the requirements of Order 24/10, including the Commission's conditions for IRA and IJA. Staff believes PSE provided sufficient information regarding IRA and IJA opportunities it is considering. PSE indicated no off-setting benefits for 2023.

#### Effect on Rates

Staff notes that PSE's Multi-Year Rate Plan Annual Report in and of itself has no effect on customer rates. PSE did file tariff sheets and workpapers to allocate the amount transferred from 141R to 141N in Dockets UE-240779 and UG-240780. The Commission is scheduled to take action on those filings at its regularly scheduled November 7, 2024, open public meeting.

#### Challenges

Notwithstanding the compliance finding, Staff did encounter challenges in this relatively novel retrospective plant review, which utilized the recently adopted portfolio basis review approach. The company did not provide sufficient evidence demonstrating prudence at the outset in the Report; instead, Staff was required to verify prudence through burdensome discovery. Specifically,

- Narrative explanations for variances did not provide sufficient detail for Staff to determine prudence.
- A limited number of investment deviations were explained in the variance report.
- A limited number of specific projects in service dates were identified in the workpapers.
- The sections of the Settlement Agreement requiring calculations on offsetting benefits other than IRA and IJA were not expressly addressed in the report.
- Insufficient time was provided for the review (which PSE agreed to extend for this 2023 review.)

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- Staff lacked a viable standard or methodology for assessing the prudence for the programmatic overspending in the portfolio, as opposed to specific, with the information provided.

With such difficulties, Staff is concerned that the burden of establishing prudence, which according to long-time Commission standards lies with the utility,<sup>5</sup> becomes effectively transferred to Staff for each year after the initial year of a rate plan.

Respectfully,

Laura Henry, Regulatory Analyst

Sean Laue, Regulatory Analyst