

[Service date August 7, 2015]

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET UE-130583
)	
PUGET SOUND ENERGY)	ORDER 07
)	
For an Accounting Order Authorizing)	
Accounting Treatment Related to)	
Payments for Major Maintenance)	
Activities)	
.....)	
WASHINGTON UTILITIES AND)	DOCKET UE-130617
TRANSPORTATION COMMISSION,)	
)	ORDER 11
Complainant,)	
)	
v.)	
)	
PUGET SOUND ENERGY,)	
)	
Respondent.)	
.....)	
In the Matter of the Petition of)	DOCKET UE-131099
)	
PUGET SOUND ENERGY)	ORDER 07
)	
For an Accounting Order Authorizing)	
Accounting the Sale of the Water Rights)	
and Associated Assets of the Electron)	
Hydroelectric Project in Accordance with)	
WAC 480-143 and RCW 80.12.)	
.....)	
In the Matter of the Petition of)	
)	DOCKET UE-131230
PUGET SOUND ENERGY)	
)	ORDER 07
For an Order Authorizing the Sale of)	
Interests in the Development Assets)	
Required for the Construction and)	
Operation of Phase II of the Lower Snake)	
River Wind Facility)	
.....)	

FINAL ORDER APPROVING AND ADOPTING SETTLEMENT STIPULATION

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1 **PROCEEDING:** On March 27, 2015, Puget Sound Energy (PSE or Company), the regulatory staff (Staff)¹ of the Washington Utilities and Transportation Commission (Commission), and the Public Counsel Section of the Washington Office of Attorney General (Public Counsel, collectively with Staff and the Company, Settling Parties) filed a multiparty settlement stipulation (Settlement) addressing modifications to PSE’s power cost adjustment (PCA) mechanism.² The Settling Parties filed revisions to the Settlement attachments on July 8, 2015. The Industrial Customers of Northwest Utilities (ICNU) opposes the Settlement. ICNU did not, however, sponsor witnesses or file exhibits in opposition to the Settlement.

2 **PARTY REPRESENTATIVES:** Sheree Strom Carson, Perkins Coie LLP, Bellevue, Washington, represents PSE. Simon J. ffitich, Senior Assistant Attorney General, Seattle, Washington, represents Public Counsel. Sally Brown, Senior Assistant Attorney General, Olympia, represents Staff. Jesse E. Cowell, Davison Van Cleve, PC, Portland, Oregon, represents ICNU.

MEMORANDUM

3 **BACKGROUND.** On October 23, 2013, the Commission approved and adopted a settlement stipulation (2013 PCORC Settlement) in Dockets UE-130583, UE-130617, UE-131099, and UE-131230, under which the parties agreed to initiate a collaborative process to address issues relevant to the PCA mechanism and power cost only rate cases (PCORC), “but excluding the issue of whether the PCA or PCORC should continue.”³ If the parties reached an agreement in the collaborative, they were to propose its implementation in PSE’s next PCORC.⁴ If the parties did not reach agreement, PSE

¹ In formal proceedings, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

² The PCA was established as “an annual accounting process for sharing of modified actual power costs relative to a power cost baseline between PSE and its customers.” Joint Testimony at 4:19-21 (internal citation omitted). Under the PCA mechanism, PSE is allowed to file for rate changes to update its power costs. *Id.* at 4:23-5:2.

³ Settlement, ¶¶ 25-26.

⁴ *Id.*, ¶ 25.

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agreed to initiate a new docket by July 1, 2014, to address PCA and PCORC-related issues, including whether the PCA or PCORC should continue.⁵ Consistent with the terms of the 2013 PCORC Settlement, interested parties participated in a series of collaborative meetings. The Commission granted several extensions to the July 1, 2014, filing deadline, allowing negotiations among the parties to continue.⁶

4 On March 27, 2015, the Settling Parties filed the Settlement, attached to this Order as Appendix A and incorporated by reference in this Order. ICNU opposes the Settlement and states that the changes to PSE's dead bands and sharing bands "[make] customers susceptible to additional surcharges in the first sharing band."⁷ ICNU contends that this will shift a considerable portion of production costs into PSE's decoupling mechanism which represents a major change to the Company's rate structure affecting all customers subject to the decoupling mechanism.⁸ It argues that such a significant modification should only be made in the context of a general rate case. ICNU did not, however, support its opposition to the Settlement with witness testimony or exhibits.

5 On April 3, 2015, the Settling Parties filed supporting testimony and exhibits. A revised Exhibit B to the Settlement and corresponding revised testimony were filed by the Settling Parties on April 28, 2015. The Commission received further revisions to the exhibits to the Settlement and the testimony on July 8, 2015. The Settlement addresses:

- removal of Fixed Production Costs from the PCA imbalance calculation;
- modifying the dead band and the sharing bands;
- the refund or surcharge trigger;
- timing and stay out provisions; and
- administrative costs of PSE's hedging program.

⁵ *Id.*

⁶ On June 13, 2014, the Commission granted a request to extend the July 1, 2014, deadline to October 1, 2014. The Commission subsequently granted a second motion for extension, extending the deadline to January 12, 2015. On January 9, 2015, Public Counsel, Staff, and PSE notified the Commission that the Settling Parties reached an agreement.

⁷ Letter from ICNU to the Commission at 1 (March 27, 2015).

⁸ *Id.* at 1-2.

SETTLEMENT

I. Removal of Fixed Production Costs.

6 The Settlement proposes to move the recovery of Fixed Production Costs from the PCA and collect the Fixed Production Costs through the decoupling mechanism if it continues.⁹ Currently, these costs are recovered on a dollar per megawatt hour (MWh) basis through the PCA, subject to dead bands and sharing bands. The Settling Parties have divided total electric costs¹⁰ into three categories: Fixed Production Costs, which will be included in the electric decoupling mechanism if it continues; Variable Production Costs, which will continue to be recovered and traced through the PCA mechanism; and Delivery Costs, which include all other costs currently included in PSE's decoupling plan.¹¹ As Public Counsel argues, this "works to simplify an unnecessarily complex mechanism . . . [and makes] it easier for Public Counsel, Staff, and other interveners to review PSE's power costs."¹² Staff supports excluding Fixed Production Costs from the PCA because:

when fixed costs are included in an energy recovery mechanism, they are subject to true-up for load variations. This has an impact on cost sharing and may push other variable costs, which the Company may have some control over, into a higher sharing band or conversely contain the variable costs within the dead band. In either case, this alters the incentives for the Company to control its costs whenever possible.¹³

⁹ Attachment A to the Settlement, ¶ 4. If the decoupling mechanism does not continue, recovery of Fixed Production Costs will occur through general rates.

¹⁰ Settlement at 8.

¹¹ Joint Testimony at 9:21-10:2. In Attachment A to the Settlement, the Settling Parties provided a summary of the PCA mechanism as proposed. In Appendix 1 to the Joint Testimony, the Settling Parties provided a red-lined version of the summary, showing the changes since its creation over 13 years ago. The summary and red-lined summary proved extremely useful during our consideration of this matter. We encourage the inclusion of a summary and red-lined summary when parties propose modifications to power cost and decoupling mechanisms.

¹² *Id.* at 12:8-10.

¹³ *Id.* at 15:11-17.

7 While Fixed Production Costs are removed from the PCA and added to the decoupling mechanism, the Settlement provides that PSE may still update Fixed Production Costs through a PCORC.¹⁴ The Settlement explicitly allows the Settling Parties to either support or oppose decoupling in the Company's next general rate case.¹⁵

II. Reduction in the Size of the Dead Band/Adjustment to Sharing Bands.

8 The Settlement reduces the size of the dead band from \$20 million to \$17 million.¹⁶ The Settling Parties assert that this provides earlier sharing of both costs and benefits.¹⁷

9 The Settlement also proposes to adjust the sharing bands. With the reduction of the dead band, the first sharing band of costs and benefits will be for over- or under-recovery from \$17 million to \$40 million.¹⁸ Under-recovery will be shared equally between customers and the Company, while over-recovery be shared between the Company and customers at 35 percent and 65 percent, respectively.

10 For any over- or under-recovery in excess of \$40 million, customers and the Company will split responsibility at the rate of 90 percent and 10 percent, respectively. This is a reduction of customers' responsibility for power cost under-recoveries beyond \$40 million from 95 to 90 percent.¹⁹

11 The Settlement eliminates the last sharing band.²⁰

12 Staff and Public Counsel support the proposed change because customers benefit from introduction of asymmetry to the first sharing band. Staff points out that the Settlement "recognizes the asymmetric risk of power costs for a utility operating primarily in a

¹⁴ Summary of PCA Mechanism, ¶ 4.

¹⁵ *Id.*, ¶ 13.

¹⁶ Settlement at 5.

¹⁷ Joint Testimony at 7:11-14. Up to the \$17 million threshold, PSE receives all of the benefit and is responsible for all of the costs.

¹⁸ *Id.* at 7:15.

¹⁹ *Id.* at 11:3-4.

²⁰ *Id.* at 7:11-20.

hydro-rich region like the Northwest and provides an appropriately tailored outcome.”²¹ Public Counsel argues that “asymmetry is particularly important because mechanisms such as the PCA naturally shift risk from the Company to customers, who obviously do not wield any control over costs, and serves to encourage cost control on the part of PSE.”²² PSE believes that asymmetry in recovery of power costs will occur primarily in the dead band, and that the direction and magnitude of the asymmetry will vary unpredictably.²³ PSE maintains its position that, generally, “specific asymmetry should not be built into the sharing bands.”²⁴ Nevertheless, PSE accepts this proposal “as part of the give and take of reaching a settlement,”²⁵ and “based on other changes to the mechanism that were agreed to by the Settling Parties, such as narrowing of the dead bands.”²⁶

III. Reducing the Amount of the Refund or Surcharge Trigger.

13 When the balance of the PCA deferral account reaches a certain amount, the mechanism triggers a refund or surcharge to customers. Currently, this trigger is set at \$30 million, and the Settlement proposes to reduce the trigger to \$20 million.²⁷ Public Counsel discusses the trigger, pointing out that it prevents rate volatility “by avoiding overly frequent surcharges or refunds.”²⁸ It supports lowering the trigger amount because in 13 years of operation the current mechanism has never actually triggered a refund or a surcharge.²⁹ Reducing the trigger from \$30 million to \$20 million “would have only triggered a surcharge or refund once in its history.”³⁰

²¹ Joint Testimony at 16:13-15.

²² *Id.* at 12:12-15.

²³ *Id.* at 20:7-11.

²⁴ *Id.* at 20:6-20.

²⁵ *Id.* at 20:5.

²⁶ *Id.* at 20:21-23.

²⁷ Summary of PCA Mechanism, ¶ 3.

²⁸ Joint Testimony at 12:20-23.

²⁹ *Id.* at 13:3-5.

³⁰ *Id.* at 13:5-7.

IV. *Timing and Stay Out Provisions.*

14 The Settling Parties propose that the revised PCA begin January 1, 2017, and continue unchanged through January 1, 2022.³¹ Staff argues that maintaining a constant definition of power costs is necessary in order for the PCA to appropriately capture power cost variations over time.³² PSE characterizes the moratorium on PCA and PCORC changes as “one of the key elements” of this Settlement.³³

15 Additionally, the Settlement estimates PSE’s next general rate case will result in rates effective March 1, 2017. The Settlement provides that PSE may file, and the Settling Parties agree to support, an accounting petition deferring revenue variances in Fixed Production Costs between January 1, 2017, when Fixed Production Costs are removed from the PCA per this Settlement, and March 1, 2017, when rates from the general rate case become effective and Fixed Production Costs are placed in the decoupling mechanism, if PSE’s decoupling program continues.

V. *Administrative Costs of PSE’s Hedging Program.*

16 The administrative and line of credit costs of executing a hedging program were originally excluded from the PCA. In 2007, “interest costs and commitment fees associated with electric hedging activities” were added to net power costs recovered through the PCA.³⁴ The Settlement proposes to remove recovery of these “line of credit costs” from the PCA and instead address them as an element of PSE’s cost of capital.³⁵

DISCUSSION/DECISION

17 The Settling Parties have presented us with a multiparty Settlement that purports to resolve all issues within the docket. In its evaluation, the Commission must “determine

³¹ Settlement at 7.

³² Joint Testimony at 17:1-10.

³³ *Id.* at 19:16-19.

³⁴ *Id.* at 5:10-11; *WUTC v. Puget Sound Energy*, Dockets UE-060266 and UG-060267 (consolidated), Order 08, ¶ 34 (January 5, 2007).

³⁵ Settlement at 5.

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whether a proposed settlement meets all pertinent legal and policy standards.”³⁶

Settlements may be approved “when doing so is lawful, when the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the [C]ommission.”³⁷

18 The Settling Parties propose removing Fixed Production Costs from the PCA mechanism for inclusion in the Company’s decoupling mechanism, should it continue. ICNU opposes this removal because its significance should only be addressed in a general rate case setting. However, ICNU declined to present any witnesses or exhibits that quantify the “significance” of such a change. Further, as Staff and Public Counsel explain, removal of these costs from the PCA is not a novel approach but brings the Company in line with the current design of Avista Corporation’s Energy Recovery Mechanism and Pacific Power & Light Company’s Power Cost Adjustment Mechanism. All three electric utilities will have power cost recovery mechanisms which include only variable costs, and do not include fixed costs. In addition, this modification to PCA does not allow or disallow any specific power costs, it simply changes the way costs will be recovered, and promotes consistency in the treatment of power costs among utilities. We find that this provision is in the public interest and supported by the evidentiary record.

19 ICNU also opposes both the modifications to the dead bands and sharing bands as well as the reduction of the trigger amount. While it argues that this shifts the risk from PSE shareholders to ratepayers, other provisions of this Settlement shift risk from ratepayers to PSE shareholders. For example, the Settlement provides for a 65 percent to 35 percent asymmetry in favor of ratepayers in the first sharing band. The division of costs or under-recovery, however, for that same band is split equally among the two. PSE has, in the process of settling other issues, given up some of its previous share in potential over-recovery from the first sharing band. Again, ICNU did not present evidence to substantiate its opposition to these Settlement provisions. The modifications to the dead bands, sharing bands, and trigger amounts do shift risk, but do not appear to do so unilaterally or unreasonably, and are consistent with similar provisions in other utility mechanisms. For these reasons, we find these provisions in the public interest.

³⁶ WAC 480-07-740.

³⁷ WAC 480-07-750(1).

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- 20 The five-year moratorium on further modifications to the PCA mechanism should provide the parties and the Commission with stability of the PCA's design. The provision in the Settlement waiving the PCA requirement that PSE file a general rate case within three months of the PCORC's rate effective date, as well as PSE's agreement to not file a general rate case or a PCORC within six months of any PCORC's rate effective date, are intended to eliminate the administrative burden and repetition of processing a general rate case or a PCORC and recalculating power costs shortly after the conclusion a PCORC.
- 21 In 2007, the Commission approved a recommendation to include costs associated with a new line of credit to support wholesale power hedging transactions in the Power Costs Baseline Rate in the PCA mechanism.³⁸ At that time, we left it to the parties to "develop in PSE's next general rate case any arguments regarding whether inclusion of hedging costs in the baseline power cost rate should affect PSE's cost of capital."³⁹ With the Settlement, these costs will now be included in PSE's cost of capital. ICNU does not specifically oppose this provision. We find this reclassification is consistent with the financing nature of the hedging line of credit costs.
- 22 As is typical with settlements, the terms arrived at by the Settling Parties are the result of compromises necessarily borne out of a give-and-take process. As we discuss above, the terms arrived at by the Settling Parties in the collaborative are consistent with the public interest, and we find that the Settlement terms are supported by the available evidence in the record. We approve and adopt it as a full resolution of the issues presented.
- 23 The Settling Parties also filed a Motion in Dockets UE-011570 and UG-110571 to modify the Twelfth Supplemental Order, which established the PCA mechanism. Specifically, the Settling Parties ask for modification of Appendix A to the Twelfth Supplemental Order to conform to the terms of the Settlement we are approving and adopting. To the extent that the PCA terms originally approved Appendix A to the Twelfth Supplemental Order differ from the Settlement we are approving and adopting in this Order, we modify Appendix A of the Twelfth Supplemental Order in Dockets UE-011570 and UG-011571.

³⁸ *WUTC v. PSE*, Dockets UE-060266 and UG-060267 (consolidated), Order 08, Rejecting Tariff Sheets; Authorizing and Requiring Compliance Filing, ¶ 34 (January 5, 2007).

³⁹ *Id.*

FINDINGS OF FACT

- 24 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the parties and the reasons therefore, the Commission now makes and enters the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:
- 25 (1) The Washington Utilities and Transportation Commission is an agency of the state of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including electrical companies.
- 26 (2) Puget Sound Energy is a “public service company” and an “electrical company” as those terms are defined in RCW 80.04.010 and used in Title 80 RCW. PSE is engaged in Washington state in the business of supplying utility services and commodities to the public for compensation.
- 27 (3) On October 23, 2013, the Commission approved and adopted a settlement stipulation in the consolidated Dockets UE-130583, UE-130617, UE-131099, and UE-131230, under which the parties agreed to initiate a collaborative process to address issues surrounding the power cost adjustment mechanism and power cost only rate cases.
- 28 (4) PSE, the Commission’s regulatory staff (Staff), and the Public Counsel Division of the Washington State Attorney General’s Office (Public Counsel, collectively with Staff and PSE, Settling Parties) filed a multiparty settlement stipulation (Settlement), attached to this Order as Appendix A and incorporated by reference, which purports to resolve all issues related to the collaborative. The Settling Parties request the Commission approve the Settlement and modify the Twelfth Supplemental Order in Dockets UE-011570 and UG-011571 to reflect the revisions to the PCA mechanism brought about by the Settlement.
- 29 (5) The Industrial Customers of Northwest Utilities (ICNU) opposes the Settlement but did not offer any witnesses or exhibits.

- 30 (6) The Settlement addresses five broad issues: removal of Fixed Production Costs from the PCA imbalance calculation; modifying the dead band and the sharing bands; the refund or surcharge trigger; timing and stay out provisions; and administrative costs of PSE's hedging program.

CONCLUSIONS OF LAW

31 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:

- 32 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings.
- 33 (2) Pursuant to WAC 480-07-750, the Commission will approve settlements when doing so is lawful, when the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the Commission.
- 34 (3) The Settlement is lawful, its terms are supported by an appropriate record, and the result is consistent with the public interest in light of all the information available to the Commission.
- 35 (4) The Commission should approve and adopt the Settlement, attached to this Order as Appendix A and incorporated by reference in this Order, as a reasonable resolution of the issues presented.
- 36 (5) To the extent that the PCA terms originally approved in Appendix A to the Twelfth Supplemental Order differ from the Settlement we are approving and adopting in this Order, we modify Appendix A of the Twelfth Supplemental Order in Dockets UE-011570 and UG-011571.
- 37 (6) The Commission should retain jurisdiction to effectuate the terms of this Order.

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ORDER

THE COMMISSION ORDERS:

- 38 (1) The Settlement Stipulation filed by PSE, Commission Staff, and Public Counsel,
and attached to this Order as Appendix A and incorporated by reference, is
approved and adopted.
- 39 (2) To the extent that the PCA terms originally approved in Appendix A to the
Twelfth Supplemental Order differ from the Settlement we are approving and
adopting in this Order, we modify Appendix A of the Twelfth Supplemental
Order in Dockets UE-011570 and UG-011571.
- 40 (3) The Commission retains jurisdiction over the subject matters and parties to this
proceeding to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective August 7, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

ANN E. RENDAHL, Commissioner

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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.

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APPENDIX A
(Settlement Stipulation)