

**ATTACHMENT B**

**PUGET SOUND ENERGY**

**In the Matter of the Petition of Puget Sound Energy, Inc. for an Accounting Order  
Authorizing Deferral of the Colstrip Lawsuit Settlement Payment**

**PROPOSED ORDER**

**ATTACHMENT B**

**BEFORE THE WASHINGTON UTILITIES & TRANSPORTATION COMMISSION**

PETITION OF PUGET SOUND ENERGY, INC. |

For an Order Authorizing  
Deferral of Colstrip Lawsuit Settlement  
Payment

| Docket No. UE-08 \_\_\_\_

| ORDER (PROPOSED)

On May \_\_, 2008, Puget Sound Energy, Inc. ("PSE" or the "Company") filed a Petition with this Commission under WAC 480-07-370(1)(b) seeking an order authorizing the deferral of a settlement payment to be incurred as a result of the recent settlement of a lawsuit in the State of Montana over alleged damages caused by the operation of the Colstrip Generating Project in Colstrip, Montana.

In its petition, the Company states that in May 2003, various parties (all of which are residents or businesses of Colstrip, Montana) filed a consolidated complaint against the owners of the Colstrip Steam Electrical Station ("CSES or Colstrip") in Montana District Court. Colstrip consists of four plant units, with related facilities: Units 1 & 2, at 307 net megawatts each; and Units 3 & 4, at 740 net megawatts each. PSE is an owner of 50% of Colstrip Units 1 & 2, which were placed into service in 1975 and 1976 respectively. PSE's share of the net capacity of these two electric generating projects is 307 MW. PSE is an owner of 25% of Colstrip Units 3 & 4, which was placed into service in 1984 and 1986 respectively. PSE's share of the net capacity of these two electric generating projects is 370 MW. The plaintiffs alleged damages to buildings as a result of rising groundwater, as well as damages from contaminated waters leaking from the holding ponds of Colstrip. The Plaintiffs sought compensatory and punitive damages,

including damages for abatement, unjust enrichment, trespass, property diminution and emotional distress.

A trial date was scheduled for June 2, 2008. The owners of Colstrip, however, reached a settlement with the Plaintiffs on April 30, 2008. PSE's share of the settlement payment, prior to possible insurance recovery, amounts to \$10,707,986 and is to be paid on or before May 23, 2008. In its petition, PSE states that the Colstrip owners intend to pursue insurance recoveries possible, although such recoveries are not assured..

In its petition, PSE states that the negotiated terms of the settlement represent a favorable resolution considering the risks of litigation, together with the potential exposure to excessive compensatory and punitive damages, and that the settlement reflects a reasonable compromise, and a fair accommodation, to the interests of PSE and its customers.

In the petition, the Company requested authority to defer the Colstrip settlement payment in Account 182.3 - Other Regulatory Assets and accrue interest on the deferred balance, net of deferred federal income tax associated with the payment, at the Company's authorized rate of return. The Company requests that the Commission authorize the deferred balance to be amortized over a five-year period commencing when the Colstrip owners have determined that insurance recoveries have been exhausted, or commencing with a date and over a period of time as set forth differently in a future general or other proceeding before the Commission. Deferred costs existing at the time of a future general proceeding would be subject to review in that proceeding.

The Company states in its petition that the negotiated settlement avoids the potential of costly litigation and exposure to very substantial claims by the Plaintiffs.

Colstrip is a low-cost resource that is integral to the Company's resource base. The Company and the other Colstrip owners continue to make every effort to preserve the generation from Colstrip for the benefit of their customers at the lowest possible cost. In its petition, the Company states that the proposed accounting treatment would provide the Company with the opportunity to recover the costs associated with its ownership share of Colstrip, while customers receive the benefit from the low-cost resource.

### FINDINGS AND CONCLUSIONS

#### THE COMMISSION FINDS:

1. The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate rates, rules, regulations, practices, accounts, securities and transfers of public service companies, including electric companies. RCW 80.01.040; Chapter 80.04 RCW and Chapter 80.28 RCW.
2. PSE is a public service company furnishing electric and gas service primarily in the Puget Sound region of the State of Washington and is subject to the regulatory authority of the Commission as to its rates, service, facilities and practices.
3. On May \_\_, 2008, PSE filed with the Commission a Petition for an order authorizing the deferral of a settlement payment to be incurred as a result of the recent settlement of a lawsuit in the State of Montana over alleged damages caused by the operation of the Colstrip Generating Project in Colstrip, Montana. WAC 480-07-370, allows companies to file a petition including that for which PSE seeks approval.

4. Staff has reviewed the petition in Docket UE-08\_\_\_\_ and believes the proposed accounting petition requested by PSE, subject to certain conditions described above, is reasonable and should be approved.

5. This matter was brought before the Commission at its regularly scheduled meeting on \_\_\_\_\_.

6. After examination of the Petition filed in Docket No. UE-08\_\_\_\_ by PSE on May \_\_, 2008, and giving due consideration to all relevant matters and for good cause shown, the Commission finds that the Petition filed, subject to certain conditions described above, should be approved.

#### ORDER

##### THE COMMISSION ORDERS:

1. Authorization is hereby given for PSE to:
  - a) Defer the costs of a settlement payment to be incurred as a result of the recent settlement of a lawsuit in the State of Montana over alleged damages caused by the operation of the Colstrip Generating Project in Colstrip, Montana in Account 182.3 - Other Regulatory Assets;
  - b) Accrue interest, on the deferred balance net of deferred federal income tax associated with the payment, at the Company's authorized rate of return; and
  - c) Amortize the deferred balance over a five-year period commencing when the Colstrip owners' have determined that insurance recoveries have been exhausted, or commencing with a date and over a period of time as set forth differently in a future general or other proceeding before the Commission.

2. Such deferred costs existing at the time of a future general proceeding would be subject to review in that proceeding.
3. Nothing herein shall be construed to waive or otherwise impair the jurisdiction of the Commission over the rates, services, accounts and practices of PSE. The Commission, under its general ratemaking authority, will have the ability in subsequent PSE general rate proceedings to evaluate the reasonableness of the Company's expenditures associated with the costs of the settlement payment incurred as a result of the settlement of the lawsuit in the State of Montana over alleged damages caused by the operation of the Colstrip Generating Project.
4. The Commission retains jurisdiction to effectuate the provisions of this Order.

DATED at Olympia, Washington, and effective this \_\_\_ day of \_\_\_\_\_.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK SIDRAN, Chairman

PHILLIP JONES, Commissioner

PATRICK OSHIE, Commissioner