

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of )  
 )  
 ) Docket UE-20 \_\_\_\_\_  
PUGET SOUND ENERGY ) Docket UG-20 \_\_\_\_\_  
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 )  
For an Order Authorizing Accounting for Tracking ) PETITION OF PUGET SOUND ENERGY  
of Revenues Subject to PSE’s Private Letter )  
Ruling Requesting a Decision on the Proper )  
Ratemaking Treatment of Protected Excess )  
Deferred Income Taxes )

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**I. INTRODUCTION**

1. In accordance with WAC 480-07-370(3), Puget Sound Energy (“PSE” or “Company”) respectfully petitions the Commission for an Order authorizing the accounting detailed in this petition related to revenues subject to PSE’s request for a private letter ruling (“PLR”), which PSE will submit to the Internal Revenue Service (“IRS”). PSE’s request for a PLR will seek a determination of the proper ratemaking treatment of protected-plus excess deferred income taxes (“EDIT”).
2. Statutes and rules at issue in this Petition include RCW 80.01.040, RCW 80.28.020, WAC 480-07-370 (3), WAC 480-90-203 and WAC 480-100-203.
3. PSE is a combined gas and electric utility that provides service to approximately 1,200,000 electric customers and 850,000 natural gas customers in Western Washington.

4. All correspondence related to this Petition should be directed as follows:

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## II. REASONS FOR REQUEST FOR DEFERRED ACCOUNTING

5. On July 8, 2020, the Washington Utilities and Transportation Commission (“WUTC” or “Commission”) issued its Final Order 08 in Dockets UE-190529 and UG-190530, and Final Order 03 in Dockets UE-171225 and UG-171226 (“Final Order”).<sup>1</sup> On July 31, 2020, the Commission issued a subsequent order clarifying and modifying its Final Order (“Modifying Order”).<sup>2</sup> Together, these Final Orders provided the Commission’s determination of revenue requirement in the proceeding. Additionally, in its Final Orders, the Commission rejected PSE’s approach for the pass-back of EDIT to customers and ordered PSE to pass back EDIT in a manner that PSE believes would violate federal tax law.

6. In response to the Final Orders, PSE filed a Petition for Judicial Review on August 6, 2020 and a Motion to Stay portions of the Final Orders on August 7, 2020 in King County Superior Court under Case No. 20-2-12279-3 SEA. In its Petition for Judicial Review, PSE alleged that the Commission’s methodology for passing back EDIT violated federal tax law. In its Motion, PSE

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<sup>1</sup> These Dockets were consolidated.

<sup>2</sup> Order Nos. 08 and 10 are together referred to as the “Final Orders”.

sought to stay the portions of the Final Orders related to the pass back of EDIT to allow PSE time to seek a PLR from the IRS to determine the proper treatment of EDIT. PSE provided a declaration that the difference between the revenue requirement under the Final Orders and that under the Motion is \$25.6 million as detailed below. Work papers supporting the amounts shown below have been submitted with this petition.

Line	Description	Electric	Gas	Combined
(in millions)				
1	Commission Ordered EDIT Reversal Amounts	54.5	13.0	67.5
2	PSE's EDIT Reversal Amounts	(33.6)	(8.3)	(41.9)
3	Difference	\$ 20.9	\$ 4.7	\$ 25.6

7. On September 14, 2020, the King County Superior Court denied PSE’s Motion to Stay. The Court did not rule on the merits of PSE’s petition, but determined that the Court was not persuaded that PSE would incur “great and irreparable damage” without a stay of the Commission’s order. In reaching this conclusion, the Court relied on the Commission’s commitment to promptly open a proceeding to address the pass back of EDIT, should the IRS determine that the Commission’s pass back of EDIT violated federal tax law.<sup>3</sup>

8. PSE is in the process of preparing its PLR for submission to the IRS. PSE expects final resolution from the IRS could take eight months or longer after its PLR is submitted. Additionally, based on the Commission’s commitment in open court that it will immediately open a proceeding and revisit its order regarding the pass back of EDIT in the event that the IRS determines that the Commission’s methodology for passing back EDIT violates normalization rules,<sup>4</sup> PSE made its compliance filing with the Commission on September 23, 2020, and PSE voluntarily dismissed its Petition for Judicial Review with King County Superior Court shortly

<sup>3</sup> Order Denying Motion To Stay Portions of Final Orders at 5.

<sup>4</sup> King County Superior Court recording of oral arguments at 10:19:13 – 10:19:33.

after. PSE's compliance filing calculated rates in compliance with the Final Orders to become effective on October 1, 2020 for gas and a yet undetermined date for electric.

9. Should the IRS determine in the requested PLR that the Commission's methodology for passing back EDIT violates federal tax law, this accounting petition will allow the Commission to go back to the date that rates were put into effect and correct the methodology for passing back EDIT, thus further mitigating the risk of penalties being imposed by the IRS.

### **III. PROPOSED ACCOUNTING TREATMENT**

10. PSE proposes that it be allowed to track the amount of revenue it would have received if rates had been set using the methodology for passing back EDIT that PSE proposed. As recovery is not certain, PSE will record these entries as a debit to FERC 186 Miscellaneous Deferred Debits with an offsetting contra entry also to FERC 186. The amount of the monthly entry will be equal to \$25.6 million adjusted for load and customer counts in a manner similar to how the amount would have been recovered had it been set in rates. PSE requests only to track these revenues for consideration of recovery in a future proceeding, which the Commission has committed to open if the IRS determines that the Commission's methodology for passing back EDIT violates federal tax law. In such case, the Commission could determine that recovery of the amounts related to the time period between October 1, 2020 and the resolution of that future Commission proceeding addressing EDIT is warranted, and PSE would recognize the revenues at the time and in the manner they are granted recovery by the Commission.

### **IV. REQUEST FOR RELIEF**

11. For the reasons discussed above, PSE respectfully requests the Commission issue an Order that authorizes PSE to track the \$25.6 million of revenue in the manner presented in this petition and allows for potential recovery of the tracked amounts in a future proceeding if the IRS

rules that the pass back of EDIT ordered by the Commission violates federal tax law. Such tracking should further mitigate the risk of penalties for a potential normalization violation.

DATED this 1<sup>st</sup> day of October 2020

**Puget Sound Energy**

By */s/ Susan Free*

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