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**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

Docket UE-190529
Docket UG-190530 (*Consolidated*)

In the Matter of the Petition of

PUGET SOUND ENERGY

For an Order Authorizing Deferral
Accounting and Ratemaking Treatment for
Short-life IT/Technology Investment

Docket UE-190274
Docket UG-190275 (*Consolidated*)

**PUGET SOUND ENERGY’S
RESPONSE TO COMMISSION
STAFF’S MOTION FOR LEAVE TO
FILE SUPPLEMENTAL
TESTIMONY**

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I. INTRODUCTION

I. Puget Sound Energy (“PSE”) responds to Commission Staff’s (“Staff”) Motion for Leave to File Supplemental Testimony (“Motion”). PSE does not oppose Staff filing supplemental testimony in this proceeding regarding a new coal supply agreement for Colstrip Units 3 and 4 and resetting of the power cost baseline rate, as long as such testimony is filed by December 24, 2019, so PSE has adequate time to respond in rebuttal. PSE’s position throughout this

1 proceeding has been that a full update of power costs—including the new coal
2 supply agreement for Colstrip Units 3 and 4—is appropriate, and PSE proposed
3 such an update when it filed its prefiled direct testimony. A full update of power
4 costs during the course of the case is consistent with PSE’s past practice in
5 general rate cases and power cost only rate cases, and is consistent with the
6 Washington Utilities and Transportation Commission’s (“Commission”) direction
7 that power costs should be set as close as possible to the actual power costs that
8 will be in effect during the rate year.

9 2. Staff’s position in its Motion is at odds with its position at the prehearing
10 conference—initially opposing almost all the items PSE traditionally updates in a
11 power cost update and ultimately agreeing to a limited power cost update at
12 rebuttal that did not include the new coal supply contract. Moreover, Staff’s
13 suggestion in its Motion that PSE has somehow failed to disclose information in
14 discovery on a new coal agreement is inaccurate. PSE has been forthcoming
15 throughout this proceeding regarding the status of coal supply agreement
16 negotiations and has consistently maintained its position that power costs should
17 be updated in this proceeding.

18 3. Regardless of the compromise reached at the prehearing conference, PSE
19 agrees with Staff that the power cost baseline rate should be reset to include the
20 new coal supply agreement for Colstrip Units 3 and 4. This should be done as part
21 of the power cost update that is currently scheduled to be filed with PSE’s rebuttal
22 testimony and should fully update power costs to include: (i) the items set forth in

1 Appendix B to the Prehearing Conference Order, (ii) the new coal supply
2 agreement for Colstrip Units 3 and 4, and (iii) all other updated contracts and
3 power cost inputs.

4 II. ARGUMENT

5 A. PSE has advocated for a full power cost update during the course of this 6 case, consistent with past cases, and agrees that power costs should be 7 updated to reflect a finalized coal supply agreement, but other power costs 8 should also be updated.

9 4. PSE has advocated for a full power cost update from the outset of the case,
10 which would have included updating the coal supply agreement for Colstrip Units
11 3 and 4. In its initial filing, PSE testified to its intent to update power costs—
12 either in supplemental testimony or rebuttal testimony—in order to ensure that the
13 power cost baseline rate is set as close as possible to actuals,¹ as the Commission
14 has directed in past cases.² PSE has updated power costs in nearly all general rate
15 cases and power cost only rate cases since the inception of the Power Cost
16 Adjustment (“PCA”) mechanism in 2002.³ These updates to power costs have

¹ See, e.g., Prefiled Direct Testimony of Susan E. Free, Exh. SEF-1T, at 62:4-6, 63:5-12; Prefiled Direct Testimony of Paul K. Wetherbee, Exh. PKW-1CT, at 44:16-18, 68:11-69:12, 81:15-82:2.

² See *WUTC v. PSE*, Docket UE-072300/UG-072301, Order 15, ¶ 11 (Jan. 15, 2009) (“The Commission’s goal is to set the Power Cost Baseline Rate as close as possible to what is expected to be experienced in the rate year and expect this to continue going forward.”), citing *WUTC v. PSE*, Dockets UE-060266/UG-060267, Order 08, ¶ 22 (Jan. 5, 2007).

³ See, e.g., *WUTC v. PSE*, Dockets UG-170033/UE-170034, Order 08, ¶¶ 29, 31, 75, 242 (Dec. 5, 2017) (PSE’s as-filed case and supplemental testimony included power cost updates); *WUTC v. PSE*, Dockets UE-111048/UG-111049, Order 08, n.303 (May 7, 2012); *WUTC v. PSE*, Dockets UG-040640, *et al.*, Order 06, ¶ 16 (Feb. 18, 2005) (expressly recognized an agreement among the parties to the proceeding “that more recent data predicts the near and perhaps even intermediate term better than older data.”).

1 allowed PSE’s PCA mechanism to perform as intended; over the past 17 years,
2 PSE’s bands have absorbed the normal upward and downward power cost
3 variances and no surcharge or credit has been required.⁴

4 5. At the prehearing conference, after negotiating for one hour and forty-five
5 minutes, Staff, PSE, and other parties agreed to a limited power cost update, the
6 terms of which are set forth in Appendix B to the Prehearing Conference Order
7 (Order 03).⁵ The negotiated updates to power costs did not include the coal supply
8 agreement. As noted by Staff’s counsel, “it matters greatly” that the power cost
9 update be limited to these terms.⁶ Staff was very clear at the prehearing
10 conference that it did not want any additional power cost updates beyond those
11 negotiated by the parties and specified in the Prehearing Conference Order.

12 6. As Staff’s Motion reflects, Staff may now be willing to expand the scope
13 of the power cost update, scheduled for rebuttal, which PSE supports. Rather than
14 picking and choosing which inputs to power costs should be updated, however,
15 this update to power costs should include (i) the items negotiated at the prehearing

⁴ See *WUTC v. PSE*, Docket UE-072300/UG-072301, Order 15, ¶ 9 (Jan. 15, 2009) (noting that the PCA mechanism is intended to address power cost variability over time with the expectation that the over- and under-recoveries will offset each other. “The objective is to minimize deferral balances by only capturing power cost variability that is extraordinary. This balancing has occurred, in fact, and the surcharge has never been triggered.”).

⁵ As set forth in Appendix B to the Prehearing Conference Order, PSE’s Power Cost Update consists “exclusively of updates to (1) forward market data, (2) short-term fixed-price power contracts that are an AURORA input, (3) fixed-price gas for power contracts, (4) index-based power and gas for power contracts, and (5) costs that are themselves dependent on the updated AURORA output.” See also Attachment A, Transcript of Prehearing Conference, at 15:4-22 (colloquy between Staff Attorney Jennifer Cameron-Rulkowski and Judge Pearson noting the parties’ dispute over what a power cost update should look like, the prolonged negotiation, and the negotiated terms for the update).

⁶ Attachment A, Transcript of Prehearing Conference, at 15:19-20.

1 conference and set forth in Appendix B to the Prehearing Conference order; (ii)
2 the finalized coal supply agreement; and (iii) other inputs that have changed since
3 PSE filed its direct testimony, including but not limited to items listed in
4 Attachment A to Staff's Motion.⁷ Updating the power costs in this way will allow
5 the power cost baseline rate to be set as close as possible to what is expected to be
6 experienced in the rate year, a standard the Commission has endorsed for PSE.⁸

7 **B. PSE has consistently informed Staff and the other parties in this case**
8 **regarding the status of a new coal supply agreement at Colstrip Units 3 and 4**
9 **and has been willing to update power costs to reflect a finalized coal supply**
10 **agreement since the initiation of this case.**

11 7. Staff's Motion inaccurately suggests that PSE has not been forthcoming in
12 providing information regarding the status of a new coal supply agreement at
13 Colstrip Units 3 and 4. As explained below and as demonstrated by the data
14 request responses Staff attached to its Motion, PSE has openly and accurately
15 updated Staff regarding the status of negotiations regarding a new coal supply
16 agreement and has consistently emphasized a willingness to update power costs to
17 reflect a new coal supply agreement when finalized.

⁷ Attachment A to Staff's Motion (PSE Response to Staff Data Request No. 057) lists the following other inputs that have changed or could change since PSE filed its direct testimony: (1) Mid-Columbia hydro contract costs, which are regularly updated by project operators; (2) an increase in hydro output that resulted from PSE's decision to exercise the option in its contract with Grant PUD to purchase 4.33 percent of Priest Rapids project output; (3) maintenance-related outage schedules for PSE resources; (4) a new BPA transmission contract acquired from a third party; and (5) charges from pipelines pursuant to pipeline tariff changes.

⁸ See *WUTC v. PSE*, Docket UE-072300/UG-072301, Order 15, ¶ 11 (Jan. 15, 2009) ("The Commission's goal is to set the Power Cost Baseline Rate as close as possible to what is expected to be experienced in the rate year and expect this to continue going forward."), citing *WUTC v. PSE*, Dockets UE-060266/UG-060267, Order 08, ¶ 22 (Jan. 5, 2007).

1 8. PSE has repeatedly stated that the expected new coal supply agreement for
2 Colstrip Units 3 and 4 is likely to increase power costs and that PSE is willing to
3 update power costs in this proceeding if Staff would agree to such an update. For
4 example, in response to WUTC Staff Data Request No. 057 (attached by Staff as
5 Attachment A to the DeMarco Decl.), where PSE listed potential impacts to
6 power costs during the proceeding, PSE stated:

7 Other items that could change during the course of this
8 proceeding include: (1) an expected new coal contract for
9 Colstrip Units 3&4 to replace the existing contract that
10 expires in December 2019 . . . The coal contract . . . [is]
11 likely to increase power costs.

12 9. Likewise, in PSE's First Supplemental Response to WUTC Staff Data
13 Request No. 075 (attached by Staff as Attachment B to the DeMarco Decl.), PSE
14 clarified that a new coal contract had not yet been finalized and that negotiations
15 were still underway, but that PSE is willing to update power costs to reflect a new
16 coal supply agreement for Colstrip Units 3 and 4 during this proceeding if a new
17 contract is finalized (emphasis added):

18 PSE is willing to update power costs to include this new
19 contract and to seek a prudence determination of this new
20 contract, if Commission Staff will agree to such an update.
21 *However, based on Commission Staff's position at the*
22 *prehearing conference, strictly limiting PSE's supplemental*
23 *testimony and power cost update, PSE does not currently*
24 *have a plan to update power costs to include the new coal*
25 *contract.*

26 10. PSE's First Supplemental Response to WUTC Staff Data Request No. 075
27 goes on to explain that (1) at the time of PSE's supplemental testimony filing on
28 September 17, 2019, the coal contract was not finalized and (2) the procedural

1 schedule in Appendix B to the Prehearing Conference Order lists specific items to
2 be included in the power cost update in PSE’s rebuttal testimony and the expected
3 coal contract for Colstrip Units 3 and 4 was not included in the list of updates to
4 include in the power cost update. Accordingly, due to Staff’s prior position in this
5 case and in accordance with WAC 480-07-880, which requires PSE to “strictly
6 limit the scope of its compliance filing to the requirements of the final order to
7 which it relates,” PSE did not intend to reflect a new coal supply contract in its
8 power cost update. However, in its response to WUTC Staff Data Request No.
9 075, PSE maintained its position that “Typically, a new fuel contract would be
10 included in a power cost update if it were finalized.”

11 *11.* Finally, Staff implies that PSE belatedly provided the unsigned, working
12 group draft term sheet from July 2019 outlining draft provisions of a new coal
13 supply agreement for Colstrip Units 3 and 4 “two days before the filing deadline
14 for Staff’s testimony.” Mot. at ¶ 2. This is inaccurate and misrepresents the
15 discovery posture between the parties. PSE provided the unsigned, working group
16 draft term sheet in a timely manner in response to Staff’s data request submitted
17 on November 6—a data request Staff could have submitted at any point in this
18 case. Moreover, to the extent Staff believes that the unsigned, working group draft
19 term sheet provides a basis for updating power costs, the draft term sheet PSE
20 provided is just that: an unsigned draft, which “outlines the basic points for a
21 potential contract if agreeable terms can be reached.” As PSE cautioned in its
22 response, “[t]here have been significant negotiations since that time and a contract

1 has not been signed.” The draft term sheet is not the finalized coal supply
2 agreement and was never a basis for updating power costs.

3 12. In sum, Staff’s suggestion that its Motion is warranted because of newly-
4 discovered evidence relating to PSE’s coal supply agreement at Colstrip Units 3
5 and 4 is false. As set forth above, that PSE has been actively negotiating a new
6 coal supply agreement is well known amongst the parties and it has always been
7 PSE’s position that power costs should be updated to reflect the new coal supply
8 agreement when finalized, along with all other new contracts and inputs affecting
9 power costs.

10 **C. PSE does not object to Staff filing supplemental testimony on this issue as**
11 **long as PSE has sufficient time to incorporate any response into its rebuttal**
12 **testimony.**

13 13. In its Motion, Staff asks for time to conduct additional discovery and
14 provide “supplemental testimony on this issue to ensure that the PCA baseline is
15 ‘set as closely as possible to costs that are reasonably expected to be actually
16 incurred during short and intermediate periods following the conclusion of [this]
17 proceeding[.]’” Mot. at ¶ 16. PSE does not object to Staff filing supplemental
18 testimony on this issue as long as Staff’s supplemental testimony is filed by
19 December 24, 2019.⁹ That way, PSE will have time to review Staff’s
20 supplemental testimony, conduct its own discovery on Staff, and incorporate any
21 response into PSE’s rebuttal testimony which is due January 15, 2020.

⁹ If Staff’s testimony is filed after December 24, 2019, PSE reserves the right to file a motion seeking additional time (beyond the January 15, 2020 rebuttal deadline date) to file rebuttal testimony responding to Staff’s supplemental testimony.

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Dated: December 3, 2019.

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Respectfully submitted,

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ATTACHMENT A

*(Transcript Excerpt from the Prehearing Conference on
July 18, 2019, in Dockets UE-190529/UG-190530)*

Docket Nos. UE-190529 and UG-190530
(Consolidated) - Vol. I

WUTC v. Puget Sound Energy

July 18, 2019



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1 that -- and the Company has filed an application
2 concerning the sale of that property with the
3 Commission.

4 And the power cost update, we will include
5 specifics of what will be contained in that update.

6 JUDGE DOROSHKIN: So is the lang- -- is
7 there disagreement currently on the language or it just
8 has not yet been submitted by the Company?

9 MS. CAMERON-RULKOWSKI: We've spent the
10 last, wow, hour and 45 minutes, and we've invested in
11 that time to agree on the language, and we now have to
12 write up and make sure we've got it right.

13 JUDGE PEARSON: Are you talking about
14 language as far as like managing expectations, does it
15 matter for our purposes of writing the prehearing
16 conference order if we just use what's here, or are you
17 saying that you want to craft that language of what goes
18 into the prehearing conference order?

19 MS. CAMERON-RULKOWSKI: It matters greatly
20 to the parties. We had disputes about what a power cost
21 update should consist of, and so the parties have agreed
22 as to what would constitute a power cost update.

23 JUDGE DOROSHKIN: And when would you
24 anticipate filing that language or submitting that
25 language?