

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKETS UE-180899 and UG-
180900 (*Consolidated*)

ORDER 05

FINAL ORDER APPROVING
SETTLEMENT AGREEMENT WITH
CONDITION

Synopsis: *The Washington Utilities and Transportation Commission (Commission) approves and adopts a Joint Settlement Agreement that all parties to this proceeding (Settling Parties or Parties) support as a proposed resolution of all issues, with one condition.*

The Settling Parties agreed to, and the Commission approves in this Order: (1) an overall natural gas revenue increase of \$21.5 million, or 2.9 percent; and (2) no change to electric revenues after the offsetting effect of passing back to customers protected-plus excess deferred income tax. The Settlement increases the annual level of funding for the natural gas low-income Home Energy Lifeline Program by 2.66 percent, and limits natural gas transportation customers' rate increase to 2.9 percent. The Settlement also defers prudence reviews for all investments made subsequent to the Company's 2017 general rate case until the Company's next general rate case. Finally, the Settling Parties agreed to defer the remaining issues related to the impact of the Tax Cuts and Jobs Act to the Company's next general rate case.

The Commission determines, however, that the Settling Parties failed to demonstrate that allowing the Company to delay the return of interim period over-collected tax expense to the conclusion of the Company's next general rate case is in the public interest. The Commission believes that delaying the return of the interim period over-collection will not benefit customers, and doing so is inconsistent with our prior decisions related to this issue. Therefore, the Commission approves the Joint Settlement Agreement subject to the

condition that PSE return to customers the interim period over-collected tax expense collected between January 1, 2018, and April 30, 2018, beginning May 1, 2019, concurrent with any rate adjustment made as a result of the Company's annual decoupling filing.

SUMMARY

- 1 **PROCEDURAL HISTORY.** On November 7, 2018, Puget Sound Energy (PSE or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-60, Tariff G, Electric Service, in Docket UE-180899, and revisions to its currently effective Tariff WN U-2, Natural Gas Service, in Docket UG-180900.
- 2 PSE characterized these submissions as an Expedited Rate Filing (ERF), which is a one-time, limited true-up of electric and natural gas rates, completed on an expedited basis between general rate cases. Staff first proposed the concept of expedited rate filings in 2011 as an alternative ratemaking mechanism intended to reduce regulatory lag or under-earnings that may be attributed to attrition, and to “break the current pattern of almost continuous rate cases.”¹ In 2013, PSE filed an ERF in dockets UE-130137 and UG-130138, which the Commission approved in Orders 07 and 15.²
- 3 In its December 5, 2017, Order, the Commission approved a multiparty settlement stipulation and agreement (2017 Multiparty Settlement) in which the settling parties agreed that PSE could, within one year of the date of the Commission's final order, file an ERF for limited rate relief consistent with the process and procedures used in Dockets UE-130137 and UG-130138 and the parameters identified in Exhibit I to the 2017 Multiparty Settlement.³

¹ *WUTC v. PSE*, Dockets UE-111048 and UG-111049, Order 08 ¶ 507 (May 7, 2012)

² *WUTC v. PSE*, Dockets UE-130137 and UG-130138, Order 07 (June 25, 2013), Order 15 (June 29, 2015). In Thurston County Superior Court's Order Granting in Part and Denying in Part Petitions for Judicial Review, the Court held that the Commission acted within its discretion in accepting ERF filings, but remanded for review of PSE's market cost of equity. *See Industrial Customers of Northwest Utilities v. State Utilities and Transportation Commission*, Case Nos. 13-2-01576-2 and 13-2-01582-7 (Consolidated) (July 25, 2014).

³ *WUTC v. PSE*, Dockets UE-170033 and UG-170034, Order 08 ¶¶ 214-219 (Dec. 5, 2017).

- 4 PSE filed the ERF in these dockets pursuant to the 2017 Multiparty Settlement. The as-filed tariff revisions would increase Washington customer rates and charges by \$18.9 million, or 0.9 percent, for electric service and by \$21.7 million, or 2.7 percent,⁴ for natural gas service. On November 15, 2018, the Commission entered Order 01, which suspended operation of the tariffs and consolidated the dockets for hearing.
- 5 On November 30, 2018, the Commission entered Order 03, Prehearing Conference Order; Notice of Hearing, which granted the petitions to intervene filed by the Alliance of Western Energy Consumers (AWEC), The Energy Project, Federal Executive Agencies (FEA), and Nucor Steel Seattle Inc. (Nucor Steel), and established a procedural schedule.
- 6 On January 18, 2019, counsel for Commission staff (Staff) filed a letter informing the Commission that PSE, Staff, AWEC, The Energy Project, FEA, and Nucor Steel had reached a settlement in principle. The letter further stated that the Public Counsel Unit of the Office of the Washington Attorney General (Public Counsel) was considering whether to join the settlement. The settling parties requested the Commission cancel the evidentiary hearing and conduct a streamlined review of the settlement on a paper record.
- 7 The Commission entered Order 04 on January 22, 2019, which suspended the procedural schedule and established deadlines for filing the settlement and supporting testimony. In addition, Order 04 provided that the Commission would review the settlement on a paper record without a hearing so long as the settlement remained unopposed. Order 04 rescheduled the public comment hearing to February 5, 2019, and approved the settling parties' proposal for providing notice of the public comment hearing to PSE's customers.
- 8 In compliance with the deadlines established in Order 04, all parties, now including Public Counsel (collectively, Parties), filed a Joint Settlement Agreement (Settlement) and supporting testimony on January 30, 2019. The Settlement is a full settlement under the Commission's rules and therefore, if approved and adopted by the Commission, would resolve all issues among all parties in this proceeding.⁵

⁴ The Parties stipulated that the tariff revisions, had they become effective, would have increased natural gas base rates by 2.9 percent on an annual basis. Settlement Stipulation and Agreement, p. 2.

⁵ See WAC 480-07-730(1).

9 The Commission held a public comment hearing on February 5, 2019, in Olympia, Washington.

10 **PARTY REPRESENTATIVES.** Sheree Strom Carson and David Steele, Perkins Coie LLP, Seattle, Washington, represent PSE. Lisa Gafken and Nina Suetake, Assistant Attorneys General, Seattle, Washington, represent Public Counsel. Christopher Casey, Jeff Roberson, Harry Fukano, and Joe Dallas, Assistant Attorneys General, Olympia, Washington, represent the Staff.⁶ Tyler Pepple, Davison Van Cleve P.C., Portland, Oregon, represents AWEC. Simon ffitch, Attorney at Law, Bainbridge Island, Washington, represents The Energy Project. Rita Liotta, Counsel for FEA, San Francisco, California, represents FEA. Shaun C. Mohler and Damon E. Xenopoulos, Stone, Mattheis, Xenopoulos & Brew, Washington DC, represent Nucor Steel.

11 **COMMISSION DETERMINATIONS.** We find that the rates, terms, and conditions in the Settlement are fair, just, reasonable, and sufficient, and we approve it subject to one condition. The Commission determines that the Parties failed to demonstrate that allowing PSE to delay the return of interim period over-collected tax expense to the conclusion of the Company's next general rate case is in the public interest, as doing so unnecessarily delays the benefit to customers and proposes a result that is inconsistent with our prior decisions on this issue. We therefore require PSE to return to customers the interim over-collected tax expense collected between January 1, 2018, and April 30, 2018, beginning May 1, 2019, concurrent with any rate adjustment made as a result of the Company's annual decoupling filing.

MEMORANDUM

12 The Commission's statutory duty is to establish rates, terms, and conditions for electric and natural gas service that are "fair, just, reasonable and sufficient."⁷ In doing so, the Commission must balance the needs of the public to have safe, reliable, and appropriately

⁶ 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.

⁷ RCW 80.28.010(1); RCW 80.28.020.

priced service with the financial ability of the utility to provide that service. The rates thus must be fair to both customers and the utility; just, in that the rates are based solely on the evidentiary record following the principles of due process of law; reasonable, in light of the range of potential outcomes presented in the record, and sufficient, to meet the financial needs of the utility to cover its expenses and attract capital on reasonable terms.⁸

13 The Commission will approve a settlement if “it is lawful, supported by an appropriate record, and consistent with the public interest in light of all the information available to the commission.”⁹ The Commission may approve a settlement agreement, with or without conditions, or reject it.¹⁰

14 If the Commission approves a proposed settlement subject to one or more conditions, all parties to the settlement will have an opportunity to accept or reject the Commission’s conditions. If all parties accept the conditions, the terms in the settlement agreement and the Commission’s conditions will resolve the issues identified in the settlement agreement, and the Order will become final. If a party to the settlement rejects a condition or fails to accept the conditions unequivocally and unconditionally, the adjudication returns to its status at the time the Commission suspended the procedural schedule to consider the settlement.¹¹

15 We discuss each component of the Settlement below.

1. Natural Gas Rates & Home Energy Lifeline Program

16 The Parties agree to a natural gas revenue increase of \$21.5 million, or 2.9 percent, after the offsetting effect of passing back to customers protected-plus excess deferred income

⁸ *Federal Power Commission v. Hope Natural Gas*, 320 U.S. 591 (1944); *Bluefield Water Works & Improvement Company v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923); see *People’s Organization for Washington Energy Resources v. Washington Utils. & Transp. Comm’n*, 104 Wn.2d 798, 807-13, 711 P.2d 319 (1985) (describing rate setting process in Washington).

⁹ WAC 480-07-750(2).

¹⁰ *Id.*

¹¹ WAC 480-07-750(2)(b).

tax (EDIT).¹² The agreement related to the natural gas revenue is a black box settlement, meaning the “Parties have agreed to firm end-result numbers without indicating which parties’ adjustments or issues were included in the final numbers.”¹³

- 17 The Parties agree that the Company will increase the annual level of natural gas low-income Home Energy Lifeline Program (HELP) funding by 2.66 percent, equal to the residential natural gas customer class percentage rate increase, effective concurrently with the next low-income filing the Company will make under schedule 129 for rates effective on October 1, 2019. The Parties further agreed to limit the natural gas transportation customers’ rate increase to 2.9 percent.
- 18 **DECISION.** Although this is a “black box” agreement that does not identify the specific adjustments used to calculate the revenue requirement, we agree with Staff’s observation that “a black box settlement [is] a practical way to preserve the parties’ abilities to conduct in a future proceeding a more thorough review of plant investments that were included in this ERF.”¹⁴ In addition, several parties filed separate testimony in support of the Settlement stating they performed their own analysis of PSE’s rate request and independently concluded that the rate increase was justified and in the public interest.¹⁵ Finally, the increase to HELP funding commensurate with the residential rate increase will help mitigate the impact of the increase on PSE’s low income natural gas customers seeking bill payment assistance. We conclude that this is a reasonable outcome, and we are satisfied that the Company’s costs justify the proposed changes in rates.

¹² The \$21.5 million is equal to the \$21.7 million originally requested by PSE, adjusted for the impacts of the provision outlined in paragraph 9 of the Settlement stipulation. Paragraph 9 states that rate increases for listed individual schedules will be limited to 2.9 percent. Therefore, both the \$21.7 million and the \$21.5 million represent a 2.9 percent increase.

¹³ Settlement Stipulation, p. 3.

¹⁴ McGuire, Exh. CRM-1T at 7:19-22.

¹⁵ McGuire, CRM-1T at 9:13-18; Colamonici, CAC-1T at 6:4-6; Barnard, *et. al.*, PSE-1JT at 3:30-31:5.

2. Electric Rates

19 The Parties agree there will be no change in overall electric rates after the offsetting effect of passing back to customers protected-plus EDIT on an annualized basis.¹⁶ The Parties agree that protected-plus EDIT will be passed back to customers through a separate tariff schedule, Schedule 141X, and that the combined effect of electric Schedule 141 and Schedule 141X will result in no change to overall electric rates. As with natural gas rates, the settlement on the electric revenues is also a “black box” agreement. The Parties agree on the firm end-result numbers without agreeing on which parties’ adjustments or issues were included in the calculation.

20 **DECISION.** As discussed above, the Parties’ “black box” agreement preserves their respective abilities to conduct a thorough prudence review of the Company’s plant investments in a future rate proceeding. In light of this stipulation, we find the Parties’ agreement on electric revenues to be a reasonable compromise that allows customers to receive the benefit of passed-back EDIT and results in no change to electric rates. Accordingly, we find that the electric revenue portion of the Settlement is consistent with the public interest.

3. Deferral of Advanced Metering Infrastructure (AMI)-Related Costs

21 The Parties agree that the Settlement does not include recovery of, or on, any plant in service related to PSE’s AMI investments. The Parties agree that PSE may defer the depreciation expense of the AMI investment starting at the beginning of the ERF test year in FERC Account 182.3, and defer the cost of capital of AMI investment in FERC Account 186. The Parties agree that “the use of different FERC accounts is for Settlement purposes only and does not reflect PSE’s position or an agreement among the Settling Parties on the ultimate recoverability of the deferrals.”¹⁷ Finally, the Parties do not request a prudence determination for any plant additions, including AMI, made after the Company’s 2017 general rate case (2017 GRC),¹⁸ and expressly reserve the right to

¹⁶ Parties use the term “protected plus EDIT” because it includes both protected and unprotected plant-related EDIT. The unprotected EDIT represents all non-plant.

¹⁷ Settlement Stipulation and Agreement, p. 5.

¹⁸ *WUTC v. PSE*, Dockets UE-170033 and UG-170034.

contest the prudence of any rate base additions made after the 2017 GRC in PSE's next general rate case.

- 22 **DECISION.** We approve the Parties' proposed treatment of AMI investment. We agree with the Parties that PSE's AMI investment raises several issues of first impression for the Commission, including whether the investment is necessary and prudent. We agree with several of the parties who testified that "a full investigation into prudence is necessary, and conducting such an investigation in an ERF" is challenging due to the short review period available during the pendency of an ERF.¹⁹ The Settlement preserves the right for all parties "to adjudicate issues relating to AMI in a future proceeding, allowing the Commission to have a well-developed record to make its determination on AMI."²⁰ Removal of AMI investment from rates "ensures those investments have not received implicit approval through inclusion in rates,"²¹ which reserves the right of parties to challenge any proposed recovery of AMI costs in a future proceeding. This is a reasonable and well-balanced approach, and therefore in the public interest.

4. Remote Disconnection of Service for Nonpayment

- 23 The Parties agree that PSE will "not remotely disconnect customers for nonpayment pending adoption by the Commission of rules pertaining to remote disconnection, provided the rules are established by January 1, 2020."²²

- 24 **DECISION.** Although the Commission's current rules governing disconnection of service do not state explicitly that a utility must physically disconnect service at the meter, no other disconnection method was available prior to the advent of AMI technology. WAC 480-100-128(6)(k), which was premised on this assumption, provides that a utility representative dispatched to disconnect service must accept payment of a delinquent account at the service address. While this consumer protection provides

¹⁹ Colamonici, Exh. CAC-1T at 6:20 – 7:3; *see also*, McGuire, Exh. CRM-1T at 14:18-15:2; Mullins, Exh. BGM-1T at 5:4-7.

²⁰ Colamonici, Exh. CAC-1T at 7:5-8.

²¹ McGuire, Exh. CRM-1T at 14:15-17.

²² Settlement Stipulation and Agreement at 6. The Commission initiated a rulemaking in Docket U-180525 to consider revisions to WAC Chapters 480-100 and 480-90 to amend existing consumer protection and meter rules to accommodate deployment of AMI by regulated electric and natural gas companies.

customers with a final opportunity to prevent disconnection, remote disconnection would no longer require an in-person visit. The current rules do not contemplate this outcome. We find that the Parties' agreement that the Company will delay remote disconnections pending the outcome of the rulemaking is reasonable because it ensures that adequate consumer protections related to AMI technology will be in place prior to the Company changing its disconnection practices. Accordingly, we conclude that this provision of the Settlement is in the public interest.

5. Prudence Review

25 The Parties agree that any party may undertake a prudence review of all investments made after the test year used in PSE's 2017 GRC, with the exception of those pro forma adjustments to plant included in the final revenue requirement calculation accepted by the Commission in the 2017 GRC.

26 **DECISION.** We acknowledge the inherent difficulty of conducting a prudence review in the short timeframe afforded in this expedited filing and agree that deferring prudence reviews until the Company's next general rate case is a reasonable solution that will allow all parties and the Commission to conduct a more thorough analysis. Accordingly, we find that this term of the Settlement is consistent with the public interest.

6. Tax issues related to the Tax Cuts and Jobs Act

27 The Tax Cuts and Jobs Act (TCJA), which became effective on December 22, 2017, among other things reduced the federal corporate income tax rate from 35 percent to 21 percent. PSE, through its rates, collected excess deferred income tax after that date. The Settlement treats separately the three TCJA impacts identified in PSE's petition for an accounting order filed by the Company in Dockets UE-171225 and UG-171226 (Tax Accounting Petition):²³

- Protected-plus EDIT prior to the end of 2017;
- Unprotected (non-plant) EDIT prior to the end of 2017; and

²³ PSE's Petition for order that authorizes the accounting treatment of the Deferred Accounting associated with the Federal Tax Act on Puget Sound Energy's Cost of Service (December 29, 2017). The Company filed an Amended Petition on November 26, 2018.

- The interim over-collected income tax expense for the period January 1, 2018, to April 30, 2018.

28 The Parties agree that the protected-plus EDIT will be returned, beginning March 1, 2019, through a separate rate schedule, Schedule 141X. The Parties agree that the grossed-up annualized EDIT reversals consistent with the Internal Revenue Service’s Average Rate Assumption Method (ARAM) are \$25.9 million for electric and \$6.1 million for natural gas. The Parties also agree that Schedule 141X will be reviewed in PSE’s next general rate case. However, the “Parties do not agree on the proper accounting and ratemaking treatment of protected-plus EDIT reversals for the period January 1, 2018, through February 28, 2019,”²⁴ instead agreeing to address those reversals and the proper ratemaking treatment thereof in PSE’s next general rate case.²⁵

29 The Parties agree that the interim over-collected tax expense for the period of January 1, 2018, to April 30 2018, and the ratemaking treatment of unprotected EDIT will be addressed in PSE’s next general rate case.

30 **DECISION.** We address the Settlement’s treatment of each tax issue in turn.

31 First, we approve the provision of the Settlement related to protected-plus EDIT. The protected-plus EDIT is tied to depreciable property and must be returned to customers over a specific time period using normalization principles pursuant to the Internal Revenue Code.²⁶ Here, the Parties agreed to return the protected-plus EDIT on a going-forward basis, but were unable to agree on the accounting and proper ratemaking treatment of interim protected-plus EDIT reversals that occurred between January 1, 2018, and February 28, 2019. Although it would have been preferable for the Parties’ to resolve this issue in this proceeding, we are satisfied that customers will begin to receive the going-forward benefits of the protected-plus EDIT sooner rather than later.

32 We also approve the provision of the Settlement related to unprotected EDIT prior to the end of 2017. While deferring the return of unprotected EDIT to PSE’s next general rate case is not ideal, we nevertheless recognize that the Parties’ proposal represents a

²⁴ Settlement Stipulation and Agreement, p. 6.

²⁵ *Id.*

²⁶ This specific time period is prescribed as the average remaining life of the underlying assets, or ARAM.

reasonable compromise for the purposes of settlement and that unprotected EDIT balances can be most comprehensively addressed in the Company's next general rate case.

33 Finally, we reject the provision of the Settlement related to the interim over-collected tax expense collected from January 1, 2018, through April 30, 2018. We accept the amounts identified in the Tax Accounting Petition – \$24.1 million for electric and \$10.5 million for natural gas – but reject the Parties' agreement that this issue should be deferred to the Company's next general rate case.

34 We have consistently required regulated companies to return to customers this portion of the TCJA tax impacts as soon as reasonably practicable. The Commission issued a press release on January 8, 2018, stating that it had “directed regulated companies to track federal tax savings resulting from the federal Tax Cuts and Jobs Act to ensure those savings will benefit utility customers.” The Commission advised that “utilities are on notice that we expect customers will reap the benefits.”²⁷ More recently, the Commission stated in its final orders in two general rate proceedings that we expect customers will realize the benefits of the reduced tax rate following the enactment of the TCJA through refunds or rate credits.²⁸ Because the Settlement fails to include any rationale to justify delaying the return of the interim over-collected tax expense until a future proceeding, we conclude that neither the record evidence nor our past decisions related to this issue support a finding that this Settlement provision should be approved.

35 Accordingly, as a condition of approving the Settlement, we require PSE to return to customers the interim period over-collected tax expense collected between January 1, 2018, and April 30, 2018, beginning May 1, 2019, over a 12-month period. Because the Parties were unable to agree on the proper accounting and ratemaking treatment for these expenses, we will adopt our own.

36 We find that crediting the over-collected tax expenses in conjunction with PSE's decoupling mechanism would provide the simplest and fairest means of passing these amounts back to customers. In 2013, the Commission approved a multi-party settlement

²⁷ Commission Press Release, Jan. 8, 2018.

²⁸ See *WUTC v. Cascade Natural Gas Corporation*, Docket UG-170929, Order 06 (July 20, 2018); *WUTC v. Avista Corporation d/b/a Avista Utilities*, Dockets UE-170485 and UG-170486, Order 07/02/02 ¶ 22 (April 26, 2018).

agreement establishing PSE's electric and natural gas decoupling mechanisms.²⁹ Consistent with those mechanisms, as modified by the changes the Commission authorized in PSE's 2017 GRC, PSE files its decoupling revenue true-up on an annual basis with a rate effective date of May 1. Requiring the Company to pass back the interim period over-collected tax expense concurrent with its decoupling filing will offset any decoupling rate true-up in 2019. Allowing the Company to pass back those benefits over a 12-month period will mitigate concerns about rate volatility due to frequent rate changes. Accordingly, we condition our approval of the Settlement on PSE crediting customers with the interim period over-collected tax expense collected between January 1, 2018, and April 30, 2018, in conjunction with the Company's annual true-up of its decoupling mechanism.

7. Miscellaneous

- 37 The parties agree that the Settlement does not identify PSE's electric and natural gas rate base. Therefore, when PSE is required to report an amount of approved rate base, the Parties agree that PSE will use the rate base as approved in the Company's 2017 GRC. Similarly, the Settlement does not identify the Company's authorized rate of return. As such, when PSE is required to report its authorized rate of return, the Parties agree that the Company will use the 7.49 percent rate of return PSE used in the filings in this case, which was based on the rate of return established in the Company's 2017 GRC, adjusted by changes in the cost of debt as permitted by the 2017 Multiparty Settlement that resolved that case.
- 38 Finally, the Parties agree that PSE's prefiled direct testimony and exhibits, the Settlement, supporting joint narrative, and testimony of each settling party, will be admitted into evidence.
- 39 **DECISION.** We approve the miscellaneous Settlement provisions. Using the rate base and rate of return, adjusted by cost of debt, approved in the 2017 GRC is a reasonable solution that allows the prudence of the Company's investments to be determined in the Company's next general rate proceeding, and will afford both the Commission and the parties significantly more time to conduct a thorough prudence analysis. Based on the

²⁹ See *WUTC v. Puget Sound Energy*, Consolidated Dockets UE-121697 and UG-121705, UE-130137 and UG-130138, Order 07 (Decoupling Order) (June 25, 2013).

Parties' agreement, we admit into evidence PSE's prefiled direct testimony and exhibits, the Settlement, supporting joint narrative, and testimony of each settling party.

8. Expedited Rate Filings

40 Finally, the Parties agree that this Settlement establishes no precedent for future ERFs, or for the methodology for other deferrals in future cases, or for any other methodology used in this Settlement.

41 **DECISION.** We agree with the Parties and note that our approval of the Settlement similarly establishes no precedent for future ERFs. We also concur with Staff that the Commission's Inquiry into the Adequacy of the Current Regulatory Framework in Docket U-180907 is the appropriate forum to address the parameters of alternative rate proceedings, including ERFs.³⁰ We believe ERFs are an important tool to address regulatory lag that also helps companies and ratepayers respond quicker to the changing energy landscape. Staff raised several appropriate questions on ERFs in testimony supporting the Settlement and also pointed out the Commission can reduce concerns about ERFs through specific policy guidance. As the next order of business in that docket, the Commission intends to issue a notice within 30 days requesting comments from interested stakeholders on this topic. We look forward to working with stakeholders and appreciate the Parties' willingness and ability to bring this matter to a swift resolution supported by sound principles and a demonstrated need for the proposed rate relief.

9. Conclusion

42 We have reviewed the Settlement and supporting evidence and conclude that the resulting rates, terms, and conditions are fair, just, reasonable, and sufficient, subject to the condition set out in paragraph 35, above. The Settlement terms are otherwise lawful, supported by an appropriate record, and consistent with the public interest in light of all the information available to the Commission.

³⁰ Docket U-180907, Inquiry into the Adequacy of the Current Regulatory Framework Employed by the Commission in Addressing Developing Industry Trends, New Technologies, and Public Policy Affecting the Utility Sector.

FINDINGS OF FACT

- 43 The Commission makes the following findings of fact:
- 44 (1) The Commission is an agency of the state of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service companies, including natural gas companies and electric companies
- 45 (2) PSE is a “public service company,” a “natural gas company” and an “electric company” as these terms are defined in RCW 80.04.010 and otherwise 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.
- 46 (3) On November 7, 2018, PSE filed with the Commission revisions to its currently effective Tariff WN U-60, Tariff G, Electric Service, in Docket UE-180899 and revisions to its currently effective Tariff WN U-2, Natural Gas Service, in Docket UG-180900, as an expedited rate filing, or ERF. The effect of as-filed tariff revisions was to increase rates and charges for electric service by \$18.9 million, or 0.9 percent, and natural gas service by \$21.7 million or 2.9 percent.
- 47 (4) On December 22, 2017, the federal Tax Cuts and Jobs Act (TCJA) became effective. Among other things, the TCJA reduced the federal corporate income tax rate from 35 percent to 21 percent. PSE, through its rates, has collected excess deferred income tax for the period January 1, 2018, through April 30, 2018, of \$24.1 million for electric and \$10.5 million for natural gas according to the accounting petition filed in Dockets UE-171225 and UG-171226.
- 48 (5) PSE, Commission Staff, Public Counsel, The Energy Project, AWEC, FEA, and Nucor Steel entered into a Settlement, which is attached to this Order as Appendix A and resolves all issues among all parties in this proceeding.
- 49 (6) The Settlement, among other provisions, states that “ratemaking treatment of the over-collection of tax expense from January 1, 2018, to April 30, 2018 . . . will be addressed in PSE’s next general rate case.”
- 50 (7) The Settlement, among other provisions, provides for no change in electric revenues and a \$21.5 million increase in natural gas revenues, after the offsetting effect of passing back to customers protected-plus EDIT.

CONCLUSIONS OF LAW

- 51 The Commission makes the following conclusions of law:
- 52 (1) The Commission has jurisdiction over PSE, the other parties, and subject
matter of this proceeding.
- 53 (2) The Commission has an independent obligation to determine whether the
Settlement is lawful, supported by the evidence, and consistent with the public
interest.
- 54 (3) The Parties' failed to demonstrate that deferring the return of over-collected
tax expense collected between January 1, 2018, and April 30, 2018, until the
conclusion of the Company's next general rate proceeding is in the public
interest, as doing so does not benefit customers, and is inconsistent with our
prior decisions related to this issue.
- 55 (4) The Commission should approve the Settlement subject to the condition that
PSE return to its customers the over-collected income tax expense it collected
between January 1, 2018, and April 30, 2018, concurrent with its next
decoupling filing due March 30, 2019, and effective May 1, 2019.
- 56 (5) The rates, terms, and conditions in the Settlement are fair, just, reasonable,
and sufficient, subject to the condition set out in paragraph 35, above.

ORDER

THE COMMISSION ORDERS:

- 57 (1) The Commission approves and adopts the Joint Settlement Agreement, which
is attached as Exhibit A to, and incorporated into, this Order, as its final
resolution of the issues in the docket, subject to the condition that Puget
Sound Energy return to customers the interim period over-collected tax
expense collected between January 1, 2018, and April 30, 2018, beginning
May 1, 2019, concurrent with any rate adjustment made as a result of the
Company's annual decoupling filing.
- 58 (2) The Commission rejects the revisions to Puget Sound Energy's currently
effective Tariff WN U-60, Tariff G, Electric Service, and Tariff SN U-2

Natural Gas Service previously filed and suspended in this docket. Puget Sound Energy must file tariff sheets in compliance with this Order no later than three business days prior to their stated effective date.

- 59 (3) Within three business days from the date of this Order, all Parties must notify the Commission whether they accept or reject the condition imposed by the Commission.
- 60 (4) The Commission retains jurisdiction to enforce the terms of this Order and delegates to the Executive Director and Secretary the authority to confirm compliance with this Order.

DATED at Olympia, Washington, and effective February 21, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner

NOTICE TO PARTIES: By this Order, The Commission has approved a settlement subject to condition. The Parties have three business days to accept or reject the Commission's conditions. If all parties to the settlement notify the Commission that they accept the conditions, the Order will become final by operation of law with respect to those issues without further action from the Commission.

If any party to the settlement rejects the Commission's condition or does not unequivocally and unconditionally accept the Condition, the Commission will notify the parties that it deems the settlement to be rejected, and the adjudication will return to its status at the time the Commission suspended the procedural schedule to consider the settlement. In either case, a Party may seek clarification or reconsideration of a Commission order approving a settlement agreement with conditions pursuant to WAC 480-07-835, 480-07-840, or 480-07-850.

APPENDIX A