

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKET UG-230393

ORDER 06

DENYING PUBLIC RECORDS
ACT REQUEST FOR
CONFIDENTIAL INFORMATION

BACKGROUND

- 1 On May 25, 2023, Puget Sound Energy (PSE or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective natural gas tariff WN U-2. This new tariff schedule will allow PSE to recover the costs incurred with the development, construction, and operation of its Tacoma Liquefied Natural Gas (LNG) Facility.
- 2 On November 6, 2023, the Commission held an evidentiary hearing in this docket. The record closed at the conclusion of the hearing pursuant to WAC 480-07-803(1).
- 3 On March 7, 2024, the Commission received a Public Records Act Request (Request) for confidential records submitted by Puget Sound Energy (PSE) to Commission staff (Staff) pertaining to this pending adjudication.
- 4 On March 8, 2024, the Commission issued a Notice Reopening Record for a Limited Purpose and Notice of Opportunity to Respond to Public Records Act Request (Notice). Pursuant to WAC 480-04-095(5)(c)(ii)(B), the Commission provided to PSE and other parties in this adjudication the opportunity to respond to the Request for confidential information and provide their respective positions on whether the disclosure of the requested records should be exempt.
- 5 On March 18, 2024, PSE submitted its response to the Notice. PSE requests for the Commission to keep all documents identified and marked as confidential in this proceeding as confidential. This includes any contractual terms or other data that can place PSE at a “commercial disadvantage” if released.

6 PSE opposes the disclosure of confidential information found in Exh. BAE-1CT as it contains “commercially sensitive terms in a contract with an entity that is not a party to this proceeding.”¹ PSE further states that the confidential information is irrelevant and not responsive to the concerns identified in the Request, providing that the Commission should prevent from expanding the scope of the requested information. PSE also noted that a protective order was issued and remains in effect. PSE does not object to the Commission releasing information that is publicly available.

DISCUSSION

7 The Commission declines to make confidential information subject to the protective order available for inspection or copying, for the following reasons.

8 WAC 480-04-095(5)(c)(ii)(B) provides that:

If the adjudication has not concluded, the public records officer will notify the presiding officer in the adjudication of the request. The presiding officer will establish by notice or order the process the commission will use to receive written or oral comments or argument on the request from the requester and the parties and will enter an order determining whether the commission will make any information subject to the protective order available for inspection or copying.

9 The Washington Supreme Court recognizes that agencies have discretion concerning the procedures for requests under the Public Records Act (PRA).² If the agency denies a request under the PRA, the agency shall provide a brief explanation of why the information was withheld.³

10 To the extent that the March 7, 2024, request under the PRA is construed as a request for confidential information, we agree with PSE that the information marked confidential in Exh. BAE-1CT is, in fact, properly marked confidential and related to commercially sensitive contractual provisions that involve a party not in this proceeding. This information is properly protected by the Commission’s protective order as “valuable commercial information” pursuant to RCW 80.04.095.

11 Neither the requestor nor any party to this proceeding have provided any further argument in response to the Notice, claiming that the confidential information in BAE-1CT, any other documents provided to Staff, or any other exhibits in this proceeding, should be released.

¹ PSE response to Public Records Act Request at 3.

² *Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 129 (1978).

³ *Id.* (quoting RCW 42.17.310).

- 12 PSE does not object to the release of publicly available information, such as the redacted version of Exhibit BAE-1CT and other nonconfidential exhibits from the same witness. It is appropriate to provide the redacted, publicly-available versions of these materials in response to the PRA request.

ORDER

- 13 **THE COMMISSION ORDERS that confidential information in this proceeding, including confidential portions of Exhibit BAE-1CT, should not be made available for inspection or otherwise disclosed in response to the March 7, 2024, Public Records Act Request.**

DATED at Lacey, Washington, and effective March 26, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Michael S. Howard
MICHAEL HOWARD
Administrative Law Judge

NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 10 days of the service of this Order pursuant to WAC 480-07-810.