

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKET UG-230393

ORDER 08

DENYING PETITION FOR  
INTERLOCUTORY REVIEW OF  
ORDER 06

**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 Washington Administrative Cod (WAC) 480-07-803(1).
- 3 On March 7, 2024, Claudia Riedener submitted to the Commission a Public Records Act (PRA) Request (Request) for confidential records submitted by 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 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 requested that all documents that are identified and marked as confidential in this proceeding remain classified as confidential. This includes any contractual terms or other data that can place PSE at a “commercial disadvantage” if released.
- 6 On March 26, 2024, the Commission entered Order 06, Denying Public Records Act Request for Confidential Information (Order 06).

- 7 On April 4, 2024, Riedener filed a Petition for Interlocutory Review of Order 06 (Petition). In the Petition, Riedener asserts, among other things, that the information requested pertains to the public interest and cannot rationally be considered “commercially sensitive” information for purposes of the PRA because there is no active or likely competition in the LNG market in Washington. In support of their argument, Riedener refers to a 2016 Pierce County Superior Court case wherein the City of Tacoma was ordered to disclose records related to PSE’s LNG facility planning.<sup>1</sup>
- 8 On April 19, 2024, the Commission issued a Notice of Opportunity to Respond to Petition for Interlocutory Review of Order 06, establishing a deadline of April 29, 2024, for parties to respond to the Petition.
- 9 On April 29, 2024, PSE filed a response to the Petition (Response). In the Response, PSE asserts that Riedener has identified no legal rationale that warrants review of Order 06, and further, that the information responsive to the original records request is already publicly available and thus fulfilling the request does not require disclosure of any of the confidential information at issue.

#### **DISCUSSION**

- 10 WAC 480-07-810(2) provides that the Commission has discretion to review interlocutory orders. The Commission may accept review of such orders if it finds that:
- (a) The order terminates a party’s participation in the proceeding, and the party’s inability to participate thereafter could cause it substantial and irreparable harm;
  - (b) Immediate review is necessary to prevent substantial prejudice to a party that would not be remediable in the Commission’s final order; or
  - (c) Immediate review could save the Commission and the parties substantial effort or expense, or some other factor is present that outweighs the costs in time and delay of exercising review.
- 11 Riedener is not a party to this case, and therefore the Commission would accept review of Order 06 only to avoid substantial prejudice, to prevent substantial effort or expense, or if some other factor is present that argues for immediate review. As a member of the public requesting confidential records from the Commission, Riedener is not limited to the adjudicative process in their bid to gain access to the requested information. This proceeding is nearing its close. The Commission entered Final Order 07, Rejecting Tariff

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<sup>1</sup> *West v. City of Tacoma*, Docket No: 16-2-10829-1, Pierce Co. Sup. Ct. (Dec. 16, 2016).

Sheets; Authorizing and Requiring Compliance Filing (Final Order) on April 24, 2024. The period for requesting reconsideration of the Final Order expires on May 6, 2024.<sup>2</sup>

- 12 Once this proceeding has concluded, Riedener may continue to seek access to the confidential information through the Commission public records process as provided by WAC 480-04-095(5)(b)(ii), which was the process that gave rise to the ruling in *West*.<sup>3</sup> As such, Riedener is not prejudiced by denial of the Petition. We note that in *West*, however, the court was not considering records marked confidential and submitted under a protective order as part of an adjudicative proceeding, nor was the information at issue deemed commercially sensitive.<sup>4</sup>
- 13 We agree with PSE that Riedener has failed to provide any argument that immediate review of Order 06 would prevent any prejudice or substantial effort or expense, or that there is any other factor present that necessitates immediate review of Order 06.
- 14 Additionally, we note that the PRA requires public agencies to tread a delicate balance between transparency with the public and providing sufficient protection to regulated companies to encourage thorough disclosure of all information necessary for agencies to conduct required analyses. This balance is not served by circumventing the shield of a valid protective order within the adjudicative process. We thus decline to review Order 06.

**ORDER**

- 15 **THE COMMISSION ORDERS** that the Petition for Review of Order 06 is **DENIED**.

DATED at Lacey, Washington, and effective May 2, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner

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<sup>2</sup> WAC 480-07-850(1).

<sup>3</sup> WAC 480-07-095(5)(c)(ii)(A).

<sup>4</sup> See *West v. City of Tacoma*, Docket No: 16-2-10829-1.

**NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.**