

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

PUGET SOUND ENERGY'S

Application for Approval of a Special
Contract under WAC 480-80-143

DOCKET UG-160748

ORDER 01

ORDER DETERMINING THAT SPECIAL
CONTRACT DOES NOT REQUIRE
COMMISSION APPROVAL

BACKGROUND

- 1 On May 26, 2016, Puget Sound Energy (PSE or Company) filed with the Washington Utilities and Transportation Commission (Commission) an Application for Approval of a Special Contract pursuant to Washington Administrative Code (WAC) 480-80-143 (Application). The proposed special contract (Contract) would provide PSE's customer (Customer) with an option to inject biomethane into PSE's distribution system for delivery and sale to the Customer's end-users.¹ The Application includes a sample of PSE's Safety Service Contract pursuant to WAC 480-80-141.²
- 2 PSE and its Customer have agreed on a mutually acceptable price for the proposed service. Under the Contract, the Customer will sell its biomethane to third party end-users and bill them directly for its product. The Contract addresses operation and maintenance, ownership of equipment and facilities, and service curtailment associated with the proposed injection service.

¹ On November 12, 2015, PSE filed with the Commission Schedule 88R, a proposed tariff revision that would allow biomethane customers (producers of biomethane) to inject biomethane gas into PSE's distribution system and sell it directly to an end-user. King County's South Wastewater Treatment Plant (WTP), which has been producing and injecting biomethane into PSE's natural gas pipelines for over twenty-five years, expressed support for the tariff revision. After receiving comments from numerous other members of the biomethane industry opposing the approval of Schedule 88R, PSE withdrew its tariff revision on February 10, 2016.

² The Safety Service Contract provides specific guidelines for biomethane quality testing, testing procedures, and constituents (impurities that may be found in biomethane). PSE is not requesting approval of the Safety Service Contract because it does not interpret WAC 480-80-141 to require Commission approval.

3 Commission staff (Staff) reviewed the filing and determined that the Application falls outside the scope of WAC 480-80-143, which requires Commission approval of special contracts for the retail sale of regulated utility services. PSE proposes to contract with a commercial customer to inject biomethane into PSE's gas system. Because this service will not be offered to the general public, Staff finds that the proposed service is not for public use, and therefore does not constitute the retail sale of regulated utility services. Accordingly, Staff recommends the Commission find that the Application does not require Commission approval.

DISCUSSION AND DECISION

4 WAC 480-80-143 governs contracts for the retail sale of regulated utility services. The Commission considers three factors to determine whether a company provides a utility service to the public: 1) whether the company offers the service to the general public or only to specific individuals or entities; 2) whether the company has a monopoly; and 3) whether regulation is necessary to protect consumers from abuse by the Company's monopoly power.³

5 The first factor is dispositive here. The Customer is a biomethane producer that seeks to use PSE's system to provide its product to its own customers. PSE is offering this service to a specific entity to which it has no obligation to serve, not the general public.⁴ Accordingly, we agree with Staff's recommendation and find that the Contract does not require Commission approval.⁵

³ *In re Amending and Repealing Rules in WAC 480-108 Relating to Electric Companies-Interconnection With Electric Generators*, Interpretive Statement Concerning Commission Jurisdiction and Regulation of Third-Party Owners of Net Metering Facilities, Docket UE-112133, at 26-28 (July 30, 2014).

⁴ *See In re the Petition of Puget Sound Energy for (i) Approval of a Special Contract for Liquefied Natural Gas Fuel Service with Totem Ocean Trailer Express, Inc. and (ii) a Declaratory Order Approving the Methodology for Allocating Costs Between Regulated and Non-regulated Liquefied Natural Gas Services*, Docket UG-151663, Order 04, at 15. (December 18, 2015).

⁵ Staff also found that PSE's filing does not comply with the requirements related to which portions of a special contract can be marked confidential under WAC 480-80-143. Because we find that the Contract does not require Commission approval, we do not reach the question of whether the filing should be rejected on the basis of its deficiencies.

FINDINGS AND CONCLUSIONS

- 6 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property, and affiliated interests of public service companies, including natural gas companies.
- 7 (2) PSE is a natural gas company and a public service company subject to Commission jurisdiction.
- 8 (3) On May 16, 2016, PSE filed an Application for Commission Approval of a Special Contract pursuant to WAC 480-80-143. The Contract would allow a particular Customer to inject biomethane into PSE's system for distribution to the Customer's end users.
- 9 (4) WAC 480-80-143 requires Commission approval of special contracts for the retail sale of regulated utility services.
- 10 (4) This matter came before the Commission at its regularly scheduled meeting on July 7, 2016.
- 11 (5) The Commission finds that the Contract for which the Application seeks approval does not involve the retail sale of regulated utility services. Accordingly, the special contract does not require Commission approval.

ORDER

THE COMMISSION ORDERS That the Application for Approval of a Special Contract under WAC 480-80-143 filed by Puget Sound Energy on May 26, 2016, does not require Commission approval.

DATED at Olympia, Washington, and effective July 7, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

ANN E. RENDAHL, Commissioner