

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET UE-070565
TRANSPORTATION COMMISSION,	)	
	)	
Complainant,	)	ORDER 07
	)	
v.	)	
	)	
PUGET SOUND ENERGY, INC.,	)	FINAL ORDER APPROVING AND
	)	ADOPTING SETTLEMENT
Respondent.	)	AGREEMENT
.....	)	

1 *Synopsis: The Commission approves and adopts an uncontested Settlement Agreement that increases Puget Sound Energy, Inc's, electric rates by \$64,680,804, an average of 3.67 percent, to recover additional power costs the Company will incur providing electric service to its customers during the Power Cost Only Rate Case (PCORC) rate year: September 1, 2007, through August 31, 2008. The Settlement provides for a collaborative process in which interested persons, including the settling parties, will review the PCORC process to consider the scope and timing of the PCORC mechanism and whether the mechanism should continue. In addition, the Settlement provides for a stakeholder review to consider how all of the Company's gas assets can be used to maximize the benefit for all of the Company's electric and natural gas customers. The Commission, in adopting the Settlement Agreement, finds prudent PSE's acquisition of the Goldendale combined cycle gas turbine generating facility.*

**SUMMARY**

2 **PROCEEDINGS:** On March 20, 2007, Puget Sound Energy, Inc. (PSE or the Company), filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-60. The stated effective date of the revised tariff sheets was April 20, 2007. The filing, a power cost only rate case (PCORC) proposed to increase electric rates to recover additional power costs and costs associated with the acquisition of a 277 MW gas-fired

combined cycle electric generation facility in Goldendale, Washington.<sup>1</sup> The Company requested an increase in electric rates of \$64,680,804 or 3.67 percent.

3 The Commission entered Order 01, Complaint and Order Suspending Tariff Revisions; Instituting Investigation on March 27, 2007, and conducted a prehearing conference on April 11, 2007, before Administrative Law Judge Dennis J. Moss. On July 5, 2007, PSE, Commission regulatory staff (Commission Staff or Staff), the Public Counsel Section of the Attorney General's Office (Public Counsel), and the Industrial Customers of Northwest Utilities (ICNU), filed a multi-party Settlement Agreement (Settlement or Agreement) they propose the Commission approve and adopt in resolution of the issues in this proceeding.<sup>2</sup>

4 The Commission conducted an evidentiary hearing and a public comment hearing before Chairman Mark H. Sidran, Commissioner Patrick J. Oshie, Commissioner Philip B. Jones, Judge Moss and Judge Adam Torem on July 25, 2007.

5 **PARTY REPRESENTATIVES:** Sheree Strom Carson and Jason Kuzma, Perkins Coie LLP, Bellevue, Washington, represent PSE. Michael L. Kurtz and Kurt J. Boehm, Boehm, Kurtz & Lowry, Cincinnati, Ohio, represent Kroger Co. (Kroger), S. Bradley Van Cleve and Matthew Perkins, Davison Van Cleve, P.C., Portland, Oregon, represent the Industrial Customers of Northwest Utilities (ICNU). Norman J. Furuta, Federal Executive Agencies Associate Counsel, San Francisco, California, represents the Federal Executive Agencies (FEA). Simon ffitich, Assistant Attorney General, Seattle, Washington, represents Public Counsel. Robert D. Cedarbaum, Senior Assistant Attorney General, Olympia, Washington, represents the Commission Staff.<sup>3</sup>

6 **COMMISSION DETERMINATIONS:** The Commission determines it is in the public interest to approve and adopt a Settlement Agreement to which PSE, Staff,

---

<sup>1</sup>The filing was denominated a "power cost only rate case" (PCORC) under PSE's Power Cost Adjustment (PCA) Mechanism, which was approved by the Commission in its Twelfth Supplemental Order in Dockets UE-001570 and UG-011571 (consolidated). For the convenience of the reader a glossary of terms is attached as Appendix B.

<sup>2</sup> The remaining parties in this proceeding, Kroger and FEA, do not oppose the settlement.

<sup>3</sup> In formal proceedings, such as this case, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an "ex parte wall" separating the Commissioners, the presiding ALJ, and the Commissioners' policy and accounting advisors from all parties, including Staff. *RCW 34.05.455*.

Public Counsel and ICNU are signatories, and which Kroger and FEA state they do not oppose. The Commission finds reasonable the parties' proposal to allow PSE to recover in rates \$64,680,804 in additional revenue considering the Company's prudent acquisition of the Goldendale facility, increased natural gas costs, load growth and other factors that will cause PSE to incur higher power costs during the PCORC rate year.

- 7 The Commission finds timely and approves the settling parties' agreement to stakeholder reviews of the PCORC process to consider the scope and timing of the PCORC mechanism, whether the mechanism should continue, and to consider how all of the Company's gas assets can be used to maximize the benefit for all of the Company's electric and natural gas customers.

## MEMORANDUM

### **I. Background and Procedural History**

- 8 On March 20, 2007, PSE filed revisions to its Power Cost Rate, Schedule 95, reflecting an increase in the Company's overall normalized power supply costs. PSE proposed to increase electric rates by \$64,680,804, an average of 3.68 percent, to recover additional power costs that the Company projected it would incur to provide electric service to its customers during the PCORC rate year: September 1, 2007, through August 31, 2008. PSE submitted prefiled testimony and exhibits in support of its tariff filing.
- 9 The Commission suspended the filing on March 27, 2007, and conducted a prehearing conference on April 11, 2007. ICNU, Kroger and the FEA were granted leave to intervene. Staff, Public Counsel and ICNU conducted discovery on the Company's tariff filing and prefiled direct testimony.
- 10 On May 23, 2007, the Company filed a Motion for Leave to File Supplemental Testimony and Exhibits to update the Company's power costs, which the Commission granted. Based on its power cost update, the Company submitted a revised revenue requirement of \$77,837,215, an average 4.43 percent increase over rates in effect as of January 13, 2007. PSE stated the increased request was due primarily to increases in wholesale natural gas prices since the time the Company prepared its original filing. The Company stated that its three-month average gas price forecast method as of May 10, 2007, produced an updated average price at the Sumas delivery hub of

\$7.90/MMBtu for this proceeding's rate year, compared to: (i) the average price at Sumas of \$7.57/MMBtu used in PSE's original filing (for the three months ended February 27, 2007); and (ii) the average price at Sumas of \$7.41/MMBtu in rates in effect as of January 13, 2007 (for the three months ended November 30, 2006).

- 11 On June 15, 2007, Staff and ICNU filed testimony and exhibits in response to the Company's updated presentation. On June 25, 2007, the Commission granted ICNU's motion for leave to file supplemental testimony and exhibits.
- 12 The parties that elected to participate undertook settlement discussions for purposes of resolving or narrowing the contested issues in this proceeding. They reached agreement on all issues and filed their Settlement Agreement pursuant to WAC 480-07-730(3) on July 5, 2006. While this Settlement is technically a "multiparty settlement" rather than a "full settlement," its adoption by the Commission would resolve all issues among the parties that have actively engaged in this proceeding through discovery and in filing response testimony.<sup>4</sup>
- 13 Witnesses for the Company, Staff, ICNU, and Public Counsel filed narrative testimony in support of the proposed Settlement on Monday, July 16. The Commission conducted an evidentiary hearing and a hearing to take public comment concerning the proposed Settlement on July 25, 2007. The parties stipulated into evidence all prefiled testimony and exhibits, as revised and modified by errata prior to the hearing. The settling parties presented a panel of witnesses: Mr. Tom DeBoer for PSE, Mr. Donald Schoenbeck for ICNU, Mr. Steven Johnson for Public Counsel and Mr. Gene Waas for Staff.<sup>5</sup>

## II. Settlement Agreement

The Agreement, which is attached as Appendix A and adopted into this Order by this reference, includes the following elements:

- An increase in power costs requiring \$64,680,804 in additional revenue resulting in an average increase in rates of 3.67 percent. The revenue requirement is calculated "based upon the \$77,837,215 revenue requirement as supplemented [by PSE] on May 23, 2007" but excluding from the higher

---

<sup>4</sup> WAC 480-07-730.

<sup>5</sup> Mr. Waas adopted the prefiled testimony and exhibits earlier filed by Mr. Martin.

amount two adjustments originally proposed by the Company: The Tenaska Flow-through Tax True-up and costs associated with the “San Diego v. Sellers” litigation.<sup>6</sup>

- For this case only, spread the increased revenue across rate classes as originally proposed by the Company, except that no increase is assigned to Schedule 40.<sup>7</sup>
- Use the rate spread and rate design approved in the Company’s then most recently concluded general rate case in all future PCORCs.<sup>8</sup>
- The Company’s acquisition of the Goldendale generating station and the Company’s activities undertaken to manage its electric portfolio as described in its original filing in this proceeding were prudent, and the costs associated with Goldendale should be included in rates. PSE’s actual power costs remain subject to a prudence review as provided in Paragraph 4 of the PCA Settlement Agreement approved in Dockets UE-011570 and UG-011571.
- Establish a collaborative stakeholder review of the PCORC process to consider the scope and timing of the PCORC mechanism and whether the mechanism should continue.<sup>9</sup> The “PCORC Collaborative” will include discussions of:
  - The number of PCORCs the Company may file in a calendar year.
  - The number and timing of updates to data the Company may file during a PCORC proceeding before responding parties’ cases are filed.
  - The items directly associated with power costs that may be included in a PCORC.

---

<sup>6</sup> The Tenaska Flow-through adjustment relates to an error in the tax calculation in Docket UE-060266. “San Diego v. Sellers” is a general reference to multiple lawsuits that arose from the Western energy crisis in 2000 and 2001.

<sup>7</sup> Schedule 40 pertains to service to customers with loads greater than 3 aMW on a single distribution feeder. These are basically industrial campus-like facilities.

<sup>8</sup> This agreement is not subject to review in the proposed PCORC Collaborative.

<sup>9</sup> The parties intend that the PCORC Collaborative will be completed prior to the Company’s next general rate case, but failure to conclude the PCORC Collaborative will not delay or otherwise present PSE from filing a general rate case.

- Whether the inclusion and timing of updated information should vary depending on whether the other parties can easily verify the data without additional discovery.
  - Whether to determine power costs based on forward market prices in lieu of AURORA-generated prices.<sup>10</sup>
  - The definition of short-term resources to include in costs tracked by the PCA.
- Agreement to establish a stakeholder review to consider how all of the Company's gas assets can be used to maximize the benefit for all of the Company's electric and natural gas customers.

### III. Discussion and Decisions

14 The Settlement calls for \$64,680,804 in additional revenue for PSE, which will result in an average 3.67 percent rate increase for customers. While this is a significant increase, it represents a compromise relative to the Company's revised revenue requirement of \$77,837,215, which would produce an average 4.43 percent increase in rates. The amount settled upon is higher than the increases advocated by ICNU in its response and supplemental testimony,<sup>11</sup> but less than the \$67,096,999 Staff proposed following its analysis of the Company's full case. Indeed, the settlement amount is very near the mid-point of the parties' final litigation positions, a reasonable outcome within a range of possible outcomes supported by the record.

15 Mr. Johnson, Public Counsel's witness at the settlement hearing, testified that the parties' agreement to use the rate spread and rate design approved in the Company's then most recently concluded general rate case in all future PCORCs is a step toward narrowing the issues that will be considered in future PCORCs. According to Mr. Johnson, this recognizes the abbreviated nature of these proceedings and the current requirement that the Company file a general rate case within three months after a PCORC. The parties agree that a general rate case offers a better opportunity to develop a full record on rate spread and rate design than does a PCORC.

---

<sup>10</sup> AURORA is a computer model that PSE uses to estimate future power costs.

<sup>11</sup> ICNU first recommended \$53.5 million (Exhibit 103CT at 2:8 -10 (Schoenbeck Response Testimony)), but later reduced its recommendation to \$47.4 million (Exhibit 111CT at 2:1 - 3 (Schoenbeck Supplemental Testimony)).

- 16 Mr. Johnson also testified concerning the related issue of the compromise the parties struck to deviate from the rate spread approved in PSE's last prior general rate proceeding by not allocating any increased power cost to Schedule 40, a tariff that applies principally to industrial campus-like facilities. It appears this simply is a one-time concession PSE and other parties were willing to make to reach settlement considering ICNU's position that such customers should not bear any increase at this time.
- 17 The parties' compromise on this point has no continuing significance insofar as future PCORC filings are concerned. Indeed, the parties in a future PCORC could not propose such a deviation as a litigation position according to Mr. DeBoer, PSE's witness at the settlement hearing. Mr. DeBoer testified, however, that in the Company's view the parties could agree in a future PCORC settlement to deviate from the rate spread determined in the last prior general rate case, just as they did here.
- 18 In light of the testimony at hearing, the parties' agreements concerning rate spread and rate design in future PCORC proceedings and the deviation from that agreement to achieve a settlement in this proceeding appear reasonable. Although Staff may not raise rate spread or rate design as an issue in a future PCORC, the Commission remains free to inquire into the subject via bench requests or other means, if it elects to do so. That being the case, we find these points of the Settlement acceptable.
- 19 Mr. Schoenbeck testified for ICNU that approximately 40 percent, or \$31.4 million, of the Company's proposed revenue increase is attributable to Goldendale.<sup>12</sup> A central issue in this proceeding insofar as Goldendale is concerned is whether its acquisition by the Company was prudent. The parties propose in their Settlement that we find the acquisition prudent.
- 20 Mr. Kilpatrick testified for Staff on the basis of his thorough review of the acquisition and the decision-making process that led to the purchase that "the acquisition of Goldendale was prudent according to the standards applied by the Commission in prior Power Cost Only Rate Cases."<sup>13</sup> Staff also determined the investment and operating costs of the plant are reasonable and should be allowed in rates, as proposed

---

<sup>12</sup> Exhibit 103CT at 4:5 – 12 (Schoenbeck Response Testimony).

<sup>13</sup> Exhibit 117 at 2:19 – 20 (Response Testimony); *See also id.* at 3:5 – 11:4.

by PSE. Mr. Waas, who testified for Staff at the settlement hearing, emphasized that PSE acquired the Goldendale facility at a very favorable price, \$120 million compared to the estimated \$334 million cost to Calpine when it built the plant in 2004. According to Mr. Kilpatrick, this equates to approximately \$433 per kW of installed generating capacity, which compares very favorably to the \$700 to \$1,100 per kW cost today to construct a modern combined cycle combustion turbine on a green field site.

- 21 The record provides ample support for our determination that PSE was prudent in its acquisition of Goldendale and that the costs it incurred are reasonable. In addition, Mr. Markell, testifying for the Company, provided a significant volume of evidence showing PSE's activities undertaken to manage its electric portfolio as described in its original filing were prudent.<sup>14</sup> The Settlement acknowledges that PSE's actual power costs remain subject to a prudence review as provided in Paragraph 4 of the PCA Settlement Agreement approved in Dockets UE-011570 and UG-011571.
- 22 We find commendable the parties' support for entering into a collaborative stakeholder review of the PCORC process to consider the scope and timing of the PCORC mechanism and whether the mechanism should continue. The PCORC process, itself reflecting the collaborative work product of parties to this proceeding and others, has been in place since 2002. This Order marks the conclusion of the fourth PCORC proceeding since the Commission approved the process. The parties and the Commission now have had adequate experience conducting these proceedings to undertake a meaningful review of the various issues identified in the Settlement and summarized above in our description of the Settlement's principle terms.
- 23 We also approve the parties' agreement to establish a stakeholder review to consider how all of the Company's gas assets can be used to maximize the benefit for the Company's electric and natural gas customers. Mr. Schoenbeck testified concerning how PSE's recent acquisitions of Goldendale and another gas-fired combined cycle combustion turbine at Fredrickson have increased the Company's need for base load gas supplies to support its electric portfolio. In addition, Mr. Schoenbeck testified concerning changes in natural gas markets in recent periods, including prices for Canadian supplies at Sumas now being higher than prices for domestic supplies that may be available to PSE. These factors, among others, make the proposed review worthwhile.

---

<sup>14</sup> See generally Exhibits 69HC – 80 (Markell Direct Testimony and Exhibits).

24 In sum, the record shows the settlement terms to be well supported by evidence. We  
conclude that our approval and adoption of the Settlement in full resolution of the  
issues in this proceeding is in the public interest.

### **FINDINGS OF FACT**

25 Having discussed above in detail the evidence received in this proceeding concerning  
all material matters, and having stated findings and conclusions upon issues in dispute  
among the parties and the reasons therefore, the Commission now makes and enters  
the following summary of those facts, incorporating by reference pertinent portions of  
the preceding detailed findings:

- 26 (1) The Washington Utilities and Transportation Commission is an agency of the  
state of Washington, vested by statute with authority to regulate rates, rules,  
regulations, practices, and accounts of public service companies, including  
electrical companies.
- 27 (2) PSE is a “public service company” and an “electrical company” as those terms  
are defined in RCW 80.04.010 and as those terms are 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.
- 28 (3) PSE filed revisions to its currently effective Tariff WN U-60 on March 20,  
2007. PSE proposed to change its Schedule 95 rates (including Schedule 95A)  
effective April 20, 2007, to recover the cost of power as a result of increases in  
the projected price of natural gas, the Company’s investment in a new natural  
gas-fired combined cycle electric generation facility known as the Goldendale  
Generating Station, and other reasons.
- 29 (4) The Commission suspended the operation of the proposed tariff revisions on  
March 27, 2007, pending an investigation and hearing concerning the  
proposed changes and whether they are just and reasonable.
- 30 (5) On July 5, 2007, PSE, Commission Staff, Public Counsel, and ICNU filed  
their multi-party Settlement Agreement (Settlement) that, if approved, would  
resolve all the issues in this docket. No party stated opposition to the proposal.

- 31 (6) PSE's acquisition of the Goldendale Generating Station and the Company's activities undertaken to manage its electric portfolio as described in its original filing in this proceeding were prudent and the associated costs are reasonable for recovery in rates, subject to a future prudence review of the Company's actual power costs as provided in Paragraph 4 of the PCA Settlement Agreement approved in Docket Nos. UE-011570 and UG-011571.
- 32 (7) The existing rates for electric service PSE provides are insufficient to yield reasonable compensation for the service rendered.
- 33 (8) Rates determined on the basis of the revenue deficiency and other terms set forth in the Settlement would be fair, just, reasonable, and sufficient.
- 34 (9) Rates determined on the basis of the revenue deficiency and other terms set forth in the Settlement would be neither unduly preferential nor discriminatory.
- 35 (10) Commission approval and adoption of the Settlement is in the public interest.

### **CONCLUSIONS OF LAW**

- 36 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:
- 37 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings.
- 38 (2) The existing rates for electric service PSE provides in Washington State are insufficient to yield reasonable compensation for the service rendered.
- 39 (3) PSE requires relief with respect to the rates it charges for electric service provided in Washington State.
- 40 (4) The Settlement Agreement (Settlement) filed by the Parties on July 7, 2007, if approved, would result in rates for PSE that are fair, just, reasonable, and sufficient.

- 41 (5) The Commission should approve and adopt the Settlement attached to this Order as Appendix A and incorporated by reference as if set forth in full in the body of this Order as a reasonable resolution of the issues presented.
- 42 (6) PSE should be authorized and required to make such compliance and subsequent filings as are necessary to effectuate the terms of the Settlement.
- 43 (7) The Commission Secretary should be authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order.
- 44 (8) The Commission should retain jurisdiction to effectuate the terms of this Order.

### **ORDER**

#### THE COMMISSION ORDERS:

- 45 (1) The proposed tariff revisions PSE filed on March 20, 2007, and suspended by prior Commission order, are rejected.
- 46 (2) PSE is authorized and required to make a compliance filing including such new and revised tariff sheets as are necessary to implement the requirements of this Order. PSE must consult with Staff and make its compliance filing on a date prior to the stated effective date of the tariff sheets that will allow Staff a reasonable opportunity to review the compliance filing and to inform the Commission whether Staff finds the revised tariff sheets fully conform to the requirements of this Order.
- 47 (3) PSE's acquisition of the Goldendale Generating Station and the associated costs of the investment, and the Company's activities undertaken to manage its electric portfolio as described in its original filing, are determined to have been prudent. PSE's actual power costs remain subject to a prudence review as provided in Paragraph 4 of the PCA Settlement Agreement approved in Dockets UE-011570 and UG-011571.

- 48 (4) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order.
- 49 (5) The Commission retains jurisdiction over the subject matters and parties to this proceeding to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective August 2, 2007.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

**NOTICE TO PARTIES: This is a Commission Final Order. 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 and WAC 480-07-870.**

# APPENDIX A

# APPENDIX B

GLOSSARY

TERM	DESCRIPTION
AURORA	A computer model that PSE uses to estimate future power costs.
CCCT (combined cycle combustion turbine)	An electric generating technology in which electricity is produced from otherwise lost waste heat exiting from one or more gas combustion turbines. The exiting heat is routed to a conventional boiler or to a heat recovery steam generator for utilization by a steam turbine in the production of electricity. This process increases the efficiency of the electric generating unit.
FEA (Federal Executive Agencies)	The Federal Executive Agencies are federal government customers such as the Department of the Navy that receive service under PSE's electric rate schedules
ICNU (Industrial Customers of Northwest Utilities)	The Industrial Customers of Northwest Utilities is a regional organization whose members are large industrial customers of various utilities, including PSE.
MMBtu	One million British thermal units. A British thermal unit (Btu) is the quantity of heat required to raise the temperature of 1 pound of liquid water by 1 degree Fahrenheit at the temperature at which water has its greatest density (approximately 39 degrees Fahrenheit).
PCORC (power cost only rate case)	Procedural option that allows for expedited consideration between general rate proceedings of the prudence and rate treatment of costs associated with major generation acquisitions by PSE. The Commission adopted the PCORC process as part of a comprehensive settlement of the Company's general rate proceeding in Docket Nos. UE-011570 and UG-011571. <i>WUTC v. Puget Sound Energy, Inc.</i> , Docket Nos. UE-011570 & UG-011571, Twelfth Supp. Order (2002).
PCA (power cost adjustment)	An accounting mechanism that tracks the difference between actual annual power costs and approved baseline annual power costs and that determines a rate surcharge or credit depending on the magnitude and direction of the difference. The Commission authorized PSE to implement a power cost adjustment (PCA) mechanism during 2002 as part of a comprehensive settlement of the Company's general rate proceeding in Docket Nos. UE-011570 and UG-011571. <i>WUTC v. Puget Sound Energy, Inc.</i> , Docket Nos. UE-011570 & UG-011571, Twelfth Supp. Order (2002).