

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

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	
)	DOCKET NO. UE-031725
Complainant,)	
)	
v.)	ORDER NO. 13
)	
PUGET SOUND ENERGY, INC.,)	DENYING MOTION FOR
)	CLARIFICATION
Respondent.)	
)	
.....)	

MEMORANDUM

1 **PROCEEDINGS:** On October 24, 2003, Puget Sound Energy, Inc. (PSE), filed revisions to its currently effective Tariff WN U-60, designated as Twenty Fifth Revised Sheet No. 95, and Original Sheet Nos. 95-a through 95-e. This filing is a proposal to change PSE's rates recovering the cost of power, as a result of its decision to purchase a new generating resource, and for other reasons. The Commission entered its Complaint and Order Suspending Tariff Revisions; Instituting Investigation; and Authorizing Discovery on October 29, 2004.

2 The Commission entered its Order No. 12 Granting Regulatory Approvals For Fredrickson I Acquisition; Resolving Disputed Gas Price Issue on April 7, 2004. The effect of Order No. 12, as stated in the Order synopsis, was to provide such regulatory authority as the Company requires to complete its acquisition of a 49.85 percent interest in the Frederickson I natural gas fired generation project, including approval of the acquisition as having been prudently made at

reasonable cost. The costs associated with the acquisition, including projected baseline gas costs for the rate period, were approved for recovery through rates. The Commission expressly reserved determination of issues related to Tenaska and Encogen to a subsequent order, to be promptly entered in this proceeding.

3 **PARTY REPRESENTATIVES:** Todd G. Glass, Heller Ehrman White & McAuliffe LLP, Seattle, Washington, represents PSE. S. Bradley Van Cleve and Matthew W. Perkins, Davison Van Cleve, Portland, Oregon, represent the Industrial Customers of Northwest Utilities. Norman Furuta, Department of the Navy, represents the Federal Executive Agencies. Michael Alcantar and Donald Brookhyser, Alcantar & Kahl LLP, Portland, Oregon, represent the Cogeneration Coalition of Washington (CCW). Simon ffitich, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section of the Washington Office of Attorney General. Robert C. Cedarbaum, Senior Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff or Staff).¹

4 **PSE'S MOTION FOR CLARIFICATION:** On October 13, 2004, the Commission received for filing Puget Sound Energy, Inc.'s Motion for Clarification of Order No. 12. Although nominally seeking clarification, PSE's Motion actually requests that we broaden Order No. 12 to encompass two matters that are beyond the scope of the Order as entered.

5 Order No. 12 approved for ratemaking purpose the costs reflected in Exhibit No. 318 as "adjustment 3." PSE asks us to broaden the Order by approving adjustments 1, 2, and 4-9, as reflected in Exhibit No. 318, "for ratemaking

¹ 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.

purposes.” These adjustments are not in dispute, any issues concerning them having been resolved by the parties during the course of our proceedings. We discuss this in more detail in the “Background and Procedural History” section of Order No. 12. Although it is reasonable for the parties to expect the Commission to approve the agreed adjustments for ratemaking purposes, the pendency of our resolution of the disputed issues concerning Tenaska and Encogen means that the time is not ripe for a formal determination to that effect. As PSE acknowledges in its Motion,

resolution of the Tenaska and Encogen issues could conceivably affect the final calculation of the eight adjustments. The final amount of these adjustments, therefore, will depend upon the action that the Commission takes with respect to the Tenaska and Encogen issues.

PSE Motion at 1, fn. 2. PSE says that it “requests that the Commission approve these adjustments so that PSE can prepare revised tariff sheets for Rate Schedule 95.” *Id. at 2.* We find this rationale unpersuasive because it clearly is impossible for PSE to prepare revised tariff sheets for Rate Schedule 95 with any certainty pending our determination of the Tenaska and Encogen issues.

- 6 PSE’s second request is that the Commission “clarify” that PSE may use the fixed-cost components of its contracts shown on “Exhibit E – Contract Adjustments” in Exhibit 222C as of the date of Order No. 12, *i.e.*, April 7, 2004, for purposes of calculating its PCA deferral account. PSE states the rationale for this request as follows:

This second clarification is necessitated by the Commission’s decision, in Order No. 12, to let rates go into effect after the closing of the Frederickson 1 acquisition, as opposed to April 1, 2004 (the

date that PSE originally proposed). While PSE does not seek to put rates into effect to recover its fixed contract costs as of the date of Order No. 12, it does want its unrecovered costs (estimated at approximately \$450,000 for the month of April 2004) to be accounted for in the calculation of the PCA deferral account pending the final resolution of the Tenaska and Encogen issues. These fixed costs are a component of Schedule E as set forth in the PCA Settlement, and are used in Exhibit B to the PCA Settlement: Power Costs Subject to PCA Sharing, Row 6, titled "Other Fixed Costs."

Id. This is the first indication we have had that the timing of our decisions in this proceeding has any implication for the PCA settlement that we approved and adopted in Docket No. UE-031389. Our understanding has been that the only issues in this proceeding that potentially might impact the PCA are those concerning Tenaska and Encogen.

7 We also observe that the exhibits to which PSE refers in its Motion include entries for Tenaska. It is conceivable that our determination of issues related to Tenaska may require some adjustment to the Tenaska entries. We frankly do not know whether this is the case because the interplay between this proceeding and the PCA is a subject developed only to a limited extent on the record in this proceeding.

8 In light of these uncertainties, we will not grant PSE's second request for clarification. However, we will schedule an order conference pursuant to WAC 480-07-840 to explore this matter in more detail.

ORDER

- 9 (1) THE COMMISSION ORDERS That Puget Sound Energy, Inc.'s Motion for Clarification of Order No. 12, is denied.
- 10 (2) THE COMMISSION ORDERS FURTHER That PSE's Motion is denied without prejudice to renewed consideration of the second issue raised; the Commission will consider the Company's request that it be authorized to use the fixed-cost components of its contracts shown on "Exhibit E – Contract Adjustments" in Exhibit 222C as of the date of Order No. 12, *i.e.*, April 7, 2004, for purposes of calculating its PCA deferral account; an order conference will be scheduled by further notice to ensure that any compliance filing can be accurately prepared and presented.

DATED at Olympia, Washington, and effective this 19th day of April 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner