

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

Docket No. \_\_\_\_\_

DECLARATION OF  
ROGER GARRATT IN SUPPORT  
OF PSE'S MOTION FOR AMENDED  
PROTECTIVE ORDER WITH HIGHLY  
CONFIDENTIAL PROVISIONS

1 I, ROGER GARRATT, hereby declare under penalty of perjury under the laws of the  
State of Washington that the following are true and correct:

2 I am the Director of Resource Acquisition & Emerging Technologies for Puget Sound  
Energy, Inc. ("PSE" or the "Company"). My responsibilities include overseeing the acquisition  
of electric resources for PSE, commencing with the request for proposal process and culminating  
in the execution and closing of all of the definitive agreements necessary to acquire a resource.  
In addition, I am responsible for contracts for long-term electric supply and the emerging  
generation technologies program. I have personal knowledge of the matters set forth in this  
Declaration and, as to matters that call for an opinion, state such opinion on information and  
belief based on my experience in the industry and with the Company.

3 The Company is requesting a protective order with "highly confidential" provisions to  
protect certain material contained in its June 2011 General Rate Case ("2011 GRC") filing,  
because inappropriate release of that material would impose a highly significant risk of

competitive harm to PSE and to the owners and developers of power resources that participated in PSE's 2010 competitive bidding process under Chapter 480-107 WAC ("2010 RFP Process").

4 PSE's Requests for Proposals ("RFPs") for all generation resources required entities that wished to sell power resources to the Company to provide detailed, extensive information about their generation resources (many of which were in the development stage) and the terms of the transactions they proposed to the Company. Such information is extremely commercially sensitive, because these owners and developers are competing against each other to sell their projects or power from their projects, to obtain financing for their projects, and in some cases to obtain the necessary permits and real estate rights for their projects. In many cases, if the bidders were not successful in reaching an agreement with PSE to purchase the project, they planned to re-bid the project to other utilities.

5 In recognition of the sensitivity of the information PSE was requesting, the RFPs the Commission approved for issuance in Docket No. UE-091618 included a confidentiality agreement under which the Company agreed to protect from inappropriate disclosure any confidential information submitted by entities responding to the RFPs. The Company subsequently executed such agreements with project proposers. Among other things, the Company agreed that if PSE's decisions were at issue in a Commission proceeding, PSE would seek a protective order from the Commission with "highly confidential" provisions to protect against disclosure of the information to competitors and the public.

6 The Company and its customers also have an interest in protecting against disclosure of such information to the public or to developers or owners who are competing or potentially competing against each other in the industry for at least two reasons: (1) because such developers or owners should not be put in the position of being able to "game" the RFP process by having access to confidential information about their competitors or potential competitors

merely by intervening in the 2011 GRC proceeding; and (2) because if PSE is to attract a broad slate of proposals in response to future RFPs, developers or owners considering submitting proposals must have confidence that the confidentiality of their sensitive commercial information will be respected, notwithstanding the fact that PSE's resource acquisitions are subject to some degree of public scrutiny through the regulatory process.

7           In addition, the Company has marked a limited subset of additional information as "highly confidential" that was not submitted by project developers or owners, but that is highly commercially sensitive to PSE. Such information includes references to the Company's negotiating strategies, detailed results of cost analyses performed by the Company, and detailed cost information about resources outside the RFP process that are currently the subject of negotiations. Release of such information to owners or developers of project resources, to the counterparties to the Company in those transactions, or to potential counterparties for additional such transactions, would harm the Company and its customers because it would undercut the Company's negotiating position.

8           The likely result of release of any of the "highly confidential" information to owners or developers of energy resources, or to persons or entities that represent or advise them, would be increased costs for the Company and, ultimately, its customers. This is because there would be a tendency on the part of project proposers and counterparties to use such information to benchmark their transactions with the Company against these other transactions in a sort of "most favored nation" view of negotiations over their particular projects. Instead of being provided with the information that would give them such leverage, counterparties should be required to focus on the cost structures of their own projects when negotiating with the Company.

9           These are significant and pressing concerns given the Company's ongoing need to acquire additional electric resources to serve its customers. Indeed, the Company is in the process of negotiating with several counterparties for certain of the resources identified in response to its 2010 RFP. Discussions and negotiations with project developers will be ongoing over the next year or more regarding these resource acquisitions.

10           The Company respects the concerns that the "highly confidential" designation should not be applied lightly. PSE has been careful in its 2011 GRC filing to minimize the amount of information designated "highly confidential." For example, the Company is releasing as public information its analyses of the net present value benefits to PSE's electric portfolio of the various resources presented in the case. PSE does not believe that counterparties could "back into" commercially sensitive information from those figures, and they are helpful for other parties to understand why the Company agreed to the terms of each acquisition. In addition, the Company has sought to provide explanations in the text of its filing of the relative attractiveness of the various resources as to each other and other alternatives available to the Company. Taken together, the Company believes that the public can understand and other parties can productively participate in the 2011 GRC without access to the "highly confidential" information.

11           For these reasons, the Company is asking that the Commission issue a protective order with "highly confidential" provisions that permits the Company to designate information as "highly confidential" in its testimony, exhibits, workpapers, responses to data requests, briefing and in hearings. The Company is also asking that only the Commission Staff and Public Counsel have access to such "highly confidential" information. Any further release to experts for Commission Staff or Public Counsel, or to any other parties who intervene in the 2011 GRC filing, should be subject to a showing that such persons or entities are not current or potential owners or developers of energy resources or consultants or advisors to such owners or

developers. The need for such limitation is not speculative. I understand that at least one of the intervenor experts in PSE's 2009 power cost only rate case and 2009 general rate case provides consulting services to entities that are potentially in a position to compete with other providers of energy resources.

12 Finally, with respect to treatment of "highly confidential" material, the Company is asking for limitations on copying and handling of such materials by parties who are entitled to access such materials in order to reduce the risk of inadvertent disclosure.

Executed this 26<sup>th</sup> day of May, 2011, at Bellevue, Washington.

  
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Roger Garratt