

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the

In the Matter of the Petition of Puget Sound Energy For Approval of a Special Contract for Liquefied Natural Gas Fuel Service with Totem Ocean Trailer Express, Inc., and a Declaratory Order Approving the Methodology for Allocating Costs Between Regulated and Non-regulated Liquefied Natural Gas Services

DOCKET UE-151663

NORTHWEST INDUSTRIAL GAS
USERS AND PUBLIC COUNSEL
UNIT OF WASHINGTON
ATTORNEY GENERAL'S OFFICE
RESPONSE TO NOTICE; REQUEST
FOR CONVERSION TO
ADJUDICATION

I. INTRODUCTION

1 On August 11, 2015, Puget Sound Energy, Inc. (PSE) filed a Petition for Approval of a Special Contract for Liquefied Natural Gas Fuel Service with Totem Ocean Trailer Express, Inc., and a Declaratory Order Approving the Methodology for Allocating Costs between Regulated and Non-regulated Liquefied Natural Gas Services. The Commission's August 13, 2015 Notice¹ in this docket invited interested persons to "present a statement of fact and law on the issues raised by the Petition." This is the Northwest Industrial Gas Users (NWIGU) and Public Counsel Section of Washington Attorney General Office (Public Counsel) response to that Notice.

Statement Regarding Facts.

2 NWIGU and Public Counsel have not had sufficient opportunity to investigate this

¹ Notice of Receipt of Petition for Declaratory Order and Opportunity to Submit Statement of Fact and Law and Notice of Opportunity to File Response to Motion for Amended Protective Order.

matter since the August 11 PSE filing, and therefore, have no statement of facts to offer the Commission. NWIGU and Public Counsel are not able—at this time—to accept the facts as presented in the Petition without further investigation.

3 This matter does not appear amenable to treatment as a declaratory order proceeding on an agreed set of facts. There are many factual assertions or issues raised by the Petition that merit investigation, including, but not limited to: (a) the nature and specifications of the facilities to be constructed; (b) the relationship between the proposed regulated and unregulated operations and facilities; (c) the risks to customers; (d) the magnitude of pipeline infrastructure upgrades needed to serve the proposed facilities; (e) the location of the facilities and the impact to existing PSE facilities; (f) the impact to the project, customers and PSE if the Tote contract is not renewed at the end of the initial term (10 years); and (g) the cost impact to customers. This list is not exhaustive.

4 Accordingly, NWIGU and Public Counsel do not believe the Commission can resolve this matter based solely on the facts presented by the Petition, and request that a process be developed to help establish a proper record in this proceeding. Even PSE acknowledges “the unique nature of its request in the proceeding.”²

II. REQUEST FOR CONVERSION TO ADJUDICATION

5 NWIGU and Public Counsel request, pursuant to WAC 480-07-930(4), that the Commission convert this proceeding to an adjudication. Recently, the Commission converted a declaratory order proceeding to an adjudication to develop a factual record necessary to rule on a petition for a declaratory order.³ Both PSE and Commission Staff

² PSE Petition, p. 55

³ See *In The Matter Of The Petition of King County, Washington, BNSF Railway, Frontier Communications Northwest INC., Verizon Wireless, and New Cingular Wireless, LLC, For an Order Requiring Puget Sound Energy to Fund Replacement of Electric Facilities*, Docket No. UE-14335, Order 1 P. 4.

were parties to that proceeding and agreed that conversion was the appropriate approach to develop such a record. That proceeding involved the allocation of approximately \$5 million in costs associated with replacing an 8.5 mile distribution line serving only a handful of customers in a remote part of PSE's service territory. This proceeding is far more complex and involves hundreds of millions of dollars, with potential impacts to all customers on PSE's system.

6 NWIGU and Public Counsel do not take any position at this time on the merits of PSE's filing, but simply request time to investigate and review the filing and to develop a record upon which the Commission can make its determination. Conversion to an adjudication would make the deadlines for Commission action in RCW 34.05.240 and WAC 480-07-930 inapplicable to this proceeding. NWIGU and Public Counsel have no objection to entry of a protective order.

Statement Regarding the Law.

7 On its face, the Petition raises issues regarding interpretation and the appropriateness of using the cost allocation methodology approved by the Commission in Docket Nos. UE-9601195 and U-072375 for allocating costs between the regulated and unregulated fuel sales that PSE is proposing for the Tacoma LNG facility.⁴ It may raise the question of the extent to which the proposal is affected by the requirements of RCW Chapter 80.16 (Affiliated Interests). The Petition also raises the question of whether the costs that will be allocated to current customers meets the requirement of RCW 80.28.010(2), *i.e.*, whether PSE is offering facilities and service that are "safe, adequate and efficient, and in all respects just and reasonable" and RCW 80.28.020. Additional legal issues may come to light after the parties are given the opportunity to conduct an investigation of the facts.

⁴ PSE Petition at 30-31.

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NWIGU and Public Counsel note that RCW 80.28.020, by its terms, apply *after hearing* “on the Commission’s own motion, or upon complaint.” RCW 80.28.020 requires all “contracts” and utility “practices” to be just and reasonable, and if they are not, the Commission may determine the just, reasonable and sufficient contracts and practices.

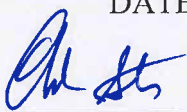
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The Petition implicates the Commission’s rules on declaratory orders, WAC 480-07-930, and the Commission’s rule on special contracts, WAC 480-80-143. This list is not exhaustive.

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In the event the Commission rejects NWIGU’s and Public Counsel’s request to convert this proceeding to an adjudication, for “good cause,” the Commission may revise the time limits for holding a proceeding on a petition for declaratory order and for issuing a declaratory order.⁵ NWIGU and Public Counsel do not believe the time limits in the statute and rules are sufficient to develop an appropriate record to address PSE’s filing in a reasonable manner. Solely in the alternative, if the Commission processes the filing as a declaratory order proceeding, NWIGU and Public Counsel urge the Commission to allow a longer timeline for all interested parties to more fully investigate the filing.

DATED this 27th day of August 2015.



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⁵ RCW 34.05.240(6) and WAC 480-07-930(6).