

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of

PUGET SOUND ENERGY, INC.,

For Approval of a Power Purchase
Agreement for Acquisition of Coal
Transition Power, as Defined in RCW
80.80.010, and the Recovery of Related
Acquisition Costs

DOCKET UE-121373

RESPONSE OF COMMISSION
STAFF TO PUGET SOUND
ENERGY'S PETITION FOR
RECONSIDERATION AND MOTION
TO REOPEN THE RECORD

1 Commission Staff (“Staff”) files this response to Puget Sound Energy’s (“PSE”) petition for reconsideration and motion to reopen the record in this proceeding (“PSE’s Petition”), filed on January 22, 2013. PSE’s petition raised three issues: (1) the ongoing approval authority retained by the Commission;¹ (2) the Commission’s decision not to authorize a deferral;² and (3) the alleged insufficiency of the Commission-authorized equity component or the TransAlta Coal Transition Power Purchase Agreement (“TransAlta PPA”).³

2 On March 22, 2013, PSE, Staff, and the NW Energy Coalition (“NWECC”) filed a Multiparty Settlement Agreement that resolves all of the outstanding issues in PSE’s Petition in a manner consistent with the public interest, *and*—significantly—in Staff’s view,

¹PSE’s Petition, at ¶¶ 13-21, 27-37.

² *Id.*, at ¶¶ 24-26.

³ *Id.*, at ¶¶ 7-12.

ensures that PSE will actually implement the TransAlta PPA. The Commission should, therefore, approve the Multiparty Settlement Agreement, including the terms pertaining to the TransAlta PPA.

3 In Order 03, the Commission required PSE to file annual reports so that the Commission could determine whether the TransAlta PPA had “lost its character as an agreement for the sale and delivery of coal transition power due to changed circumstances in plant operations, or a failure to satisfy the provisions of RCW chapter 80.80 on an ongoing basis.”⁴ The Commission was concerned with “two circumstances that are unlikely, according to our record, but nevertheless conceivable, circumstances”: (1) TransAlta will not continue to operate the Centralia Coal Facility, which could lead to the loss of family-wage jobs, the preservation of which is one goal of the coal transition energy legislation; or (2) TransAlta would terminate the Memorandum of Agreement (“MOA”) between TransAlta and the Governor’s Office, resulting in a loss of the financial assistance for the local economy provided for by RCW 80.80.100.⁵ The Commission continued:

[T]he Commission may determine at some point in the future that its expectations under the legal and policy environment in which the concept of coal transition power resides are not being met. The Commission may then evaluate whether to revisit some aspects of the Coal Transition PPA.⁶

4 PSE stated that this created a level of uncertainty that would lead it to reject the PPA.⁷ It asked that the record be reopened to allow into evidence the Affidavit of Roger Garratt, together with an amendment to sections 17.3 and 17.4 of the Coal Transition

⁴ Order 03, at 1.

⁵ *Id.*, at ¶ 6.

⁶ *Id.*, at ¶ 7.

⁷ PSE’s Petition, at ¶¶ 4-5.

PPA, negotiated by TransAlta and PSE.⁸ This amendment would allow PSE to determine whether to continue or terminate the TransAlta PPA, in the event that either the MOA is terminated, or there is a permanent cessation of generation at the Coal Transition Facility, and seek the concurrence of the Commission.

5 The Multiparty Settlement Agreement incorporates this amendment, with an important additional term—namely, that if PSE determines to continue the TransAlta PPA under these circumstances, the Commission may include binding prospective conditions, including but not limited to the recovery of cost and equity under the TransAlta PPA.⁹ This addresses the Commission’s concerns regarding the need for ongoing approval authority, consistent with the public interest.

6 The Commission’s Order 03 did not authorize a deferral of the cost of contract power and the equity adder.¹⁰ The Multiparty Settlement Agreement provides that recovery of these costs should be accomplished through (1) a PCORC; (2) a compliance filing made 60 days before December 1, 2014, December 1, 2015, and December 1, 2016; or (3) a combination of a PCORC and compliance filing. This will allow PSE to recover its initial costs as the PPA takes effect and rises to the maximum output. The price escalation in the PPA after 2016 will flow through the PCA bands as normal power costs. Staff believes this a fair and reasonable outcome that satisfactorily addresses the deferral issue.¹¹

⁸ Affidavit of Roger Garratt in Support of PSE’s Petition for Reconsideration and Motion to Reopen Record, Attachment A, Amendment to Coal Transition Power Purchase and Sale Agreement, at ¶ 2(MOA), ¶ 3 (Permanent Cessation of Generation at CCTF).

⁹ Multiparty Settlement Agreement, at ¶¶16-17.

¹⁰ Order 03, at ¶ 94.

¹¹ Schooley, Exh. TES-1T at 19.

7

PSE also agrees, as part of the Multiparty Settlement Agreement, to withdraw its request for reconsideration of the equity component on grounds of insufficiency, and agrees to the \$1.49 equity component set forth in Order 03. This is highly significant, from Staff's perspective, as the equity component was a greatly disputed issue in the litigation below. The resolution in the settlement benefits ratepayers and advances the public interest.

Finally, approval of the Multiparty Settlement Agreement ensures that PSE will actually be implemented. This will greatly advance the public interest. As Mr. Schooley points out, the power generated under the contract will be relatively inexpensive, compared to the alternatives, thus benefitting ratepayers. The Lewis County economy will reap substantial benefits from the PPA, thus carrying out the Legislature's intent in enacting the TransAlta statutes. The PPA will also further the environmental goal of transitioning away from coal generation to cleaner fuel sources.¹²

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In conclusion, Staff recommends that the Commission approve the Multiparty Settlement Agreement, including all portions pertaining to this docket and the TransAlta PPA. Staff also recommends that the Commission reopen the record in this docket to enter the amendment, contained in the Affidavit of Roger Garrett, to the TransAlta PPA, and clarify Order 03, consistent with the terms in paragraphs 16 and 17 of the Multiparty


¹² Schooley, Exh. TES-4T, at 13.

Settlement Agreement. This will address all of the issues raised by PSE's Petition in a manner that is just, fair, and reasonable, and consistent with the public interest.

DATED this 30th day of May 2013.

Respectfully submitted,

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