**[Service Date June 25, 2013]**

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

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| In the Matter of the Petition of | ) | DOCKET UE-121373 |
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| PUGET SOUND ENERGY, INC., | ) | ORDER 08 |
| | ) | |
| 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 | ) | ORDER GRANTING, IN PART, AND DENYING, IN PART, PUGET SOUND ENERGY, INC'S, PETITION FOR RECONSIDERATION AND GRANTING MOTION TO REOPEN RECORD |
| . . . . . | ) | |

***Synopsis:*** *The Utilities and Transportation Commission (Commission) grants in part and denies in part Puget Sound Energy, Inc.'s (PSE or the Company) Petition for Reconsideration of Order 03, the Commission's Final Order in this proceeding. The Commission grants PSE's Motion to Reopen the Record.*

*With respect to the Company's allegation in its Petition that the equity component the Commission authorized, as required under RCW 80.04.570(6), is insufficient and fails to provide the incentive set forth in the Coal Transition Energy Bill,*[1] *the Commission adheres to its determination in Order 03 that rejects the Company's use of a sales offer on an "Alternative Plant"*[2] *and its acceptance of the actual sales price of a plant in Ferndale as a more valid comparison. The Commission was presented with just those two options—Alternative Plant or Ferndale—as a basis for determining the cost of an equivalent plant.*

- *The Commission could either rely on the actual, contemporaneous sale of a demonstrably equivalent plant, Ferndale, or it could rely on an offering price for a plant shown by PSE's own analyses to be wholly unsuited for*

[1] Engrossed Second Substitute Senate Bill 5769 (April 29, 2011).

[2] The Company identified an actual plant but refers to it as "Alternative Plant" in consideration of confidentiality concerns.

*consideration as an equivalent plant. The Commission applied its judgment to the facts presented, as required by statute, and determined that, of the two options offered, the Ferndale acquisition was the better choice as a data point upon which to rely when establishing the cost of an equivalent plant.*

- *The Commission rejects as a matter of law PSE's argument that "[a] plant that is not available to meet the resource need that the Coal Transition PPA covers cannot be used an equivalent plant." There is no language either expressed or implied in the statute that limits the evidence the Commission can consider in determining cost equivalency. PSE's argument that the Alternative Plant is the better measure of an equivalent plant also fails as a matter of fact because PSE's own quantitative and qualitative analyses showed the Alternative Plant to be unsuitable as a measure of an equivalent plant meeting the least cost criterion provided in RCW 80.04.570(6)(b).*

- *Even under PSE's interpretation of the statute, the record demonstrates that the Alternative Plant was not available for purchase to meet the capacity need identified in PSE's 2010/2011 Integrated Resource Plan and Request for Proposals (IRP/RFP process). Alternative Plant did not pass muster as a least cost resource under any scenario the Company evaluated. The final result of the RFP and related analyses was PSE's identification of Ferndale as a least cost plant available for purchase that was equivalent to, and could substitute for, coal transition power to meet the first tranche of PSE's identified capacity needs. PSE agreed to acquire Ferndale and renegotiated the Coal Transition PPA, committing to acquire reduced capacity necessary to meet the second tranche of its identified need.*

*The Commission grants PSE's motion to reopen the record and receives into evidence the Affidavit of Roger Garratt, which includes a proposed amendment to the Coal Transition PPA and sets forth certain commitments in terms of reporting to the Commission on an ongoing basis data concerning plant operations at TransAlta Centralia, the provisioning of energy for delivery under the contract, and related*

*matters. The Commission approves the contract amendment and accepts the reporting commitments as fully satisfying the reporting requirement condition established by Order 03 and meeting the Commission's underlying concerns as expressed in Order 03.*

*The Commission grants PSE's Petition for Reconsideration to the extent of authorizing the Company to implement now a cost recovery mechanism that will enable the Company to fully recover its costs under the Coal Transition PPA, taking into account changes in the level of these costs that occur annually under the contract.*

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## MEMORANDUM

## I. BACKGROUND

*1* On August 20, 2012, Puget Sound Energy, Inc. (PSE or Company) filed with the Washington Utilities and Transportation Commission (Commission) a "Petition 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" (Petition). The subject Coal Transition Purchase Power Agreement (Coal Transition PPA) is between PSE and TransAlta Centralia Generation LLC (TransAlta Centralia).

*2* On January 9, 2013, the Commission entered Order 03 – Final Order Granting Petition, Subject to Conditions. The Commission approved the Coal Transition PPA, subject only to the imposition of a reporting requirement that would enable the agency to remain informed concerning whether, and how well, the contract fulfills over time the purposes of the statutes that enable it. The Commission determined that the reporting requirement is necessary because the agency has a continuing responsibility under the law to monitor all power acquisitions by PSE, including power acquired during the term of the Coal Transition PPA.

*3* The Commission determined that PSE's entry into the Coal Transition PPA was prudent and the Company should therefore be able to recover its costs. Order 03 resolved several issues related to PSE's cost-recovery proposals. The Commission found, on the basis of the evidence and argument presented, that the "equity adder" to which PSE is entitled under RCW 80.04.570(6) should be based on a hypothetical "equivalent plant" cost of $110 million. This means that in addition to recovering its costs, PSE would receive $1.49 per MWh for all deliveries of power under the contract. This will result in PSE receiving $44.12 million in what could be termed an "imputed equity return" over the full term of the contract, with a net present value of $34.15 million, without requiring any capital investment by the Company. PSE is not entitled to recover an equity return on any other PPA. As the Washington Legislature made clear, this imputed equity return is a unique contract incentive provided by statute exclusively for the purchase of coal transition power as part of the legislative

plan to accelerate the retirement of the last remaining coal-fired generating facility in the state of Washington.[3]

*4* The Commission accepted PSE's proposed methodology for recovering its costs under the Coal Transition PPA, including the equity adder, except for the Company's request that it be authorized to defer incremental costs that arise between rate proceedings with changes in volume, price or both during the term of the Coal Transition PPA. The Commission determined it better to postpone consideration of this issue until PSE seeks recovery of the initial costs of the PPA that it will begin to incur on December 1, 2014. PSE acknowledged that this date, nearly two years from now, leaves ample opportunity for the Company to file either a general rate case or a Power Cost Only Rate Case (PCORC).[4] Order 03 states that "[e]ither of these proceedings would be a more appropriate one for consideration of cost accounting questions."[5] Thus, the Commission did not reject PSE's proposed accounting

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[3] We note that PSE's analyses during its 2010/2011 Integrated Resource Plan (IRP) and subsequent Request for Proposals (RFP) showed the combination of the Company's acquisition of the Ferndale gas-fired cogeneration facility and entry into the Coal Transition PPA as the Company's "least cost alternative" means to acquire capacity it requires beginning in 2012 even with the equity adder costs. It follows that the agreement with TransAlta would pencil out even more favorably as a part of the least cost alternative package without these additional costs. As we discussed in Order 03:

> The Ferndale acquisition option was selected in conjunction with negotiation of a 380 MW option for coal transition power that would add 180 MW of additional capacity in 2014 and 280 MW in 2015. These incremental increases satisfy PSE's projected needs for capacity additions (*i.e.*, 460 MW in 2014 and 554 MW in 2015). Beginning in 2016, the Coal Transition PPA would add 380 MW of capacity and, again in conjunction with Ferndale, would meet much of PSE's identified supply-side capacity requirement (*i.e.*, 728 MW) at that time.

*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, Order 03 ¶ 39 (January 9, 2013) (hereafter "Order 03"). Considering this, it is puzzling that PSE would consider rejecting the TransAlta PPA, in part, because the Company regards the equity adder to provide too little incentive. It should be enough that the contract is part of the least cost mix of resources identified in the 2010/2011 IRP/RFP as the leading candidate to meet near-term capacity requirements, without the need for any incentive at all.

[4] TR. 254:21-255:17. Indeed, PSE filed a PCORC in Docket UE-130617 on April 25, 2013.

[5] Order 03 ¶ 9 (January 9, 2013).

mechanism. It simply left to PSE's discretion the decision of when and by what means it would bring forward a more fully developed proposal than the Company presented in this docket.[6]

## II. PETITION FOR RECONSIDERATION

### A. Overview

*5* On January 22, 2013, PSE filed in this proceeding its "Petition for Reconsideration [of Order 03] and Motion to Reopen Record." The Commission gave notice, following several continuances, that parties who wished to respond to the petition and motion must do so by May 16, 2013.[7] The Commission also gave notice that it would resolve the Petition for Reconsideration by June 28, 2013.

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[6] Notably, the Commission did not reject deferred accounting as a mechanism to address specific cost recovery issues inherent to the form and structure of the Coal Transition PPA. As a general matter, such evidence as the record includes on this subject militates somewhat in favor of allowing PSE to use deferral accounting for the limited purpose proposed by the Company. Nevertheless, in the face of Staff's opposition, the relatively incomplete state of PSE's accounting proposal, and the Company's acknowledgement that there was ample time to bring the issue back in a PCORC or other rate proceeding, it was reasonable for the Commission to defer its decision. An underlying consideration for the Commission is that this would provide additional time for PSE, Staff, and others who might take an interest, to develop a comprehensive proposal for cost recovery in the more appropriate context. *See Id.* ¶ 99.

[7] The reason for these continuances was that PSE and Staff were engaged in bilateral settlement negotiations in an effort to arrive at a "global" solution including this docket and four others that are completely unrelated to it. In Staff's first request for continuance, numerous stakeholders and the Commission first became aware that Staff and PSE were in the final stages of bilateral negotiations without substantive participation from other intervening parties. This, among other things, caused considerable procedural confusion and raised the level of contentiousness among the parties. These circumstances caused unnecessary delay in the resolution of all of the affected dockets, including this one. The Commission, in a separate order entered today, rejects the product of these negotiations, a Multiparty Settlement filed by Staff on behalf of itself, PSE and the Northwest Energy Coalition on March 22, 2013. *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, Order 07 (June 25, 2013); *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-130137 and UG-130138 (consolidated) and *In the Matter of the Petition of Puget Sound Energy, Inc. and NW Energy Coalition For an Order Authorizing PSE to Implement Electric and Natural Gas Decoupling Mechanisms and to Record Accounting Entries Associated with the Mechanisms*, Dockets UE-121697 andUG-121705 (consolidated), Order 06 (June 25, 2013).

*6* The purpose of a petition for reconsideration is "to request that the Commission change the outcome with respect to one of more issues determined by the Commission's final order."[8] The petition can be granted if the Commission determines that some part of its Final Order is "erroneous or incomplete" as a matter of law or with respect to one or more material facts. If a party claims the record is incomplete because there is evidence not in the record that should be considered, the Commission may reopen the record to receive the evidence on a proper motion and showing. As in all adjudicatory proceedings under the Administrative Procedure Act (APA), a petition for reconsideration must be resolved exclusively on the basis of the record developed in the proceeding.[9]

*7* PSE's petition argues that the Commission's Final Order in this proceeding is erroneous as a matter of fact as to the equity adder, but fails to identify any material facts not in the record with respect to this issue.[10] PSE's motion to reopen the record

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[8] WAC 480-07-850(1).

[9] RCW 34.05.476(3). There are some limited exceptions, not relevant here.

[10] We emphasize that the Commission's decisions in Order 03 are based exclusively on the record presented, as the law requires. During a clarification conference after Order 03 was entered, PSE made claims for the first time that the coal transition power legislation provided for an incentive to be paid and that:

> [PSE] was to at least receive a return that would keep us whole in the eyes of the rating agencies. So that would include anything that we would need to retain that whole as far as with S&P with the imputed debt on this power purchase agreement. And the order does not comply with those terms and conditions.

TR.351:9-19 (Harris).

We do not find support for this interpretation of the law and there is nothing in the record concerning the assertion. First, the legislation provides that the Commission will determine the amount of the incentive on the basis of a record developed in an adjudicative proceeding under the APA. RCW 80.04.570(3). This means the determination must be made exclusively on the basis of the record. RCW 34.05.461(4). PSE put nothing in the record, either its own financial analysis or any publication of a ratings agency, concerning the need for a return that would keep it whole vis-à-vis the ratings agencies' debt imputation or what level of return would be required for this purpose. It is significant that when Chairman Goltz questioned Mr. Garratt on this during the evidentiary hearing, Mr. Garratt stated that PSE had not even discussed the matter with Standard & Poor's, formally or informally. TR. 87:14-89:8. Second, the legislation expressly provides that imputed debt is a factor the Commission *is not authorized to consider* for recovery in rates. RCW 80.04.570(6)(a). Third, there is no evidence, and PSE did not subsequently ask to reopen the record to produce evidence, that the ratings agencies, specifically S&P, would perceive that the $34 million risk free premium the Commission determined PSE is entitled to

relates only to its assertions concerning the ongoing approval authority the Company claims the Commission reserved to itself in Order 03. PSE would have us accept into the record and approve as part of the Coal Transition PPA amendments to the agreement that PSE negotiated with TransAlta Centralia after entry of Order 03 that are intended to satisfy the Commission's reporting requirement regarding plant operations and the sources of power from TransAlta delivered to PSE under the terms of the PPA.

*8* PSE's petition also argues that Order 03 is erroneous as a matter of law concerning the equity adder, but fails to persuade us, as discussed presently in detail. Finally, PSE's petition argues that the Commission's decision in Order 03 to consider its request for deferral accounting in a later proceeding is tantamount to a rejection of its right to recover certain costs under the Coal Transition PPA. This is incorrect. The Commission deferred this decision, in part, because it seemed on the basis of colloquy with PSE's counsel at hearing that the Company would be indifferent to the timing of an accounting decision so long as it occurred sufficiently in advance of the date on which PSE would begin taking power and incurring costs under the contract.[11] In any event, postponement of an issue to a more suitable time and form of proceeding is not a rejection, or pre-decision, of a proposed resolution.

### B. Discussion and Decisions

*9* We turn, then, to the merits. PSE's Petition for Reconsideration identifies three issues in connection with Order 03. These are PSE's assertions that:

(1) The authorized equity component is insufficient and fails to provide the incentive set forth in the coal transition energy bill.

(2) The "ongoing approval authority" that order 03 "retained" is inconsistent with RCW 80.04.570.

(3) The commission's failure to authorize a deferral conflicts with the coal transition energy bill.

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recover from its customers is inadequate "to keep [PSE] whole in the eyes of the rating agencies" vis-à-vis the imputed debt S&P may ascribe to this particular PPA.

[11] TR. 254:21-255:17; *see infra footnote 43*.

### 1. Equity Adder

*10* PSE argues that the Commission-authorized equity component is insufficient. The Company summarizes its arguments as follows:

> The equity component allowed by the Commission fails to comply with the letter or spirit of the Coal Transition Energy Bill. The Commission's decision does not allow PSE to "earn the equity component of its authorized rate of return in the same manner as if it had purchased or built an equivalent plant." A plant that is not available to meet the resource need that the Coal Transition PPA covers cannot be used an equivalent plant. Moreover, by slashing the equity return PSE can recover for the Coal Transition PPA, the Commission has gutted the incentive to enter into a coal transition PPA that the Coal Transition Energy Bill is intended to provide.[12]

RCW 80.04.570, codifying the Coal Transition Energy Bill, provides:

> (6)(a) Upon commission approval of an electrical company's power purchase agreement for acquisition of coal transition power in accordance with this section, the electrical company is allowed to earn the equity component of its authorized rate of return in the same manner as if it had purchased or built an equivalent plant and to recover the cost of the coal transition power under the power purchase agreement. Any power purchase agreement for acquisition of coal transition power that earns a return on equity may not be included in an imputed debt calculation for setting customer rates.
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> (b) For purposes of determining the equity value, the cost of an equivalent plant is the least cost purchased or self-built electric generation plant with equivalent capacity. In determining the least cost plant, the commission may rely on the electrical company's most recent filed integrated resource plan. The cost of an equivalent plant, in dollars per kilowatt, must be determined in the original process of commission approval for each power purchase agreement for coal transition power.

[12] Petition for Reconsideration ¶ 7.

PSE would have us read into these provisions that: "A plant that is not available to meet the resource need that the Coal Transition PPA covers cannot be used an equivalent plant." Such language is neither present nor implied in the statute. Instead, the determination of "the cost of an equivalent plant is the least cost purchased or self-built electric generation plant with equivalent capacity" is left to the Commission's judgment applied to such evidence as the parties present on the record in an adjudicative proceeding under the Administrative Procedure Act.[13]

*11* There are good reasons that the legislature did not include such language in RCW 80.04.570. As we noted in Order 03:

> It is highly unlikely that an actual plant available for purchase at any given time will match perfectly in its operating characteristics the purchaser's requirements and seller's obligations under a purchase power agreement. Indeed, PSE's witness, Mr. Garratt, recognizes that "the Coal Transition PPA is a firm, 24x7 product, and the capacity factors of the projects bid into the 2011 RFP are less than 100%." Public Counsel's witness, Mr. Woodruff, testifies in this vein that "no plant can operate at a 100 percent capacity factor." Accordingly, he says, "there is arguably no plant that is truly equivalent to the Coal Transition PPA and thus no 'true capital cost of an equivalent plant.'"[14]

Indeed, at any given time when the Commission might be required to determine the cost of an equivalent plant, it could be the case that there is no power plant on the market at all, or at least no power plant available to purchase or build that meets the least cost criterion. In such circumstances, the Commission must rely on other evidence, such as a recent purchase of a power plant that was identified as a least cost alternative for the acquiring utility.

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[13] RCW 80.04.570(3) requires that the Commission make the determination in "an adjudicative proceeding under chapter 34.05 RCW." This means, among other things, that the Commission must decide the cost of an equivalent plant relying *exclusively* on the evidence of record presented by the parties.

[14] Order 03 ¶ 28, footnote 21 (citing Exhibit No. RG-1HCT at 24:16-17 and Exhibit No. KDW-1HCT at 30:17-31:6 ).

*12* PSE argues that:

> The law is intended to make a coal transition PPA more attractive to an electric company than a traditional PPA by making it equivalent to a rate base addition. This is because the electric company foregoes the opportunity to build or purchase a generation plant to meet future energy needs, and likewise foregoes the opportunity to earn an equity return on an owned plant. The Commission stripped away PSE's incentive to enter into the Coal Transition PPA when it decreased the equity return that PSE could earn below what it otherwise would earn if it had purchased or built an equivalent plant.[15]

*13* We do not challenge the statements in the first two sentences about the intent of the legislation and its arguable underpinning. But the third sentence, perhaps unintentionally, misses the mark. The Commission did not "decrease" any return. The return on equity was set at 9.8 percent in PSE's 2011/2012 general rate case.[16] The issue is, as articulated in the statute, what is the cost of an "equivalent plant" to which the return on equity would apply.

*14* The Legislature did not specify how this was to be determined, leaving it to the Commission's discretion to decide and, significantly, requiring that it be determined in an adjudicatory proceeding conducted under the APA.[17] In other words, the Legislature required that the cost of the equivalent plant be set in an adversarial process, based on detailed evidence submitted by the parties.

*15* The parties presented the Commission with two options. Commission Staff and Public Counsel proposed a valuation of an equivalent plant based on the actual market sale of the Ferndale Plant.[18] The Company proposed that we rely on the final offering

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[15] Petition for Reconsideration ¶ 7.

[16] *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-111048 and UG-111049 (*consolidated*), Order 08 (May 7, 2012).

[17] RCW 80.04.570(3).

[18] *See generally* Exhibit No. DCG-1HCT (Gomez) and Exhibit No. KDW-1HCT (Woodruff).

price PSE received during the 2011 RFP process from the owners of what we termed the "Alternative Plant," because of the confidential nature of some of the information surrounding that plant.[19]

*16* The parties were not limited in their evidentiary choices to finding an actual plant to use for an analogy. The parties could have, but did not, present expert testimony on a hypothetical "equivalent plant," approaching the cost determination using a variety of methods. Indeed, we expected such thoroughness. [20]

*17* However, as at the conclusion of our evidentiary hearing, we are left at this reconsideration stage with only the two positions. We continue to read the record to support the Staff and Public Counsel position. Indeed, we find considerable support for their position, and our acceptance of it, in the Company's own testimony concerning the extensive analyses it conducted concerning the suitability of these two plants as least cost alternatives for meeting PSE's needs for capacity for the relevant period.

*18* PSE's analyses of Ferndale showed it to be a least cost alternative at the time the Company evaluated the Coal Transition PPA. PSE subsequently had an actual opportunity to purchase Ferndale and it did so. This does not eliminate the Ferndale sale as a data point against which the Commission can measure the cost of a least cost equivalent plant. Indeed, it argues for the appropriateness of including such analysis in our determination of least-cost equivalent resources under the statute. Ferndale, for a number of reasons, embodies the very concept of a least cost equivalent— a plant available to meet a portion of the both the capacity and energy needs that the Coal Transition PPA would otherwise cover, contemporaneous in time, reasonably close in size, operable as a baseload facility, with available transmission and favorable financial metrics.

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[19] The reasons that PSE's proposed use of this data was rejected are discussed in detail in Order 03, and below. We note here that the general unacceptability of an offering price as evidence of value is underscored by the fact that the final offering price for Alternative Plant was only about 78 percent of the initial offering price. This suggests strongly that such data are highly unreliable

[20] Though no doubt an imperfect analogy, parties historically put on such expert testimony when urging cost of capital determinations using multiple methodologies and varied assumptions. The "cost of an equivalent plant" determination could likewise have been so presented.

*19* The Alternative Plant, at a cost per kWh nearly double that of Ferndale and otherwise unsuitable,[21] was not available for purchase as a least cost means for the Company to meet its needs. Indeed, the Alternative Plant failed to pass muster under PSE's quantitative and qualitative analyses during the 2010/2011 IRP/RFP process under any scenario the Company evaluated through its resource screening process. PSE had no real opportunity to purchase this plant because it was too large relative to the Company's needs and too expensive to acquire using a least cost standard. The plant also suffered from other significant liabilities, including inadequate access to transmission.

*20* PSE's self-build option was even less viable an alternative at a price roughly 50 percent higher than the Alternative Plant in terms of $/kWh. Moreover, the self-build option PSE considered was a simple cycle gas-fired "peaker" plant, which is in no way equivalent to the baseload character of the Coal Transition PPA under which PSE will take delivery of significant amounts of firm electricity deliveries on a 24/7 basis under fixed prices[22]

*21* Viewed in the context of PSE's obligation to satisfy its needs for capacity and energy on a least cost basis, and the fact that the Alternative Plant against which PSE would have us measure the cost equivalent plant is not least cost, PSE's argument that the Commission stripped away the Company's incentive to enter into the Coal Transition PPA fails.

*22* PSE next argues that:

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[21] In stark contrast to Ferndale, Alternative Plant was not available to meet a portion of the resource need that the Coal Transition PPA would otherwise cover, was not a sale contemporaneous in time but rather an offer, was not reasonably close in size, lacked available firm transmission capacity and did not have favorable financial metrics

[22] Ferndale, on the other hand, is a baseload plant. *See In the Matter of the Petition of Puget Sound Energy, Inc., for a Determination of Emissions Compliance*, Docket UE-121594, Order 02- Order Approving and Adopting Stipulation, and Granting Petition for Emissions Performance Determination, ¶¶ 8, 15, 18 and 26 (November 2, 2012).

> The Commission's use of the Ferndale Cogeneration Station as an equivalent plant from which to calculate an authorized equity return is patently inappropriate given that PSE already uses that plant to meet current needs. . . . The equivalent plant must be PSE's next best ownership option—a plant that PSE would build or buy to meet the need met by the Coal Transition PPA. [23]
>
> The Coal Transition Energy Bill could have provided that the most recently purchased asset would determine the pricing for a company's equity return, but it did not do so.[24]

The first part of this argument is incorrect. At the end of the 2011 RFP process, following extensive quantitative and qualitative analyses and evaluations, PSE identified the Ferndale acquisition *coupled with* entry into the Coal Transition PPA as the least cost means to meet its capacity requirements as identified in the 2010 IRP process. That is, PSE determined that the Ferndale acquisition and the Coal Transition PPA, in combination, was the Company's least cost alternative. It was only after reaching this determination that PSE agreed to purchase Ferndale as the first step in a two-step resource acquisition process.

*23* It would be appropriate to analogize this combination least cost alternative to one in which PSE purchased a partial interest in an operating plant to meet the first component of its identified need for capacity and purchased, with the right to close in two years, an additional interest in the plant to meet the balance of its need. PSE's analyses showed Ferndale was, in fact, a least cost equivalent plant that could substitute for a portion of the 500 MW capacity the Company was negotiating for with TransAlta Centralia. PSE decided to purchase Ferndale and negotiated a revised Coal Transition PPA for 380 MW. The revised Coal Transition PPA, when evaluated as the second part of a single least cost equivalent plant acquisition, should not be given a higher value than the first half. It follows that PSE's cost to acquire Ferndale is a highly representative figure to use when we determine the cost of an equivalent plant.

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[23] Petition for Reconsideration ¶ 9.

[24] *Id.* ¶ 10.

*24* The second part of this argument is also unpersuasive. It undoubtedly is true that the Legislature could have provided that the most recently purchased asset (*i.e.,* Ferndale) would determine the cost of an equivalent plant. It is equally true, however, that the Legislature could have said in RCW 80.04.570 that "the equivalent plant must be PSE's next best ownership option," (*i.e.,* Alternative Plant), but it did not do so.[25]

*25* The final argument in PSE's Petition for Reconsideration on the equity adder is:

> The Commission's use of a single "comparable—the Ferndale Cogeneration Station—is contrary to principles of resource acquisition planning and property valuation. In property valuation, more than one comparable is used to value a property. Thus, the Commission's analogy to property valuation fails with the use of only the Ferndale Cogeneration Station as a comparable. If the Commission uses the three reasonable comparables—the Ferndale Cogeneration Station, the Alternative Plant, and a self-build option the average per kilowatt price would be $628/kW rather than the $318/kW cited by the Commission for the Ferndale Cogeneration Station.[26]

This argument is curious. Order 03 includes no rationale that relies on an analogy to property valuation. This approach was not part of the evidence or advocacy in this docket. This analogy crept into the public discussion that followed in the wake of Order 03, but it is outside the record, was not part of the Commission's evaluation of the evidence, and is not a basis for any part of the Commission's decision.[27]

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[25] Even if the statute included such language, it is at best doubtful that Alternative Plant would qualify as "PSE's next best ownership option." Again, we emphasize that PSE's own analyses, presented in great detail in its testimony and exhibits in this proceeding, show beyond peradventure that Alternative Plant was wholly unsuitable as an asset acquisition alternative for the Company. This is not a question of there being a mere preponderance of the evidence proving this point, which would be enough. The evidence—PSE's own testimony and exhibits—is clear and undisputed.

[26] Petition for Reconsideration ¶ 12 (citing Order 03 at ¶ 43).

[27] In any event, if reliance on the cost of the Ferndale plant as the data point most representative of the cost of an equivalent plant "is contrary to principles of resource acquisition planning and property acquisition" because it is "a single comparable," then how does PSE explain that what it urged below was that we rely *exclusively* on a single sales offer that does not even qualify as a "comparable"—the offer price for the Alternative Plant—to determine cost equivalency? *See* Exhibit No. RG-1HCT at 24:10-29:3; Exhibit No. RG-9.

*26* Moreover, had the Commission wished to take this approach that no party advocated we would have needed evidence of actual comparable sales in the market. PSE presented no such evidence, nor did any other party. PSE incorrectly suggests in its Petition that the Commission could have performed a comparable sales analysis by including the Alternative Plant *offer price* and the *cost* of self-building a dissimilar plant. Offer prices are not part of a comparable sales analysis. Only actual, arms-length sales are considered. Replacement cost is a separate methodology used in property valuation, but a replacement cost also has no place in a comparable sales analysis.

*27* In sum, we find unavailing PSE's various arguments in its Petition concerning the level of the equity adder. The evidence presented by the parties below firmly supports our endorsement of the Staff and Public Counsel position, and our rejection of PSE's position. Determination of the cost of an equivalent plant is left to the Commission's informed judgment based on the evidence and argument presented. The statute expressly states that the Commission may rely on the Company's most recent IRP prior to entry into a coal transition PPA. PSE's own evidence concerning the 2010/2011 IRP/RFP analyses leaves room only for the determination that the Ferndale transaction provides the best data from which to measure the cost of an equivalent plant.

### 2. The Commission's Ongoing Authority

*28* The second issue identified in PSE's petition relates to two Commission determinations in Order 03 relating to the Commission's ongoing oversight of the Company's performance under the PPA. The first concerns so-called resupply power that TransAlta is authorized to deliver in lieu of its own production. Staff and Public Counsel argued below that PSE should not be allowed to recover the equity adder for power delivered under the Coal Transition PPA but not produced by the Centralia Coal facility. Rejecting Staff's and Public Counsel's evidence and arguments to the contrary, the Commission specifically found "*that PSE should be allowed to recover an equity return on the full volume of power TransAlta delivers under the terms of the*

*Coal Transition PPA, including resupply power."*[28] PSE's issue here apparently stems from the Commission imposing a reporting requirement concerning the use of resupply power so it could remain informed about ongoing Centralia Plant operations over the term of the contract and continue to fulfill its statutory responsibilities imposed by the coal transition legislation. Order 03 says, in this regard:

> *We will require PSE to monitor, and report to the Commission annually, TransAlta's production levels at the Centralia Coal Transition Facility. PSE will also be required to report whether and, if so, to what extent TransAlta has satisfied any part of its delivery obligations through the use of resupply power. The report must identify the amounts of resupply power by source. Although PSE expects TransAlta to continue to operate the plant in a manner that will result in most power delivered under the Coal Transition PPA being from the Centralia Coal Transition Facility, this is not required under the agreement. It is conceivable that deliveries from the facility will reach a point where the contract may be determined to no longer qualify under the terms of RCW 80.04.570 and related authority as a "coal transition PPA." In such unlikely circumstances, the Commission may initiate a proceeding to consider whether it remains prudent for PSE to continue taking deliveries under the contract and, if so, whether PSE can continue to recover any equity return in association with any volumes delivered under the contract.*[29]

Following detailed discussion of the resupply issue, Order 03 restates the reasons for the reporting requirement:

> We determine that it is necessary to condition our approval of the Coal Transition PPA in connection with this issue only to the extent of imposing a reporting requirement. This will enable the Commission to know if TransAlta exercises its resupply right to a degree that might be found to put the Coal Transition PPA in jeopardy. If Commission Staff's continuing review suggests that the contract has lost its identity as a coal transition agreement, the Commission may initiate proceedings to determine whether this is the case and, if so, what consequences flow from the determination.[30]

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[28] Order 03 ¶ 58 (January 9, 2013) (italics in original).

[29] *Id.*

[30] *Id.* ¶ 69.

*29* The second Commission determination in Order 03 implicated by this issue memorializes the Commission's ongoing responsibility to protect the purposes intended by the Office of the Governor in entering into a Memorandum of Agreement with TransAlta as part of the overall legal and policy framework establishing the concept of coal transition power. The Commission determined in this connection that:

> *If TransAlta terminates the MOA under Section 8(c), or the MOA is terminated or cancelled by the State of Washington as a result of a failure by TransAlta to satisfy its payment obligations under Section 3 of the MOA, the Commission should initiate proceedings to consider whether to require PSE to terminate the Coal Transition PPA to the extent it may do so without incurring liability. Finally, if the MOA is terminated at any time during the term of the Coal Transition PPA, for any other reason, the Commission may initiate proceedings to determine whether the contract retains its identity as a coal transition PPA under RCW 80.04.570 and related authority, and whether PSE should be authorized to continue to recover equity return as authorized under RCW 80.04.570(6).*[31]

The Commission elaborates on the bases for this determination later in Order 03:

> Thus, we see the MOA, RCW Chapter 80.80 and RCW 80.04.570 as three intertwined elements that together establish the concept of coal transition power and define the rights and obligations of TransAlta, PSE and, most important, the people of Washington. The fulfillment of these rights and obligations provides a transition for TransAlta, allowing for an orderly and financially satisfactory retirement of the Centralia coal facility. The fulfillment of these rights and obligations provides a transition for citizens living in the communities most directly affected by the closure, maintaining family-wage jobs and promoting economic development that will substitute for the loss of the plant, which remains an economic mainstay in Centralia and surrounding suburban and rural communities. Finally, it is by the fulfillment of these rights and obligations that the state has provided for the broader public interest to benefit from the assured closure of a significant source of air pollution on a definite schedule.

[31] *Id.* ¶ 78 (italics in original).

> It is true that the MOA and RCW Chapter 80.80 allow for the termination of certain of these mutual rights and obligations upon the occurrence of specified events. We cannot foresee whether any of these events will occur, or evaluate in the abstract the impact any such occurrence relative to the Commission's obligation to "[r]egulate in the public interest, as provided by the public service laws, the rates, services, facilities, and practices of all persons engaging within this state in the business of supplying any utility service or commodity to the public for compensation."[32] We determine, however, that significant changes in circumstances such as a decision by TransAlta to terminate the MOA, or its failure to meet its financial obligations under the MOA as contemplated under RCW 80.80.100, may require a reexamination of the contract between TransAlta and PSE. Should the contract be found under some set of circumstances to have lost its character, and its legal status, as a coal transition PPA, it may be incumbent upon the Commission to initiate proceedings to review the contract and, among other things, consider whether PSE can continue to earn the equity return allowed here, as provided only for a coal transition agreement under RCW 80.04.570.[33]

*30* PSE's characterizations of these determinations as the Commission's retention of "ongoing approval authority" and "prudence review" concerns raised by the Commission in its Final Order are not accurate.[34] The Commission did not "retain" any "ongoing approval authority" in Order 03. The Commission, as a matter of law, has ongoing approval and oversight authority with respect to every matter that is subject to its orders. Although seldom invoked, RCW 80.04.210 provides:

> **Commission may change orders.**
>
> The commission may at any time, upon notice to the public service company affected, and after opportunity to be heard as provided in the case of complaints rescind, alter or amend any order or rule made, issued or promulgated by it, and any order or rule rescinding, altering or amending any prior order or rule shall, when served upon the public

[32] RCW 80.01.040.

[33] Order 03 ¶¶ 92-93 (January 9, 2013).

[34] Petition for Reconsideration at 9.

> service company affected, have the same effect as herein provided for original orders and rules.[35]

*31* There is nothing in Order 03 that purports to add anything to this express power. Instead, Order 03 includes in the form of dicta cautionary notes that future changes in circumstances of a fundamental nature, however unlikely, *might be deemed* to undermine the purposes expressed in the coal transition legislation and the Governor's MOA. If so, Order 03 explains, this *might prompt* the Commission to take another look at the Coal Transition PPA at some point in the future.

*32* These discussions in Order 03 were included, in significant part, because the Commission's approval of the Coal Transition PPA is a matter of first impression involving the application of new law and policy. Indeed, Order 03 makes clear that the Commission would not "at this juncture determine definitively the full legal consequences that might flow from these circumstances, if they eventuate."[36] In this regard, Order 03 did no more than memorialize the Commission's continuing responsibility to regulate in the public interest with respect to all matters within its jurisdiction, including the Coal Transition PPA.

*33* Insofar as prudence is concerned, Order 03 says:

> Based on our evaluation of the Coal Transition PPA in the context of Chapter 80.80 RCW, RCW 80.04.570 and the Memorandum of Agreement between TransAlta and the Governor's office that is required under RCW 80.80.100, *we find the Coal Transition PPA*

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[35] The Commission adopted a corresponding code provision in its procedural rules, WAC 480-07-875, which states:

> **Amendment, rescission, or correction of order.**
>
> (1) **Amendment or rescission.** The commission may alter, amend, or rescind any order that it has entered, after notice to the public service company or companies affected and to all parties in the underlying proceeding, and after allowing an opportunity for hearing as in the case of complaints. Any order altering, amending, or rescinding a prior order will have the same effect as any other final order when served upon the public service company or companies affected.

[36] Order 03 ¶ 68 (January 9, 2013).

> *acceptable and within the bounds of the prudence standards that we apply to such an agreement*.[37]

*34* The only other direct references to prudence in Order 03 are in the 11th conclusion of law and 3rd ordering paragraph, both of which state:

> PSE's costs under the Coal Transition PPA, as determined in this Order, are reasonable for recovery in rates, subject to a future prudence review of PSE's actual power costs as provided in Paragraph 4 of the PCA Settlement Agreement approved in Dockets UE-011570 and UG-011571.

*35* This language is a direct quote from the "Requested Order" section at the end of PSE's Petition for approval of the Coal Transition PPA. While PSE expressly requested this language, the Commission declined to include the final sentence of the Company's request, which would have the Commission find and determine that: "The Coal Transition PPA is prudent for the term in its entirety, or any portion thereof." It would not be appropriate to include such language in Order 03, or in any order, precisely because of the Commission's obligation to regulate at all times in the public interest, which includes the possibility that materially changed conditions in the future affecting a long-term contract or acquisition of a long-lived asset found prudent at inception could require the agency to exercise its power under RCW 80.04.210 and WAC 480-07-875(1).[38]

*36* In sum, the Commission did not express any "prudence concerns" in Order 03. Quite to the contrary, it expressly found PSE's decision to enter into the Coal Transition PPA to be prudent.

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[37] *Id.* ¶5 (italics added for emphasis).

[38] *See, e.g., WUTC v. Puget Sound Energy, Inc.*, Docket UE-031725, Order 14 - Rejecting Tariff Filing, Authorizing and Requiring Compliance Filing, and Requiring PCA Account Adjustment, ¶¶ 71-98 (Tenaska Disallowance) (May 13, 2004).

*37* Turning to PSE's pending Motion to Reopen the Record, PSE proposes that the Commission "allow into evidence the Affidavit of Roger Garratt and the amendment to the Coal Transition PPA."[39] Public Counsel and ICNU raise both technical and substantive objections to this proposal.

*38* ICNU argues PSE's motion to reopen the record violates WAC 480-07-375(2), which requires that "[p]arties must file motions separately from any pleading or other communication with the commission." ICNU argues the motion should be rejected on this basis alone.

*39* The Commission's longstanding practice is to enforce rules such as this one by liberally construing them and allowing for exceptions so long as the purpose behind the rule is not frustrated in such a way as to cause prejudice to a party. The purpose behind WAC 480-07-373(2) is to ensure that a motion is not overlooked by a party, or the Commission, as a result of being "merely stated within the body of a pleading." In this instance, PSE calls appropriate attention to the motion by including reference to it in the caption of its filing. It is clear that neither ICNU nor any other party is prejudiced in this instance. While we do not encourage the practice of including a motion in a pleading, PSE's captioning of the motion arguably removes it from the rule, which we liberally construe in this instance. Even if this was not the case, we would grant an exception to the extent necessary to entertain PSE's motion to reopen the record in the interest of achieving just, common-sense results in bringing this matter to conclusion.

*40* ICNU argues that WAC § 480-07-830 allows a party to reopen the record after the close of the record only before entry of the final order.[40] Public Counsel makes the same argument.[41] However, the provision in this rule stating that "[a]ny party may file a motion to reopen the record at any time after the close of the record and before entry of the final order" is not meant to be exclusive and does not imply that the record in a proceeding cannot be reopened after entry of a final order. Indeed, RCW 34.05.476(2)(i) provides that an order on reconsideration is part of the official agency

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[39] Stipulation ¶16.

[40] ICNU Response ¶ 13.

[41] Public Counsel Response ¶ 44.

record in a proceeding. It follows that every filing that might precede and lead to an order on reconsideration can be considered for inclusion in the record on a party's motion, or the Commission's own motion, to reopen the record after a final order. Reopening the record is an act of Commission discretion, as expressly provided in RCW 34.05.476.

*41* ICNU is correct that PSE's motion to reopen the record in this instance is not related to any contested issue below. This undoubtedly explains why neither ICNU nor any other party sought to introduce any evidence or offer of proof responsive to Mr. Garratt's affidavit or the amendments to the Coal Transition PPA that his affidavit conveys. PSE's motion is a request to put before the Commission the means by which the Company proposes to comply with the reporting requirement the Commission imposed in Order 03 and address the Commission's concerns. As ICNU argues, PSE "does not seek to offer evidence essential to any disputed issue, but offers evidence created in response to the Commission's Final Order 03."[42] It follows that ICNU's argument that "all parties must be given the opportunity to respond to this newly created evidence," as provided in WAC 480-07-830 lacks substance. The exercise of this right under the circumstances would serve no purpose whatsoever and it is clear that neither ICNU nor any other party is prejudiced by the Commission receipt of this material into the record. Underscoring this point is the fact that ICNU raises no substantive objection to Mr. Garratt's affidavit or the amendments. Public Counsel is somewhat ambivalent in its response concerning the substance of the amendments, but we read its response, on balance, to favor them.[43]

*42* PSE's motion is nothing more than a convenient way to put before the Commission a means by which the Company can achieve compliance with the reporting requirement the Commission imposed in Order 03as a condition of its approving the Coal Transition PPA. To the extent PSE's motion to reopen the record and our treatment of it are arguably at odds with the letter of WAC 480-07-830, we waive the requirements of the rule and grant PSE's motion. We turn, then, to consideration of the proposed amendments to the Coal Transition PPA as an appropriate form of compliance with the reporting requirement.

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[42] ICNU Response ¶22. *See also* ICNU Response ¶ 15.

[43] Public Counsel Response ¶ 53.

*43* Mr. Garratt states in his affidavit that:

> The Amendment makes two important revisions to the agreement. First, it amends section 17.3 of the Coal Transition PPA to provide a process by which PSE would, in the event TransAlta Centralia terminates the Memorandum of Agreement with the State of Washington ("MOA"), allow PSE the option to continue with or terminate the Coal Transition PPA and seek concurrence from the Commission of such decision. Second, the Amendment adds a new section 17.4 to the Coal Transition PPA that gives PSE a right to terminate the Coal Transition PPA in the event of a Permanent Cessation of Generation, which occurs upon any of the following events:
>
> > (a) A formal determination by the management of TransAlta to permanently cease the generation of electric energy at the CTCF;
> >
> > (b) the CTCF has, for any reason other than Force Majeure, failed during a continuous period of 365 or more days to generate any electric energy; or
> >
> > (c) the average number of FTEs over a six-month period has been reduced below 50% (or, if Seller has permanently terminated operation of one generating boiler at the CTCF at any time during the preceding eighteen (18) consecutive months, below 30%) of the average number of FTEs during the preceding eighteen (18) consecutive calendar months.

*44* Mr. Garratt also states that TransAlta commits, by separate letter agreement, to provide to PSE by March 1 each year two annual reports to enable PSE to meet the reporting requirements set forth in Order 03. The first report, covering the prior 13 months, will include:

1) The total number of hours during such month in which the CTCF generated any electric energy.

2) The total number of MWh of electric energy delivered by TransAlta to PSE under the Agreement during such month.

3) The total number of MWh of electric energy that were delivered by TransAlta to PSE under the Agreement during such month from the CTCF.

4) The total number of MWh of electric energy that were delivered by TransAlta to PSE under the Agreement during such month from sources other than the CTCF, with the number of MWh delivered from each such source as specified by the NERC e-Tags for such energy.

*45* The second report, covering the preceding 12 months, will include:

1) Each payment made by TransAlta pursuant to Section 3 of the MOA during such calendar year.

2) The average number of FTEs during such calendar year.

*46* The amendments to the Coal Transition PPA presented via Mr. Garratt's affidavit and his report of the separate letter agreement with TransAlta directly and satisfactorily address the Commission's need to be kept informed concerning Centralia Plant operations and TransAlta's performance under the MOA. The information that will be provided to the Commission should be sufficient to allow the Commission to carry out its statutory responsibilities relative to the Coal Transition PPA. The amendment, in addition, provides important protections for PSE that recognize the importance of the legal and policy initiatives that authorized such a contract in the event material changes in market circumstances might frustrate its basic goals. Finally, the amendment provides for the Commission's concurrence should PSE decide to exercise its expanded rights under Section 17 of the Coal Transition PPA.

*47* The Commission commends the Company for being responsive to the concerns we expressed both at hearing and in Order 03, and promptly address such concerns in explicit amendments to the PPA and enhanced reporting requirements. The Commission determines that it should approve the amendments to the Coal Transition PPA.

### 3. Cost Recovery

*48* The third issue in PSE's Petition is "the Commission's decision not to authorize a deferral." There is no real barrier to the Commission approving an approach to cost recovery at this time. Our decision in Order 03 to put this off to another day was informed in part by our understanding in colloquy with counsel for PSE during oral argument that the Company would be comfortable with such a result.[44] In addition, however, we find the record insufficient in terms of the details of what PSE proposes in terms of deferral accounting. Our goal in reserving this matter for later decision was to have a more detailed proposal presented to the Commission in the context of a PCORC or general rate case proceeding.

*49* The evidence in our record supports the need for a cost recovery mechanism to allow for annual adjustments in volume and price under the PPA while also properly reflecting in the PCA baseline power cost the avoided market purchases and hedging costs made possible by this PPA. We continue to have a preference that PSE initially establish such a mechanism in the context of a PCORC filing. There is no apparent barrier to such an approach. As the Commission said in Order 03: "PSE

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[44] JUDGE MOSS: I just have one quick question on deferral. Does PSE anticipate that there will be a necessity to defer costs up front? That is to say about the time of December 1st, 2014, or would they expect to have a rate proceeding or a PCORC proceeding to the point to where that could be included in rates right at the beginning, and then the deferral would be principally to accommodate the changes during the term of the contract?

MR. KUZMA: Yes. As you note, the first cost will be two years -- approximately two years from now. I believe that PSE probably does not see a need necessarily to defer the first tranche of the agreement, because they will have two years to prepare for that. Where it becomes difficult is our subsequent volume changes and cost changes, because under the way that the PCORC is developed, if they were to do a PCORC to get the costs in for December 1st, 2014, it would then need to turn around and submit a GRC, which takes significantly longer, and then would impinge on the ability to incorporate costs for December 1st, 2015.

TR. 254:21-255:17.

acknowledges that it can time the filing of a general rate case or a PCORC so that the costs of the Coal Transition PPA beginning on December 1, 2014, could be recovered in rates."[45]

*50* This does not solve the problem PSE identified through Ms. Barnard's testimony that it would become difficult to time PCORC and general rate proceedings to include the incremental costs associated with contract changes in price and volume, as they occur. However, we are unconvinced that there are no means other than deferral accounting to address this problem. Indeed, PSE and Staff apparently agreed to an alternative, which they describe and support in their Multiparty Settlement Agreement. While we do not act on the settlement here, we find what the parties agreed to do informative and suggestive. What they propose is to give PSE the discretion to accomplish recovery of the cost of the contract power and the equity adder via one of three approaches:

1) A Power Cost Only Rate Case (PCORC).

2) A compliance filing made 60 days before December 1, 2014, December 1, 2015, and December 1, 2016.

3) A combination of a PCORC and compliance filing if a PCORC picks up a partial year of a contract change requiring a compliance filing to pick up the remainder of the contract year.

*51* PSE apparently considers the availability of these options as being an adequate substitute for deferral accounting. We expressed in Order 03 and reiterate above our preference for addressing cost recovery, at least initially, in a PCORC.

*52* This said, we determine that PSE's Petition for Reconsideration should be granted with respect to its request that the Commission approve a cost recovery mechanism at this time, but denied with respect to its renewed request for approval of deferral accounting. The record is simply too incomplete in terms of explaining how such a mechanism would work in practice. It is not at all clear, for example:

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[45] Order 03 ¶ 98. PSE's counsel agreed during oral argument that this is the case: "I believe that PSE probably does not see a need necessarily to defer the first tranche of the agreement, because they will have two years to prepare for that." TR. 255:7-10 (Kuzma).

- What level of costs might be booked to the deferral account beginning in December 2014 and at each annual transition in volume and price that occurs under the Coal Transition PPA.

- How and when the deferral account balances will be cleared on an ongoing basis.

- How the deferrals will interact with and be considered in the annual adjustment of the PCA baseline for power costs included in rates.

*53* We therefore expressly approve what the Commission previously implied in Order 03. We determine that PSE should be authorized and required to file a PCORC timed so that the any incremental power costs created through this PPA beginning on December 1, 2014, can be recovered fully and timely in rates. Furthermore, we encourage PSE to propose in the context of its initial PCORC filing additional clarifications, such as the compliance filing approach suggested by Multiparty Settlement Agreement, and how this will interact with annual adjustments in the PCA baseline. Ideally, PSE will work with Commission Staff and the other interested parties to present to us a consensus approach providing for timely cost recovery of such incremental power costs throughout the term of this PPA.

## ORDER

THE COMMISSION ORDERS THAT:

*54* (1) PSE's Petition for Reconsideration is denied with respect to its argument that the equity adder the Commission awarded in Order 03 is inadequate as a matter of fact or law.

*55* (2) The Commission grants PSE' Motion to Reopen the Record and authorizes amendment of the PPA, as presented and discussed in the Affidavit of Roger Garratt. PSE is required to file with the Commission no later than March 15 each year during the term of the contract, the reports that TransAlta Centralia agrees to provide, as discussed in Mr. Garratt's affidavit at paragraphs 7 and 8.

*56* (3) PSE's Petition for Reconsideration is granted with respect to its request that the Commission authorize now a specific means of cost recovery, but denied

with respect to the Company's renewed request for approval of deferral accounting. PSE is directed to file a PCORC timed so that the costs of the Coal Transition PPA beginning on December 1, 2014, can be recovered in rates without risk to the Company's ability to fully recover its costs. PSE should propose in the context of its PCORC filing such additional means of cost recovery as may be required to ensure full recovery of the Company's costs under the Coal Transition PPA throughout its term.

*57* (4) In connection with the required PCORC filing described in the preceding paragraph, the Commission waives the requirement in paragraph 10 of the Settlement Terms for the Power Cost Adjustment Mechanism[46] requiring PSE to file a general rate case within three months of the effective date of any rate increase resulting from a PCORC.[47]

*58* (5) The Commission retains jurisdiction to effectuate the terms of this Final Order.

Dated at Olympia, Washington, and effective June 25, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER Chairman

PHILIP B. JONES, Commissioner

JEFFREY D. GOLTZ, Commissioner

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[46] *See WUTC v. Puget Sound Energy, Inc.*, Dockets UE-011570 and UG-011571 (consolidated), 12th Supp. Order, Appendix A-Settlement Stipulation, Exhibit A ¶ 10 (March 28, 2002).

[47] *Id.*