

Agenda Date: January 26, 2012
Item No.: A1

Docket: U-120025
Application for Order approving Service Territory Agreement and Transfer and Joint Use of Distribution Facilities between Puget Sound Energy, Inc., and Tanner Electric Cooperative Corporation

Company: Puget Sound Energy, Inc.
Staff: E.J. Keating, Regulatory Analyst

Recommendation

Issue an Order approving the application of Puget Sound Energy, Inc. (PSE or company) for a Service Area Agreement, including the First Amendment to Service Area Agreement, with Tanner Electric Cooperative (Tanner) and an Agreement for Transfer and Joint Use of Distribution Facilities to Tanner.

Background

Puget Sound Energy is an electric utility regulated by the Washington Utilities and Transportation Commission (commission) serving parts of Western Washington, including but not limited to Pierce and King County.

Tanner Electric Cooperative is an electric cooperative corporation organized under the laws of the State of Washington. Tanner offers electric utility services to customers in and near the City of North Bend and around Ames Lake in the vicinity of the City of Redmond in King County and on Anderson Island in Pierce County, Washington.

The present service areas of PSE and Tanner overlap at certain locations. The parties agree that there exists a duplication of distribution investment as a result.

PSE and Tanner had a Prior Service Area Agreement (Prior Agreement) that expired on July 28, 1991 without being renewed or extended. They have since operated without an Agreement. The new SAA is not a renewal or extension of the Prior Agreement.

PSE and Tanner have entered into a Service Area Agreement (SAA or Agreement) and a Transfer and Joint Use of Distribution Facilities Agreement, which, if the commission approves the application, would delineate and separate their service areas, as well as allow for the transfer and joint use of certain distribution facilities. The public policy supporting such agreements is expressed in RCW 54.48 which states that duplication of facilities is “uneconomical, may create hazards to public safety, discourages investment in permanent underground facilities, is unattractive, and thus is contrary to the public interest....”

It is Staff's understanding that service area agreements are immune from antitrust laws if the agreement is actively supervised by a State regulatory agency such as the commission, pursuant to a clearly articulated state policy such as RCW 54.48. RCW 80.12.020 and WAC 480-143-120 require public service companies to obtain commission approval before transferring property that is necessary or useful to perform their public duties, and WAC 480-143-170 requires such a transfer to be in the public interest.

Features of the SAA and Transfer and Joint Use of Distribution Facilities Agreement

1. The term of the SAA is ten years.
2. The agreement defines the boundary line to avoid creating any legal lots that would be divided by the boundary line.
3. The parties have addressed in the Agreement service to customers whose properties cross or are bordering the boundary line between the parties' respective service areas. In addition the agreement specifies that service to a customer will be determined by the "point of use" of electricity rather than the "point of delivery".
4. The Agreement provides for the transfer of 119 metered locations, 8 unmetered location accounts and 2 customers with 18 pole contacts from PSE to Tanner and also provides for certain joint planning and operations to aid in the transfer of customers.
5. The Agreement states that Tanner does not object to the route for any of PSE's existing or future transmission facilities passing through Tanner's service territory needed to serve PSE customers. PSE does not object to the route for any of Tanner's existing or future transmission facilities passing through PSE service territory and the parties agree that they may work on joint siting of facilities if there is need for two transmission lines (one for Tanner and one for PSE).
6. In order to effectuate the SAA and to avoid duplication of electric facilities and unnecessary hazards to public safety, PSE has agreed to transfer certain distribution facilities and operating rights to Tanner and Tanner has agreed to pay PSE \$576,684.94 as compensation for the facilities and operating rights, plus PSE's costs to cut-over the facilities. The compensation was reached through arms-length negotiations and in PSE's opinion represents fair value for the assets.
7. The parties have agreed to the joint use of certain poles and facilities.

Discussion

PSE and Tanner were involved in litigation concerning the interpretation of the Prior Agreement that expired in 1991. The new Agreements have addressed the issues in the litigation and the parties believe that the new Agreements will enable them to avoid any disputes concerning the litigated issues.

The new Agreements attempt to resolve the issues of contiguous and overlapping service areas which can lead to costly duplication of electric facilities and unnecessary hazards to public safety, discourage investment in permanent underground facilities, be unattractive and otherwise inconsistent with sound and efficient utility operation and therefore contrary to public interest.

The Agreement will necessitate shifting some 129 consumers from PSE to Tanner. The parties agree that in order for Tanner to provide service to the new customers, a transfer of facilities will be required from PSE to Tanner, as well as a joint use of certain distribution facilities. PSE will receive compensation from Tanner for these facilities and operating rights, plus the costs to cut-over the facilities.

PSE and Tanner notified all customers whose service will be transferred of the proposed change and held an open house to answer questions. Nine customers attended the open house.

Summary

It is Staff's view that any SAA should satisfy these requirements:

- (1) The parties are electric utilities serving customers or likely to be serving them in the areas defined,
- (2) The SAA cover subjects usually at the root of conflict between neighboring providers, and
- (3) The SAA includes an unambiguous boundary dividing the territories and a rule for deciding utility service rights and obligations in case a customer facility or property straddles that boundary.

Staff feels the SAA between PSE and Tanner satisfies these requirements.

In addition RCW 80.12.020 and WAC 480-143-120 require public service companies such as PSE to obtain commission approval before transferring property that is necessary or useful to perform their public duties. PSE is requesting permission from the commission for a transfer of property outlined in the Transfer and Joint Use of Distribution Facilities Agreement. WAC 480-143-170 requires such a transfer to be in the public interest. Staff believes the transfer is in the public interest and is necessary to accomplish satisfactory results from the SAA.

It is Staff's view that the SAA and the Transfer and Joint Use of Distribution Facilities Agreement as requested by PSE's Application are consistent with legislative policy enunciated in chapter 54.48 RCW that it is in the public interest for public utilities and cooperatives to enter into service area agreements and transfer of facilities agreements for the purpose of avoiding or eliminating duplication of electric lines and service of such public utilities and cooperatives.

The customers immediately affected by the change have been informed, and Staff is unaware of any comments or of any customer who is dissatisfied with the change in service provider.

Commission approval of PSE's participation in the SAA and the Transfer and Joint Use of Distributions Facilities Agreement is in the public interest and within the authority of the commission to approve.

Conclusion

Staff recommends the commission issue an Order approving the application of Puget Sound Energy, Inc. for a Service Area Agreement, including the First Amendment to Service Area Agreement, with Tanner Electric Cooperative and an Agreement for Transfer and Joint Use of Distribution Facilities to Tanner Electric Cooperative.