

**Exh. CRM-1T
Docket UE-200115
Witness: Chris R. McGuire**

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of

DOCKET UE-200115

PUGET SOUND ENERGY

**For an Order Authorizing the Sale of All
of Puget Sound Energy's Interests in
Colstrip Unit 4 and Certain of Puget
Sound Energy's Interests in the Colstrip
Transmission System**

TESTIMONY OF

Chris R. McGuire

**STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

*Overview of Staff's Case and Recommendations;
Standards for Approving Property Transfer Applications*

October 2, 2020

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1 **I. INTRODUCTION**

2

3 **Q. Please state your name and business address.**

4 A. My name is Chris R. McGuire, and my business address is 621 Woodland Square
5 Loop SE, Lacey, Washington, 98503. My business mailing address is P.O. Box
6 47250, Olympia, Washington, 98504-7250. My business email address is
7 chris.mcguire@utc.wa.gov.

8

9 **Q. By whom are you employed and in what capacity?**

10 A. I work in the Regulatory Services Division of the Washington Utilities and
11 Transportation Commission (Commission) as Assistant Director of Energy
12 Regulation. I have worked at the Commission since May 2012, and in my current
13 position since April 2018.

14

15 **Q. Would you please state your educational and professional background?**

16 A. I graduated from the University of Washington in 2002 with a Bachelor of Science
17 degree in Cell and Molecular Biology. I graduated from the University of Colorado
18 in 2010 with a Master of Business Administration and a Master of Science in
19 Environmental Studies. Prior to my employment with the Commission, I held
20 research positions at various institutions, including the University of Washington, the
21 University of Colorado, and the National Renewable Energy Laboratory.

22

1 **Q. Have you previously testified before the Commission?**

2 A. Yes. I sponsored testimony on behalf of Commission Staff in the following
3 adjudicated proceedings: Pacific Power’s 2013 general rate case (GRC), Docket UE-
4 130043; Avista’s 2014 GRC, Dockets UE-140188 and UG-140189; Avista’s 2015
5 GRC (including the remand phase), Dockets UE-150204 and UG-150205; PSE’s
6 2017 GRC, Dockets UE-170033 and UG-170034; Avista’s 2017 GRC, Dockets UE-
7 170485 and UG-170486; PSE’s 2018 expedited rate filing, Dockets UE-180899 and
8 UG-180900; Avista’s 2019 GRC, Dockets UE-190334 and UG-190335; and PSE’s
9 2019 GRC, Dockets UE-190529 and UG-190530.

10

11 **II. SCOPE AND SUMMARY OF TESTIMONY**

12

13 **Q. What is the purpose and scope of your testimony?**

14 A. The purpose of my testimony is to provide an overview of Staff’s case, including a
15 consolidated summary of Staff’s formal recommendations to the Commission and
16 the conclusions upon which those recommendations are based. I also provide an
17 outline of the statutory parameters for property transfer applications as well as the
18 Commission’s standard for approving such applications.

19

20 **Q. What is the nature of this proceeding?**

21 A. Property transfer applications are subject to the Commission’s authority under RCW
22 80.12.020(1) which requires public service companies to obtain Commission
23 approval for the sale of any facilities that are necessary or useful in the performance

1 of the company’s duties to the public.¹ Under WAC 480-143-120, “[a] public service
2 company may not complete a transfer of property necessary or useful to perform its
3 public duties unless the company first applies for, and obtains, commission
4 approval.”

5 PSE’s filing includes three separate transfer of property applications, each
6 independently subject to the Commission’s authority under RCW 80.12.

7 Accordingly, pursuant to RCW 80.12 the Commission should render three separate
8 decisions on each of PSE’s three separate and distinct property transfer applications.

9 As modified by PSE in its August 20, 2020, filing, the three property transfers at
10 issue in this proceeding are:

- 11 1. The sale of one-half (i.e., 12.5 percent) of PSE’s 25 percent ownership
12 interests in Colstrip Unit 4 to NorthWestern Energy;
- 13 2. The sale of one-half (i.e., 12.5 percent) of PSE’s 25 percent ownership
14 interests in Colstrip Unit 4 to Talen Montana, LLC (Talen); and,
- 15 3. The sale of certain of PSE’s ownership interests in the Colstrip Transmission
16 System (or CTS) to Northwestern Energy.²

17 The two power purchase agreements (PPAs) for which PSE seeks Commission
18 approval are outside of the scope of RCW 80.12 and do not require pre-approval
19 from the Commission through this proceeding.

¹ RCW 80.12.020(1). In relevant part, “No public service company shall sell, lease, assign or otherwise dispose of the whole or any part of its franchises, properties or facilities whatsoever, which are necessary or useful in the performance of its duties to the public..., without having secured from the commission an order authorizing it to do so.”

² PSE is currently engaged in arbitration, pertaining to whether Talen has a right under the Ownership and Operation Agreement to purchase a proportional share of PSE’s interests in the Colstrip Transmission System. At the time this testimony was prepared, PSE continues to seek the Commission’s authorization to sell Colstrip transmission to NorthWestern Energy only. Flynn, Exh. TMF-5T at 2–3.

1 **Q. Please briefly summarize the primary objective of Staff’s review of PSE’s**
2 **property transfer applications.**

3 A. To receive Commission approval, transfers of property must meet the Commission’s
4 public interest standard, as provided in WAC 480-143-170.³ Therefore, the primary
5 objective of Staff’s review is to assess whether each of the transfers of property for
6 which PSE seeks approval are consistent with the public interest, and it does so by
7 evaluating a number of factors that have a clear public interest nexus. Staff’s
8 recommendations to the Commission with respect to approving or denying the
9 applications are based on the results of this assessment.

10

11 **Q. Please summarize Staff’s conclusions and recommendations.**

12 A. Staff concludes that PSE has failed to demonstrate that the proposed transfers of
13 property are consistent with the public interest. In fact, as Staff’s case shows, each of
14 the proposed transfers of property hold significant potential to cause harm to
15 ratepayers.

16 Consistent with the Commission’s authority under RCW 80.12 with respect to
17 property transfer applications, Staff recommends the Commission:

- 18 1. Deny PSE’s application for an order authorizing the sale of 50% of its
19 ownership interest in Colstrip Unit 4 to NorthWestern Energy;
- 20 2. Deny PSE’s application for an order authorizing the sale of 50% of its
21 ownership interest in Colstrip Unit 4 to Talen;

³ WAC 480-143-170. “If, upon the examination of any application and accompanying exhibits, or upon a hearing concerning the same, the commission finds the proposed transaction is not consistent with the public interest, it shall deny the application.”

- 1 3. Deny PSE's application for an order authorizing the sale of certain of its
2 ownership interests in the Colstrip Transmission System to NorthWestern
3 Energy; and
4 4. Decline to render a decision on the two PPA, irrespective of its decision on
5 the three property transfer applications.

6 PSE's accounting proposals are rendered moot if the Commission denies PSE's
7 property transfer applications, as Staff recommends.

8

9 **Q. In the event that the Commission approves one or more of the proposed**
10 **transfers of property, does Staff offer for the Commission's consideration any**
11 **suggested conditions for approval?**

12 A. Yes. In the testimonies of Staff Witnesses Liu and Gomez, Staff offers several
13 conditions for the Commission's consideration in the event the Commission
14 approves one or more of PSE's proposed transfers of property. The conditions
15 offered by Staff Witness Liu attempt to: (a) address some of the risks the transactions
16 pose to ratepayers; and (b) shore up the quantifiable benefits PSE claims will result
17 from the transactions but that Staff believes are unlikely to materialize for ratepayers
18 absent targeted Commission action. The conditions offered by Staff Witness Gomez
19 are specific to the retirement of Colstrip Unit 3 and the actions the Commission
20 should require of PSE in the event that the Commission views facilitating the closure
21 of Unit 3 as a key benefit of the Unit 4 sale and the associated vote sharing
22 agreement.

23

1 **Q. Have you prepared any exhibits in support of your testimony?**

2 A. No.

3

4 **III. INTRODUCTION OF STAFF WITNESSES**

5

6 **Q. Please introduce the other Staff witnesses testifying in this proceeding and the**
7 **subjects of their testimony.**

8 A. The following witnesses present testimony and exhibits for Staff:

- 9 • Jing Liu responds to the cost-benefit analysis for the sale of Colstrip Unit 4
10 sponsored by PSE Witness Song and provides an assessment of the quantifiable
11 net benefits PSE claims will result from the sale of Unit 4. Staff Witness Liu also
12 addresses the regulatory and accounting treatment described in the testimony of
13 PSE Witness Free. Staff Witness Liu also offers conditions for the Commission's
14 consideration in the event it approves one or more of the transfers of property for
15 which PSE seeks approval in this docket.
- 16 • David C. Gomez responds to the testimony of PSE witness Ronald J. Roberts
17 regarding the new vote sharing agreement (VSA) which, if the Unit 4 sale closes,
18 would govern each of PSE's, NorthWestern's and Talen's respective voting
19 obligations under the Colstrip Units 3&4 Ownership and Operation Agreement.
20 Specifically, Staff Witness Gomez addresses PSE's claims that the post-sale
21 VSA finally resolves uncertainty present in the decision-making process at
22 Colstrip, particularly with respect to the retirement of Unit 3 and capping PSE's
23 liabilities for Unit 4. Staff Witness Gomez also offers conditions with regard to

1 the actions the Commission should require PSE to take to initiate Unit 3 closure
2 if the Unit 4 sale is closed.

- 3 • Andrew S. Rector addresses the extent to which the Proposed Transactions align
4 with public policy objectives related to greenhouse gas (GHG) emissions. More
5 specifically, Staff Witness Rector examines whether the proposed transfers of
6 property provide for cost-effective progress towards meeting CETA mandates
7 and reducing GHG emissions. Staff Witness Rector also addresses the price at
8 which PSE is selling its interest in the Colstrip Transmission System.

9
10 **IV. SUMMARY OF STAFF RESPONSE TO PSE'S APPLICATION(S)**

11
12 **Q. What are the three transfers of property for which PSE has applied for
13 Commission approval?**

14 A. As modified by the Company's filing on August 20, 2020, PSE filed with the
15 Commission an application for an order authorizing:

- 16 1. The sale of one-half (i.e., 12.5 percent) of PSE's 25 percent ownership
17 interests in Colstrip Unit 4 to NorthWestern Energy;
- 18 2. The sale of one-half (i.e., 12.5 percent) of PSE's 25 percent ownership
19 interests in Colstrip Unit 4 to Talen Montana, LLC; and,
- 20 3. The sale of certain of PSE's ownership interests in the Colstrip Transmission
21 System to Northwestern Energy.

22
23 **Q. Does Staff at all consider the two PPAs for which PSE requests Commission
24 approval?**

1 A. Yes. While the two PPAs—one with NorthWestern and one with Talen—clearly fall
2 outside of the scope of RCW 80.12.030 and, therefore, do not require a Commission
3 decision in this proceeding (and are not appropriate for pre-approval anyway), the
4 PPAs are likely to be executed if the Unit 4 sale is approved. Understood as a result
5 of the Unit 4 sale, the costs of the PPAs are relevant to the overall assessment of the
6 Unit 4 sale. Accordingly, Staff includes the two PPAs in: (a) its assessment of the
7 quantifiable net benefits associated with the Unit 4 sale; and (b) its assessment of
8 whether the transactions PSE describes in this docket represent the lowest reasonable
9 cost option for eliminating Colstrip Unit 4 from the Company’s allocation of
10 electricity by 2025, which it is required to per RCW 19.405.030(1)(a).

11

12 **Q. In its application, does PSE identify the factors it believes weigh in favor of a**
13 **finding that the sale of Colstrip Unit 4 is consistent with the public interest?**

14 A. Yes. PSE argues that the sale of Unit 4 would move the Company closer to meeting
15 CETA’s 2025 “no coal” mandate, provide quantifiable financial benefits to
16 ratepayers, cap PSE’s liabilities related to environmental remediation at Colstrip Unit
17 4, and significantly reduce PSE’s greenhouse gas emissions.⁴ PSE also suggests that
18 the sale of Unit 4, through the associated VSA between PSE, NorthWestern and
19 Talen, will facilitate the retirement of Colstrip Unit 3.⁵

20

21 **Q. In its application, does PSE explain how the sale of its interest in the Colstrip**
22 **Transmission System is consistent with the public interest?**

⁴ See Supplemental Application (Filed August 20, 2020).

⁵ Roberts, RJR-9T at 49–50.

1 A. Not really. PSE presents the sale of its interests in the Colstrip Transmission System
2 as something of an afterthought, even omitting CTS entirely when summarizing the
3 reasons PSE believes the “Proposed Transactions” are consistent with the public
4 interest.⁶

5 Although PSE’s formal application does not put forward a case in support of
6 a finding that the sale of its interests in the Colstrip Transmission System are
7 consistent with the public interest, the Company does assert through testimony that
8 the transmission sale would result in no harm to customers because the assets would
9 be sold at net book value and, therefore, there would be no loss on sale for ratepayers
10 to absorb.⁷

11

12 **Q. For PSE’s sale of Colstrip Unit 4, please summarize Staff’s findings and**
13 **conclusions with respect to the factors weighing in favor of and against a finding**
14 **that the transfers of property are consistent with the public interest.**

15 A. For PSE’s sale of its ownership interest in Colstrip Unit 4, Staff reaches the
16 following conclusions:

17 1. **Quantifiable Net Benefits.** It is far from certain that the sale of Unit 4 will
18 deliver quantifiable net benefits to PSE’s ratepayers. On the contrary, after
19 addressing overstated O&M and major maintenance costs from Talen’s
20 budget, PSE’s sale of Unit 4 could very well result in a financial net cost to
21 ratepayers. The economics of the transaction would deteriorate further with
22 high Mid-C prices (addressed by Staff Witness Jing Liu);

⁶ Supplemental Application at 17:33-18:34 (Filed August 20, 2020).

⁷ Free, SEF-01CT at 20:19 – 21:5.

- 1 2. **Direct Benefits to Ratepayers.** Because PSE’s rates would not change
2 immediately upon the close of the sale, the quantifiable net benefits PSE
3 claims for the sale of Unit 4 do not represent benefits that ratepayers actually
4 would receive (addressed by Staff Witness Jing Liu);
- 5 3. **2025 CETA Compliance – Unit 4.** PSE has not shown that the costs and
6 benefits of the Unit 4 sale compare favorably against alternative courses of
7 actions (or that it has evaluated other courses of action at all) and, as a result,
8 PSE has failed to demonstrate that its sale of Unit 4 represents the lowest
9 reasonable cost option for complying with CETA’s 2025 “no-coal” mandate
10 (addressed by Staff Witness Andrew Rector);
- 11 4. **2025 CETA Compliance – Unit 3.** Contrary to PSE’s assertions otherwise,
12 the post-sale VSA between PSE, NorthWestern, and now Talen, does not
13 create certainty with respect to the decision-making process at Colstrip. On
14 the contrary, NorthWestern and Talen would continue to have a number of
15 options at their disposal to affect major decisions for Colstrip, and it appears
16 to Staff that Northwestern and Talen would retain the ability to block the
17 retirement of Unit 3 (addressed by Staff Witness David Gomez);
- 18 5. **PSE’s GHG Emissions.** With PSE proposing to obtain half of its
19 replacement power from two Colstrip Unit 4 PPAs, and the other half from
20 market purchases with an unknown carbon intensity, and with the PPAs
21 ensuring that PSE will take power from Unit 4 through 2025, it is uncertain
22 whether the sale of Unit 4 will lead to a meaningful reduction in PSE’s GHG
23 emissions (addressed by Staff Witness Andrew Rector);

1 6. **Macro-Level GHG Emissions.** With Unit 4 continuing to run post-sale, the
2 transfer of Unit 4 to new owners does not reduce GHG emissions at all on a
3 macro level. Additionally, to the extent that PSE's sale of Unit 4 affords
4 certain owners opportunities to prolong the operational lives of the Colstrip
5 units, PSE's sale of Unit 4 could lead to macro-level increases in GHG
6 emissions (addressed by Staff Witness Andrew Rector); and,

7 7. **Uncertain Colstrip Unit 4 Liabilities.** The post-sale VSA between PSE,
8 NorthWestern and Talen also fails to create certainty with respect to capping
9 PSE's liabilities for Colstrip Unit 4. On the contrary, it appears to Staff that
10 Northwestern will exercise considerable control over future Unit 4 budgets
11 which may result in escalating costs being passed onto PSE's ratepayers
12 through the PPAs and through PSE's share of the facility's remediation costs.
13 (addressed by Staff Witnesses David Gomez and Jing Liu).

14
15 **Q. For PSE's sale of its ownership interest in the Colstrip Transmission System,**
16 **please summarize Staff's findings and conclusions with respect to the factors**
17 **weighing in favor of and against a finding that the transfer of property is**
18 **consistent with the public interest.**

19 A. For PSE's sale of its ownership interest in the Colstrip Transmission System, Staff
20 reaches the following conclusions:

21 1. **Sale Price.** In selling its ownership interest in the Colstrip Transmission
22 System at depreciated book value, PSE greatly undervalues the asset,
23 effectively agreeing to dispose of benefits that could have accrued to

1 ratepayers but without providing ratepayers with compensation in return
2 (addressed by Staff Witness Andrew Rector);

3 2. **CETA Compliance Optionality.** PSE’s sale of its ownership interest in the
4 Colstrip Transmission System may unnecessarily constrain PSE’s future
5 options for complying with CETA’s 2030 and 2045 mandates. With PSE’s
6 plan for complying with CETA’s 2030 and 2045 standards undetermined, and
7 with the Colstrip Transmission System allowing access to renewable
8 resources in Montana, it is premature for PSE to determine that the Colstrip
9 Transmission System is unneeded (addressed by Staff Witness Andrew
10 Rector).

11

12 **V. COMMISSION AUTHORITY WITH RESPECT TO PSE’S**
13 **APPLICATION**

14

15 **A. Parameters Of Chapter 80.12 RCW – Property Transfers**

16

17 **Q. What is the nature of this proceeding?**

18 A. On February 19, 2020, and as modified on August 20, 2020, PSE filed with the
19 Commission an Application for an order authorizing:

20 1. The sale of all of PSE’s 25 percent ownership interest in Colstrip Unit 4 to
21 Northwestern Energy and Talen Montana, as follows:

- 1 a. The sale of one-half (i.e., 12.5 percent) of PSE’s 25 percent
2 ownership interests in Colstrip Unit 4 to NorthWestern Energy;⁸ and
3 b. The sale of one-half (i.e., 12.5 percent) of PSE’s 25 percent
4 ownership interests in Colstrip Unit 4 to Talen Montana, LLC.
5 2. The sale of certain of PSE’s ownership interests in the Colstrip Transmission
6 System to Northwestern Energy.

7 RCW 80.12.020(1) requires public service companies to obtain Commission
8 approval for the sale of any facilities that are necessary or useful in the performance
9 of the company’s duties to the public.⁹ The nature of this proceeding is the transfer
10 of utility property and, therefore, the statutory requirement that transfers of property
11 be approved by the Commission prior to being executed is applicable.

12
13 **Q. What is the Commission’s standard for evaluating property transfer**
14 **applications?**

15 A. Under WAC 480-143-120, “[a] public service company may not complete a transfer
16 of property necessary or useful to perform its public duties unless the company first
17 applies for, and obtains, commission approval.” To receive Commission approval,
18 transfers of property must meet the Commission’s public interest standard, as
19 provided in WAC 480-143-170.¹⁰ The Commission’s public interest standard is

⁸ In PSE’s initial application, NorthWestern Energy was the sole purchaser of PSE’s ownership share in Colstrip Unit 4. *See* Application at 1 (Filed February 19, 2020).

⁹ RCW 80.12.020(1). In relevant part, “No public service company shall sell, lease, assign or otherwise dispose of the whole or any part of its franchises, properties or facilities whatsoever, which are necessary or useful in the performance of its duties to the public..., without having secured from the commission an order authorizing it to do so.”

¹⁰ WAC 480-143-170. “If, upon the examination of any application and accompanying exhibits, or upon a hearing concerning the same, the commission finds the proposed transaction is not consistent with the public interest, it shall deny the application.”

1 sometimes referred to as the “no harm” standard;¹¹ that is, a transfer of property is
2 not inconsistent with the public interest if the transaction will result in no harm to
3 ratepayers.

4

5 **Q. Please explain how PSE’s filing represents not one “Application” but three**
6 **separate transfer of property applications.**

7 A. In its filing, PSE describes three separate agreements: (1) the sale of half of its
8 ownership interest in Colstrip Unit 4 to NorthWestern Energy; (2) the sale of the
9 other half of its ownership interest in Colstrip Unit 4 to Talen Montana; and (3) the
10 sale of certain of its ownership interests in the Colstrip Transmission System to
11 NorthWestern Energy. WAC 480-143-120 provides that the Company “may not
12 complete a transfer of property necessary or useful to perform its public duties unless
13 the company first applies for, and obtains, commission approval.” Therefore, each of
14 PSE’s three separate transfers of property requires its own application and its own
15 approval.

16 The Commission should interpret PSE’s filing as three separate property
17 transfer applications – PSE has, after all, *applied* for Commission approval for the
18 three separate transactions – and render separate and distinct decisions for each.

19

¹¹ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Docket UE-130583, Order 06, 13, ¶ 25-26 (October 9, 2014) (“since the transaction involves a sale of assets, not a sale of a controlling interest in the Company. The standard of review for the proposed transaction is the ‘no harm’ test.”).

1 **Q. Does PSE describe the sale Colstrip Unit 4 and the sale of its Colstrip**
2 **Transmission assets as separate transactions?**

3 A. Yes. In fact, PSE has stressed this very point. At the second pre-hearing conference
4 held on September 8, 2020, in describing the transactions to Judge O’Connell, PSE
5 stated the following:

6 Your Honor, to address the issues raised, I think there's a fundamental
7 disagreement. There are two transactions at play here. One is a purchase and
8 sale agreement for the sale of Puget's -- all of Puget's interests in Colstrip
9 Unit and a separate agreement for the sale of certain interests in the Colstrip
10 transmission system. They are separate agreements. They were filed
11 separately in the presentation.”¹²

12
13 As PSE emphasizes, the transactions reflect “separate agreements.” There
14 should be no question that the transactions PSE describes in its filing are entirely
15 separate transactions.

16
17 **Q. Why is the fact that the property sales are separate transactions – “separate**
18 **agreements” – relevant?**

19 A. The fact that the various transactions described in PSE’s application are separate and
20 distinct transactions has two important implications for the Commission:

- 21 1. Consistent with my discussion above on RCW 80.12.020 and WAC 480-143-
22 120, the Commission must render three separate decisions in this case, one
23 for each “separate transaction” representing the sale of utility property; and
24 2. The Commission can evaluate each “separate transaction” on its own merit,
25 and make a decision on each transaction independent from its decisions on

¹² Docket UE-200115, Second Pre-hearing Conference (September 8, 2020), Tr. Vol. III at 142:15-22

1 the other transactions—the Commission is free to approve one transfer of
2 property while denying the others.

3

4 **Q. Did PSE also request Commission approve two PPAs?**

5 A. Yes. PSE included in its application a request for Commission approval of two PPAs
6 – one with NorthWestern Energy and one with Talen Montana.¹³ Each PPA is for 45
7 MW of capacity from Colstrip Unit 4 for a term commencing on the date following
8 closing, and expiring at the earlier of 258 weeks after closing or December 31,
9 2025.¹⁴

10

11 **Q. Why is Staff recommending that the Commission decline to make a**
12 **determination on the two PPAs?**

13 A. Given the nature of this proceeding—i.e., applications for Commission approval
14 pursuant to RCW 80.12.020(1) for the sale of utility property—the PPAs are
15 distinctly out of scope, at least in terms of what the Commission must *rule* on. RCW
16 80.12 neither requires utilities to obtain Commission approval for executing PPAs,
17 nor does it require the Commission to rule on such requests for approval. Therefore,
18 the Commission is under absolutely no obligation in this proceeding to render a
19 decision on the PPAs.

¹³ In its initial application, PSE described a power purchase agreement between PSE and NorthWestern Energy for 90 MW of the output of Colstrip Unit 4 with a term beginning June 1, 2020, and expiring on May 15, 2025. Application at 1 (Filed February 19, 2020).

¹⁴ Supplemental Application at 2–3 (Filed August 20, 2020).

1 Furthermore, what PSE requests—Commission pre-approval of PPAs—is
2 inconsistent with the Commission’s standard practice of reviewing the prudence of
3 power costs after those costs have been incurred.¹⁵
4

5 **Q. Are the PPAs intricately tied to the sale of Unit 4?**

6 A. No, at least not in a way that requires the Commission to render a decision on the
7 PPAs. The relevance of the PPAs is owing to their likelihood of being executed once
8 the Unit 4 sale closes; that is, because execution of the PPAs is likely to follow from
9 the sale of Unit 4 closing, it is appropriate to include the PPAs in the public interest
10 calculus for the sale of Unit 4.

11 However, it is important to note that including the PPA in the assessment of
12 the Unit 4 sale does not necessitate a Commission decision on the PPAs; the
13 agreements for the sale of Unit 4 are separate from the PPAs. As a result, if the
14 Commission were to decline to rule on the PPAs, the purchase and sale agreements
15 would be unaffected, and PSE would continue to be free to execute the PPAs.
16 Nothing hinges on Commission pre-approval of the PPAs.

17
18 **Q. Does the Commission review PPAs and evaluate their appropriateness for cost**
19 **recovery?**

20 A. To a certain degree, yes. PPAs typically are considered during the review of a
21 company’s power supply costs, and typically in: (1) a rate case (GRC or PCORC), as

¹⁵ See *Wash. Utils. & Transp. Comm’n v. Avista Corporation, d/b/a Avista Utilities, Puget Sound Energy, and Pacific Power & Light Company*, Docket UE-190882, Order 05, 11–13, ¶ 42-43 (March 20, 2020).

1 part of the calculation of a company’s pro forma power supply cost baseline; and (2)
2 the annual review of a company’s actual net power supply. When a PPA is included
3 in a GRC, the Commission would be considering whether the PPA is appropriate for
4 inclusion in the pro forma power supply cost baseline. When a PPA is included in
5 the annual review of actual power costs, the Commission would be considering
6 whether the actual PPA costs incurred are appropriate for recovery.

7 PPA’s and, in particular, whether their costs are appropriate for rate recovery,
8 are evaluated under the Commission’s prudence standard.¹⁶ A prudence examination
9 is necessarily a retrospective exercise, as costs subject to rate recovery cannot be
10 evaluated for their reasonableness—or even known—until they are incurred.

11

12 **B. The Commission’s Public Interest Standard, As Applied To Transfer Of**
13 **Property Applications**

14

15 **Q. Can you please remind us – what is the Commission’s statutory authority with**
16 **respect to PSE’s Application?**

17 A. Yes. RCW 80.12.020(1) requires public service companies to obtain Commission
18 approval for the sale of any facilities that are necessary or useful in the performance
19 of the company’s duties to the public.¹⁷

¹⁶ See *id.*

¹⁷ RCW 80.12.020(1). In relevant part, “No public service company shall sell, lease, assign or otherwise dispose of the whole or any part of its franchises, properties or facilities whatsoever, which are necessary or useful in the performance of its duties to the public..., without having secured from the commission an order authorizing it to do so.” Also see WAC 480-143-120.

1 That is, in this proceeding, the Commission must render decisions on each of
2 the three transfers of property described in PSE's Application: (1) the sale of 50% of
3 PSE's ownership interest in Colstrip Unit 4 to NorthWestern Energy; (2) the sale of
4 50% of PSE's ownership interest in Colstrip Unit 4 to Talen Montana; and (3) the
5 sale of certain of PSE's ownership interest in the Colstrip Transmission System to
6 Northwestern Energy.

7
8 **Q. What is the Commission's standard for evaluating property transfer**
9 **applications?**

10 A. Transfers of property must meet the Commission's public interest standard, as
11 provided in WAC 480-143-170: "If, upon the examination of any application and
12 accompanying exhibits, or upon a hearing concerning the same, the commission
13 finds the proposed transaction is not consistent with the public interest, it shall deny
14 the application."

15
16 **Q. Does the public interest standard apply to the PPAs for which PSE requests**
17 **Commission approval?**

18 A. No. The public interest standard as provided in WAC 480-143-170 applies only to
19 transfers of property, of which the PPAs are not. The Commission is under no
20 obligation to render a decision on the PPAs in this proceeding.

1 **Q. Should the Commission consider each transaction separately when assessing**
2 **whether the property transfer applications are consistent with the public**
3 **interest?**

4 A. Yes. The Commission must render a separate decision on each separate transfer of
5 property for which PSE seeks approval. Pursuant to WAC 480-143-170, in order for
6 the Commission to render a decision on a transfer of property application, it must
7 first reach a conclusion on whether the transfer of property in question is consistent
8 with the public interest. That is, the Commission must apply its public interest
9 standard to each of the three separate transfers of property at issue in this proceeding.

10

11 **Q. Does this conclude your testimony?**

12 A. Yes.