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FERC Conditionally Approves Puget Energy Merger with Ring-Fencing Provisions

The Federal Energy Regulatory Commission (FERC) today conditionally approved a $7.4 billion merger between Washington-based Puget Energy, Inc. and an international investment consortium led by the Macquarie Group.

Puget Sound Energy (PSE) is a direct wholly owned public utility subsidiary of Puget Energy that owns and controls transmission, distribution and generation facilities in the Pacific Northwest. The Macquarie Group is a non-operating holding company that through affiliates owns energy and non-energy related infrastructure assets throughout the world, including Duquesne Light Holdings.

PSE purchases, transmits, generates, distributes and sells electric power and gas. PSE's transmission system includes approximately 2,671 miles of lines. Included in this amount is a 495-mile transmission line between Colstrip and Garrison, Mont.

In addition to the multi-national Macquarie Group, the other members of the consortium include the Canadian Pension Plan Investment Board, British Columbia Investment Management Corporation and the Alberta Investment Corporation.

FERC Chairman Joseph T. Kelliher said he was particularly pleased with the companies' detailed "ring-fencing" measure proposal to protect against cross-subsidization, which they have submitted to the Washington Utilities and Transportation Commission. The commitments are intended to insulate PSE's customers from financial activities associated with the new holding company structure. FERC directed the companies to file at FERC within 10 days of the date the Washington commission approves the ring-fencing measures.

Under the first commitment, within 90 days of the transaction's closing, PSE and Puget Holdings will file a non-consolidation opinion with the Washington commission that the ring-fencing provisions are sufficient such that a bankruptcy court would not order substantive consolidation of the assets and liabilities of PSE with Puget Energy or its subsidiaries. Under the second commitment, the applicants say they will maintain separate books and records and generally hold PSE customers harmless from any business and financial risk exposure associated with Puget Energy, Puget Holdings and other affiliates.

"FERC carefully considers each application for merger or disposition of facilities that comes before it to determine whether it is in the public interest, ensure that ratepayers are not harmed, and prevent improper cross subsidization," Kelliher said. "This transaction will bolster Puget's financial strength and lead to a more robust electricity infrastructure in the Pacific Northwest."

Under section 203 of the Federal Power Act and the standards set under its 1996 merger policy statement (Order No. 592), FERC reviews public utility mergers to evaluate their effects on competition, rates and regulation. FERC must approve a merger if it finds it is consistent with the public interest. It also must determine whether the transaction will result in the cross-subsidization of a non-utility associate company

(Order No. 669).

Based on the lack of market overlap of the jurisdictional facilities involved, FERC said it is satisfied the transaction will not result in either horizontal or vertical market power, and will not adversely affect wholesale rates.

FERC noted that when a controlling interest in a public utility is acquired by another company, whether domestic or foreign, FERC cannot protect utility customers against inappropriate cross-subsidization unless there is access to the parent company's books and records. FERC conditioned its authorization of the merger on the Applicants, and any other entity that may acquire an interest, making available company books and records for examination.

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