

Agenda Date: March 27, 2014
Item Numbers: A2 and A3

Dockets: UE-140196 and UG-140197
Company: Puget Sound Energy

Staff: Joanna Huang, Regulatory Analyst
Kristen Russell, Regulatory Analyst
Jing Liu, Regulatory Analyst

Recommendation

Take no action, thereby allowing the proposed tariff revisions in Dockets UE-140196 and UG-140197 to go into effect by operation of law.

Background

On February 6, 2014, Puget Sound Energy (PSE or company) filed proposed tariff revisions with the Washington Utilities and Transportation Commission (commission) to revise WN U-60, Tariff G for electric service and WN U-2 for natural gas service. The tariff revisions would allow PSE to pass through municipal tax assessments and other associated fees related to past periods to ratepayers within the City of Renton. The proposed tariff sheets have an effective date of April 1, 2014, and an end date of March 31, 2015.

PSE serves approximately 43,571 electric customers and 21,924 natural gas customers within the City of Renton.

Discussion

On February 6, 2014, PSE filed proposed tariff revisions to incorporate the effect of a recent municipal tax assessment issued by the City of Renton. PSE proposes to add an additional tax adjustment rate to Electric Tariff Schedule 81 and Natural Gas Tariff Schedule 1 to recover the tax assessments and other associated fees related to past periods imposed by the City of Renton. A third-party auditor determined that PSE had underreported gross receipts by not including the Renton municipal tax on retail sales, or other various miscellaneous service activities such as reconnection charges, late payment fees and returned checks fees.

The following is a breakdown of the underreported tax assessment, the interest and penalty and the additional tax adjustment rate PSE is proposing to charge to customers within the City of Renton.

Description	Electric	Natural Gas
Total assessed amount by type	\$192,853	\$15,133
Interest & Penalty	167,217	13,123

Total Assessment	360,071	28,255
Grossed-up Amount to Pass through	398,682	31,279
Additional Tax Adjustment Rate proposed by PSE	0.46 %	0.12 %

The audit period for utility tax amounts was January 1, 2006, to December 31, 2012.

The key discussion between staff and PSE was the inclusion of \$51,997 as a penalty in the “Interest & Penalty” category above. PSE’s tariff clearly indicates that in no event shall the company be entitled to recover any amounts assessed by the taxing jurisdiction that are punitive in nature. However, “penalty” and “punitive” are not synonymous in all circumstances. Staff believes if the city had no discretion but to assess the penalty, then the penalty is not “punitive.” By contrast, if the city did have discretion not to charge the penalty and chose to charge it anyway, then the penalty is “punitive.”

The Renton City Ordinance states, “A business enterprise who fails to remit the amount of utility tax when due shall, in addition to all other penalties provided by law, pay a penalty of five percent (5%) of the amount of tax due for the first month of delinquency and an additional penalty of five percent (5%) for each succeeding month of delinquency, but not exceeding a total penalty of twenty five percent (25%) of the amount of such taxes due in any event.” (emphasis added) PSE believes, and staff concurs, that the penalty is not discretionary, therefore it should not be considered punitive.

Staff accepts that the penalty may be included in the assessment and be recovered from PSE’s customers in the City of Renton.

Conclusion

Take no action, thereby allowing the proposed tariff revisions in Dockets UE-140196 and UG-140197 to go into effect by operation of law.