

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PUGET SOUND ENERGY, INC., Respondent.	DOCKET NOS. PG-030080 PG-030128 COMPLAINT
--	---

1 The Washington Utilities and Transportation Commission (Commission) alleges as follows:

I. PARTIES

2 The Commission is an agency of the state of Washington, authorized by Title 80 RCW to regulate in the public interest 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, and related activities, including gas companies.

3 Respondent Puget Sound Energy, Inc., (“PSE” or “Respondent”) is an electrical and gas company subject to regulation by the Commission pursuant to RCW 80.01.040(3), et al.

II. JURISDICTION

4 The Commission has jurisdiction over this matter pursuant to the provisions of RCW 80.01, RCW 80.04, RCW 80.28, and chapter 480-93 WAC. Specific provisions include but are not limited to: RCW 80.01.040, RCW 80.04.070, RCW 80.04.110, RCW 80.04.380, RCW 80.04.385, RCW 80.04405, RCW 80.04.410, RCW 80.28.010, RCW 80.28.040, RCW 80.28.130, RCW

80.28.207, RCW 80.28.210, RCW 80.28.212, and WAC 480-93-010, -15, -110, -115, -183, -186, -18601, -187, and -188, and -220.

III. FACTUAL ALLEGATIONS

- 5 During 2003, Commission Pipeline Safety Staff (Staff) conducted standard pipeline safety inspections of PSE facilities and operations in King, Pierce and Kittitas Counties. Staff determined that PSE had committed numerous apparent violations of WAC 480-93, which among other things, adopts certain minimum gas pipeline safety requirements, by adopting by reference specific provisions of Title 49, Code of Federal Regulations (CFR) Part 192 and requiring gas companies to comply with such regulations. *See e.g.*, WAC 480-93-010, -015, and -220. For purposes of this Complaint, when a violation of a specific section of the CFR is alleged, that is intended to allege a violation of Commission rules adopting such regulations. The dates of the Company's records and activities for which violations are alleged in this Complaint are during the 2001 through 2003 time period.
- 6 In addition, according to 49 CFR Part 192.13(c), PSE is required to follow the requirements of its Gas Operating Standards Manual. Accordingly, the same conduct may violate both a specific standard in Commission rules and/or the CFR, as well as a standard contained in PSE's Gas Operating Standards Manual. However, in this circumstance, this Complaint alleges one violation. On the other hand, if a violation is continuing in nature, each day the violation continues is considered a separate violation. WAC 480-93-223(2).
- 7 PSE was provided a copy of the Staff's investigation report in this docket. Previously, PSE was previously provided a copy of Staff's prior investigation reports in Docket Nos. UG-011273 and UG-020401. Certain violations alleged in this Complaint are the same sort of violations alleged in the investigation reports in Docket Nos. UG-011273 and UG-020401. A copy of each investigation report in this docket, as well as Docket Nos. UG-011273 and UG-020401, are attached to this Complaint.
- 8 The Commission alleges, based on Staff's investigation report, as follows:

- 9 PSE's cathodic protection test site records indicated that six test sites were not tested at a required interval of once each calendar year, not to exceed fifteen months. In addition, Staff found a cathodically protected isolated steel service that was not monitored on a ten-year cycle as required. In addition, this isolated steel service was not found by PSE's plat review program initiated in response to a previous notice of probable non-compliance issued by the Commission in Docket No. UG-011273, item no. 1. PSE's conduct violates 49 CFR § 192.465. Seven violations are alleged. The total cumulative days that this series of violations continued would result in a potential penalty that exceeds the maximum amount of \$500,000, according to WAC 480-93-223. **(Repeat violation, Docket No. UG-011273)**
- 10 Commission Staff found a steel service line with heavy atmospheric corrosion and PSE was not able to provide documentation that the service line had been surveyed, once every 3 years for atmospheric corrosion, a violation of 49 CFR § 192.481. This also violates 49 CFR § 192.13 – PSE's failure to follow its Operating and Maintenance Manual, Section 2600.1800 4.1. One violation is alleged. PSE was not able to provide records that showed the atmospheric corrosion survey had been conducted within in the last three years. Therefore, the total number of days this violation continued exceeds the total maximum amount of \$500,000 according to WAC 480-93-223. **(Repeat violation, Docket No. UG-011273)**
- 11 PSE's leak records indicated that out of nineteen leak repairs made in areas where active corrosion was found, nine were not replaced or cathodically protected as required by CFR 49 § 192.457(b). This also violates 49 CFR § 192.13 – PSE's failure to follow its Operating and Maintenance Manual, Section 2600.1900 6.4.2. Nine violations are alleged. The total cumulative days that this series of violations continued would result in a potential penalty that exceeds the maximum amount of \$500,000 according to WAC 480-93-223. **(Note: In the violation report sent to PSE in this docket, the incorrect CFR section reference was cited for this item. This allegation contains the correct reference)**
- 12 Staff's review of PSE's records showed that sixteen valves PSE had

designated as emergency valves had not been checked and serviced in the required interval of once each fifteen months, but at least once each calendar year, in violation of 49 CFR § 192.747. This is also a violation of 49 CFR § 192.13 - PSE's failure to follow its Operating and Maintenance Manual, Section 2600.1200 4.1. Sixteen violations are alleged. The total cumulative days that this series of violations continued would result in a potential penalty that exceeds the maximum amount of \$500,000 according to WAC 480-93-223. **(Repeat violation Docket No. UG-011273)**

- 13 PSE had nine areas of steel wrapped pipeline that did not have adequate levels of cathodic protection, in violation of WAC 480-93-110. One of these steel wrapped pipelines was not found by PSE's plat review program initiated in response to a previous notice of probable non-compliance. This is also a violation of 49 CFR § 192.13 - PSE's failure to follow its Operating and Maintenance Manual, Section 2600.1900 5.1.1. (Docket No. UG-011273, item no. 1). Nine violations are alleged. The total cumulative days that this series of violations continued would result in a potential penalty that exceeds the maximum amount of \$500,000 according to WAC 480-93-223. **(Repeat violation, Docket No. UG-011273 and UG-020401 see documents)**
- 14 In areas requiring cathodic protection remedial action, on fourteen occasions, PSE exceeded the 90-day maximum time to complete remedial action, in violation of WAC 480-93-110. This also violates 49 CFR § 192.13 - PSE's failure to follow its Operating and Maintenance Manual, Section 2600.1900 5.1.1. Fourteen violations are alleged. The total cumulative days that this series of violations continued would result in a potential penalty that exceeds the maximum amount of \$500,000 according to WAC 480-93-223. **(Repeat violation, Docket No. UG 011273)**
- 15 PSE had six pipeline casings that were electrically shorted to the pipeline where leak surveys were not conducted at the required maximum 90-day timeframe, in violation of WAC 480-93-115. This is also a violation of 49 CFR § 192.13 - PSE's failure to follow its Operating and Maintenance Manual, Section 2600.1900 5.1.3. Six violations are alleged. The total cumulative days that this series of violations continued would result in a

potential penalty that exceeds the maximum amount of \$500,000 according to WAC 480-93-223. **(Repeat violation, Docket No. UG 011273)**

16 PSE's records indicated that PSE had twelve combustible gas indicators that were not calibrated at the required frequency, in violation of WAC 480-93-188(2). This is also a violation of 49 CFR § 192.13 – PSE's failure to follow its Operating and Maintenance Manual, Section 2450.1600. Twelve violations are alleged. The total cumulative days that this series of violations continued would result in a potential penalty that exceeds the maximum amount of \$500,000 according to WAC 480-93-223. **(Repeat violation, Docket No. UG 011273 and UG 010822)**

17 PSE records indicated that six leaks were not re-evaluated or repaired by the required dates, in violation of WAC 480-93-18601. This is also a violation of 49 CFR § 192.13 - PSE's failure to follow its Operation and Maintenance Manual, Sections 2625.1300 4, 2625.1300 4.2.1, and 2625.1300 4.2.3.1. Six violations are alleged. The total cumulative days that this series of violations continued would result in a potential penalty that exceeds the maximum amount of \$500,000 according to WAC 480-93-223.

18 Based on the foregoing allegations, a total of eighty violations are alleged, before consideration of each day of a continuing violation. After considering each day of a continuing violation the total potential penalty for this series of violations exceeds the maximum amount of \$4,500,000 according to WAC 480-93-223.

IV. CLAIM FOR RELIEF

19 The Commission realleges paragraphs 2 - 16.

20 WAC 480-93-010 requires gas companies' gathering, storage, distribution, and transmission facilities be designed, constructed, maintained, and operated in compliance with the provisions of Title 49 CFR, Parts 191, 192, 193, and 199.

21 The total number of violations alleged in this Complaint before

consideration of each day of a continuing violation, is eighty violations.

22 RCW 80.28.212 states (in pertinent part) that any gas company that violates any regulation issued under authority of RCW 80.28.210 shall be subject to a civil penalty to be directly assessed by the Commission. Staff recommends the imposition of penalties totaling \$ 1,320,000. The Commission is not bound by that recommendation and may impose penalties in the maximum amount permitted by law, or any other lesser amount permitted by law. The Commission may also order PSE to make repairs, improvements or other changes as may be deemed appropriate. RCW 80.28.040 and RCW 80.28.130.

23 The Commission may issue penalties to any gas company, which violates any public safety provision of RCW 80.28.210 or regulation issued thereunder. Gas companies violating provisions of Chapter 480-93 WAC are subject to a civil penalty not to exceed twenty-five thousand dollars for each violation for each day that the violation persists. The maximum civil penalty under this subsection for a related series of violations is five hundred thousand dollars.

24 The Commission may compromise any civil penalty issued for violations of RCW 80.28.210, and by reference therein, for violations of any Commission regulation issued thereunder. RCW 80.28.212.

25 The Commission directs that a prehearing conference be scheduled.

V. COMPLAINT

26 The Commission finds that probable cause exists to issue this complaint against the Respondent as follows:

27 (1) Respondent has failed to comply with the rules and orders of the Commission as set forth in the allegations above, and the Staff investigation reports attached to this Complaint.

28 (2) The Commission should assess monetary penalties and/or other sanctions against the Respondent if the alleged violations of state law or

Commission rules or orders identified by Staff during its investigation of Company practices are proven.

- 29 (3) The Commission should consider ordering whatever improvements or other changes in PSE's gas plant that may be appropriate.

DATED at Olympia, Washington, and effective this 29th day of June, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner