

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

PUGET SOUND ENERGY, INC.

For Approval of its 2004 Power Cost
Adjustment Mechanism Report

DOCKET NO. UE-041570

PUGET SOUND ENERGY, INC.'S
REPLY COMMENTS

1 1. Puget Sound Energy, Inc. ("PSE" or "the Company") submits these comments
2 in response to Commission Staff's Open Meeting Memorandum dated February 23, 2005, and
3 in reply to the comments submitted by Public Counsel and the Industrial Customers of
4 Northwest Utilities ("ICNU") on February 18, 2005 and February 22, 2005.

5 **Commission Staff's Memorandum**

6 2. In order to bring closure to the PCA Period 2 proceeding and avoid further
7 uncertainty and delay, the Company agrees with Staff's recommendation that the Company's
8 request be partially granted, in that \$6,074,927 in power costs related to the return on
9 Tenaska should be restored to the PCA Period 2 Report.

10 **Public Counsel's Comments**

11 3. Public Counsel acknowledges that the Commission's orders in the PCORC
12 docket, UE-031725, left open the question what to do with respect to the Tenaska
13 disallowance during the first ten plus months of PCA Period 2. Yet Public Counsel then
14 argues that if the benchmark mechanism is not applied retroactively back to the beginning of
15 PCA Period 2, it would "create an illogical hiatus during which the Tenaska benchmark

1 methodology would *not* be applied." Public Counsel Letter at 1. As stated in the Company's
2 comments dated February 7, 2005 at ¶ 13, this statement begs the question that the
3 Commission reserved in its PCORC orders.

4 4. The Company is not seeking to "take advantage of what amounts to a
5 technicality," Public Counsel Letter at 1, but rather is requesting that the Commission
6 determine that the *one-time* disallowance of \$25.6 million and application of the Tenaska
7 benchmark mechanism *on a going forward basis* from May 24, 2004, are sufficient to address
8 the Commission's concerns regarding the Company's management of fuel costs for Tenaska.
9 As set forth in PSE's February 7, 2005 comments, the Company believes that its request is
10 consistent with the letter and spirit of Order Nos. 14 and 15 in the PCORC docket.

11 5. Public Counsel recommends in the alternative that the Commission "set this
12 matter for further proceedings" through "an abbreviated procedure or adjudication on a paper
13 record," and states that "only the company to date has offered detailed briefing on the issue."
14 Public Counsel Letter at 2. The Company objects to this request.

15 6. Public Counsel has been aware of the Company's Petition in Docket No. UE-
16 041570 since just days after it was filed on August 31, 2004. Attached hereto as Exhibit A
17 are copies of the Company's letters to the parties to the PCORC and PCA 1 proceedings –
18 Public Counsel, ICNU and the Federal Executive Agencies – providing notice of the
19 Company's August 31, 2004 PCA Period 2 filing. The Company's Petition dated August 31,
20 2004 (which has been available since that time on the Commission's website) clearly requests
21 precisely the relief that will be before the Commission at the February 23, 2005 Open
22 Meeting. Public Counsel's February 18, 2005 letter provides no reason why it has not
23 submitted further briefing on these issues, and does not provide any indication of what else it
24 would like to brief or present to the Commission in any further proceedings.

1 7. To the extent Public Counsel's comments are requesting adjudication of this
2 matter rather than disposition at an Open Meeting, no such adjudication should be ordered.
3 A petition commences an adjudicative proceeding only "when the action sought requires
4 adjudication." WAC 480-07-305(3)(b). The Commission conducts adjudicative proceedings
5 only when "an opportunity for hearing is required by statute or constitutional right before or
6 after the commission enters an order" or when the Commission voluntarily commences an
7 adjudicative proceeding. RCW 34.05.010(1); RCW 34.05.413(2); WAC 480-07-300(1);
8 WAC 480-07-305(1). The Company is aware of no requirement for an adjudicative
9 proceeding in the circumstances now before the Commission.

10 **ICNU's Comments**

11 8. On February 18, 2005, ICNU also requested "further process (such as
12 additional briefing)" rather than resolution at the Open Meeting. ICNU Letter to
13 Commissioner Oshie posted February 18, 2005. However, ICNU did not explain what was
14 to be accomplished by additional briefing, or why it had not already submitted such briefing in
15 response to the Company's August 31, 2004 Petition or February 7, 2005 comments.

16 9. ICNU further stated that it had not participated in Docket No. UE-041570
17 prior to February 18, 2005, because it "assumed that there were no issues related to the
18 application of the Tenaska disallowance mechanism to the PCA II period." ICNU Letter to
19 Roger Braden posted February 18, 2005 at 1. ICNU also claimed that it was "surprised to
20 learn last Friday" that the Company was seeking to restore \$10.9 million to earnings based on
21 application of the benchmark mechanism to only the last six weeks of PCA Period 2.

22 10. These claims are flatly contrary to the Commission's PCORC Order Nos. 14
23 and 15, which expressly reserved for the PCA 2 filing the question of application of the
24 benchmark mechanism, or any other disallowance, to PCA Period 2 prior to May 2004. *See*

1 UE-031725 Order No. 14 at ¶ 86 and n. 104; UE-031725 Order No. 15 at ¶¶ 50, 52, 53 and
2 n. 29. *See also* PSE's February 7, 2005 comments at ¶¶ 6-10.

3 11. ICNU's claim of "surprise" is also not credible, given that the Company's
4 August 31, 2004 Petition in Docket No. UE-041570, of which ICNU had notice, explicitly
5 requested restoration of the \$10.9 million to the Company's PCA Period 2 Report. *See*
6 Petition at ¶¶ 14-23; Exhibit A hereto.

7 12. On February 22, 2005, ICNU submitted additional briefing in this docket
8 objecting to any additional recovery of costs related to Tenaska during the first ten plus
9 months of PCA Period 2 based on ICNU's reading of the PCORC orders.

10 13. As set forth in the Company's February 7, 2005 comments, the relief PSE has
11 requested is fully consistent with PCORC Order Nos. 14 and 15, and would be fair, just and
12 reasonable. ICNU's arguments, like Public Counsel's, beg the question whether any
13 disallowance related to Tenaska fuel costs should be imposed in addition to the \$25.6 million
14 one-time disallowance and the going-forward benchmark mechanism established in PCORC
15 Order No. 14 in May 2004.

16 14. ICNU's briefing confirms that there are no prudence issues associated with
17 Tenaska costs during PCA Period 2. Instead, ICNU relies heavily on the fact that the
18 Commission's "one-time" disallowance for historical imprudence set forth in PCORC Order
19 No. 14 was applied to PCA Period 1. However, the fact that the Commission ordered the
20 Company to apply the one-time disallowance to PCA Period 1 merely reflects the fact that
21 the Company's PCA Period 1 Report was the only PCA filing before the Commission when it
22 issued Order Nos. 14 and 15 in the PCORC docket (which had been consolidated for hearing
23 with the PCA Period 1 proceeding, Docket No. UE-031389).

24 15. The one-time disallowance did not, and was not intended to, precisely relate

1 to the cost consequences of historical imprudence. *See* PCORC Order No. 14 at ¶ 93. Thus,
2 ICNU's suggestion that an additional disallowance of the return on Tenaska is required for all
3 of PCA Period 2 in order to fairly balance the interests of shareholders and customer simply
4 takes the Commission's language in Order No. 14 too far.

5 16. It is now for the Commission to say, in this PCA Period 2 proceeding,
6 whether the one-time disallowance for historical imprudence set forth in Order No. 14
7 sufficiently addressed its concerns regarding Tenaska costs through May 24, 2004. To the
8 extent the Commission's determination on this question depends on the prudence of the
9 Company's fuel management during PCA Period 2, *see* PCORC Order No. 15 at ¶ 50, the
10 comments of Public Counsel and ICNU confirm that there is no such prudence challenge
11 before the Commission with respect to PCA Period 2.

12 DATED: February 22, 2005.

PERKINS COIE LLP

By 

Kirstin S. Dodge

Attorneys for Puget Sound Energy, Inc.

EXHIBIT A

**Letters to Public Counsel,
the Industrial Customers of Northwest Utilities,
and Federal Executive Agencies
dated August 31, 2004**



Kirstin S. Dodge
Phone: (425) 635-1407
Email: ksdodge@perkinscoie.com

The PSE Building
10885 N.E. Fourth Street, Suite 700
Bellevue, WA 98004-5579
PHONE: 425.635.1400
FAX: 425.635.2400
www.perkinscoie.com

August 31, 2004

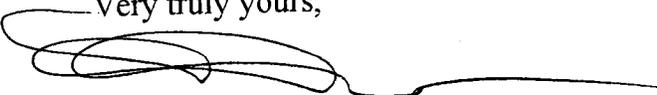
Simon J. ffitch
Assistant Attorney General
Public Counsel Division
Office of the Attorney General of Washington
900 4th Avenue, Suite 2000
Seattle, WA 98164-1012

**Re: Petition of Puget Sound Energy, Inc. For Approval of its
2004 Power Cost Adjustment Mechanism Report**

Dear Simon:

Enclosed please find a copy of Puget Sound Energy, Inc.'s ("PSE") cover letter to Carole Washburn regarding PSE's Petition for Approval of its 2004 Power Cost Adjustment Mechanism Report, which was filed with the Commission on August 31, 2004. If you would like a copy of PSE's filing, please let me know.

Very truly yours,



Kirstin S. Dodge

KSD:pli
Enclosures

[07772-1206/BA042440.012]

ANCHORAGE • BEIJING • BELLEVUE • BOISE • CHICAGO • DENVER • HONG KONG • LOS ANGELES
MENLO PARK • OLYMPIA • PORTLAND • SAN FRANCISCO • SEATTLE • WASHINGTON, D.C.

Perkins Coie LLP (Perkins Coie LLC in Illinois)



Kirstin S. Dodge
Phone: (425) 635-1407
Email: ksdodge@perkinscoie.com

The PSE Building
10885 N.E. Fourth Street, Suite 700
Bellevue, WA 98004-5579
PHONE: 425.635.1400
FAX: 425.635.2400
www.perkinscoie.com

August 31, 2004

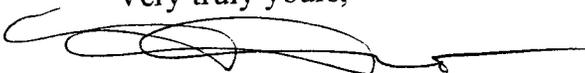
Bradley Van Cleve
Davison Van Cleve PC
1000 SW Broadway, Suite 2460
Portland, OR 97206

**Re: Petition of Puget Sound Energy, Inc. For Approval of its
2004 Power Cost Adjustment Mechanism Report**

Dear Brad:

Enclosed please find a copy of Puget Sound Energy, Inc's ("PSE") cover letter to Carole Washburn regarding PSE's Petition for Approval of its 2004 Power Cost Adjustment Mechanism Report, which was filed with the Commission on August 31. If you would like a copy of PSE's filing, please let me know. Please note we will need to provide only a redacted version of the filing. Confidential materials will be provided after the Commission enters a protective order in these proceedings and upon receipt and filing of the requisite confidentiality agreements.

Very truly yours,



Kirstin S. Dodge

KSD:pli
Enclosures

[07772-1206/BA042440.014]

ANCHORAGE • BEIJING • BELLEVUE • BOISE • CHICAGO • DENVER • HONG KONG • LOS ANGELES
MENLO PARK • OLYMPIA • PORTLAND • SAN FRANCISCO • SEATTLE • WASHINGTON, D.C.

Perkins Coie LLP (Perkins Coie LLC in Illinois)



Kirstin S. Dodge
Phone: (425) 635-1407
Email: ksdodge@perkinscoie.com

The PSE Building
10885 N.E. Fourth Street, Suite 700
Bellevue, WA 98004-5579
PHONE: 425.635.1400
FAX: 425.635.2400
www.perkinscoie.com

August 31, 2004

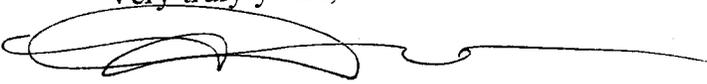
Norman J. Furuta
Department of the Navy
Naval Facilities Engineering Command
2001 Juniper Sera Boulevard, Ste. 600
Daly City, CA 94014-1976

**Re: Petition of Puget Sound Energy, Inc. For Approval of its
2004 Power Cost Adjustment Mechanism Report**

Dear Norm:

Enclosed please find a copy of Puget Sound Energy, Inc.'s ("PSE") cover letter to Carole Washburn regarding PSE's Petition for Approval of its 2004 Power Cost Adjustment Mechanism Report, which was filed with the Commission on August 31, 2004. If you would like a copy of PSE's filing, please let me know. Please note we will need to provide only a redacted version of the filing. Confidential materials will be provided after the Commission enters a protective order in these proceedings and upon receipt and filing of the requisite confidentiality agreements.

Very truly yours,



Kirstin S. Dodge

KSD:pli
Enclosures

[07771-0089/BA042440.017]

ANCHORAGE • BEIJING • BELLEVUE • BOISE • CHICAGO • DENVER • HONG KONG • LOS ANGELES
MENLO PARK • OLYMPIA • PORTLAND • SAN FRANCISCO • SEATTLE • WASHINGTON, D.C.

Perkins Coie LLP (Perkins Coie LLC in Illinois)