

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET PG-060215
)	
Complainant,)	ORDER 03
)	
v.)	
)	ORDER CLARIFYING FINAL
PUGET SOUND ENERGY, INC.,)	ORDER
)	
Respondent.)	
)	
.....)	

MEMORANDUM

- 1 The Washington Utilities and Transportation Commission (Commission) entered Order 02 in this docket, its Final Order Accepting Settlement Agreement on Condition (Final Order), on April 3, 2008. On April 4, 2008, Commission Staff and Puget Sound Energy, Inc., the only parties in this proceeding, filed their Joint Motion for Clarification or Reconsideration.

- 2 The parties assert there are two matters that require our attention. They first request that Order 02 be amended to reflect a correction to the paragraph numbering in Attachment A to the Settlement Agreement, which is adopted by and made part of the Final Order. Specifically, the parties point out that in the final sentence of Section 2H of Attachment A, the term “paragraph 33” should read “paragraph 22.” Although this scrivener’s error was noted at hearing, it is not, but should have been, reflected in the Final Order according to the Joint Motion. We agree.

- 3 The second matter relates to the condition we imposed limiting the application of certain forbearance provisions in the Settlement Agreement. The parties state correctly that the Commission ruled as a matter of policy that forbearance should not apply to intentional violations that cause actual harm, even below the proposed thresholds identified in original paragraph 25 of the Settlement Agreement. *Order at*

10, ¶ 38. The Commission implemented this policy decision by striking paragraph 25 of the Settlement Agreement. *Order at 10, ¶ 39 and at 13, ¶ 56, Conclusion of Law 5.*

- 4 The parties do not seek reconsideration of the Commission’s policy decision, but argue that striking paragraph 25 of the Settlement Agreement fails to implement the policy and has unintended consequences. The Joint Motion states:

Indeed, if paragraph 25 of the Agreement is stricken, then the forbearance language in paragraph 23 of the Agreement becomes unqualified. For example, assume the (albeit unlikely) event of an intentional violation of the sort described in paragraph 23 of the Agreement that occurred before July 1, 2007, and assume that violation caused actual harm. In that example, forbearance would apply because paragraph 23 of the Agreement would require forbearance.

- 5 The parties suggest a rephrasing of paragraph 25, in lieu of its elimination, as the solution. We agree that rephrasing is required, but we do not accept the specific language proposed by the Joint Motion. Instead, we will rephrase paragraph 25 to read as follows:

Nothing in this Agreement affects the ability of the Staff to recommend penalties or other remedy for any intentional violation of any statute, rule or provision in PSE’s gas safety standards manual that leads to personal injury, death, or property damage. PSE may contest any such enforcement action based on such a violation or violations, but PSE will not use anything in this Agreement as limiting any such enforcement action.

ORDER

THE COMMISSION ORDERS:

- 6 (1) The Settlement Agreement filed by the Parties on March 3, 2008, which is attached as an Appendix to Order 02 in this proceeding and incorporated by reference, is amended in the final sentence of Section 2H of Attachment A, by substituting the term “paragraph 22” for the term “paragraph 33” to correct a scrivener’s error in the original document.

- 7 (2) Order 02 is clarified in ¶¶ 39 and 56 by requiring that paragraph 25 of the Settlement Agreement, instead of being eliminated as a condition to the Commission's approval, is amended to read as follows:

Nothing in this Agreement affects the ability of the Staff to recommend penalties or other remedy for any intentional violation of any statute, rule or provision in PSE's gas safety standards manual that leads to personal injury, death, or property damage. PSE may contest any such enforcement action based on such a violation or violations, but PSE will not use anything in this Agreement as limiting any such enforcement action.

This change implements the Commission's decision in Order 02 that forbearance should not apply to intentional violations that cause actual harm, even below the proposed thresholds identified in original paragraph 25 of the Settlement Agreement.

- 8 (3) The Commission retains jurisdiction to effectuate the terms of this Order and its prior orders entered in this proceeding.

Dated at Olympia, Washington, and effective April 8, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This order amends a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.