

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,	)	DOCKET NO. UE-011570 and
	)	UG-011571 (consolidated)
)	
Complainant,	)	TWELFTH SUPPLEMENTAL ORDER:
	)	REJECTING TARIFF FILING;
v.	)	APPROVING AND ADOPTING
	)	SETTLEMENT STIPULATION
PUGET SOUND ENERGY, INC.,	)	SUBJECT TO MODIFICATIONS,
	)	CLARIFICATIONS, AND
Respondent.	)	CONDITIONS; AUTHORIZING AND
	)	REQUIRING COMPLIANCE FILING
.....)	

SYNOPSIS: The Commission approves and adopts an unopposed Settlement Stipulation as a reasonable resolution of Puget Sound Energy, Inc.’s request for a general increase in electric rates and other relief, and as a partial resolution of the Company’s request for a general increase in gas rates. The Commission approves an overall 4.6 percent electric rate increase. The Commission also approves a power cost adjustment mechanism to enhance the Company’s financial stability. Other provisions of the approved and adopted Settlement Stipulation include a one-year extension, through September 2003, of PSE’s time-of-use (TOU) electricity pricing program, establishment of a new program to assist low-income PSE customers, increased commitment by PSE to electric and natural gas conservation, continuation and expansion of service quality performance standards, revision of PSE’s tariff schedules that govern underground conversion of distribution facilities, and revisions to PSE’s line extension and backup distribution services tariff schedules.

1 PROCEEDINGS. On November 26, 2001, Puget Sound Energy, Inc. (“PSE” or the “Company”) filed tariff revisions designed to effectuate a general rate increase for electric and gas services. On December 3, 2001, PSE filed a request for an interim electric rate increase. These proceedings were consolidated under Docket Nos. UE-011570 and UG-011571. The Commission established procedural schedules for an interim phase (electric) hearing and general rate phase (electric and gas) hearing.

- 2 The Commission approved and adopted an unopposed Settlement Stipulation on
March 28, 2002, to resolve the interim phase of these proceedings.¹ The interim
settlement agreement included commitments by the parties to conduct further
settlement negotiations via a series of collaboratives and stipulations among the
parties to certain facts pertinent to the determination of final rates.
- 3 On April 19, 2002, PSE filed on behalf of itself and one other party, King County, a
proposed “Stipulation of Settlement for King County.” PSE and King County filed a
revised Stipulation later on May 6, 2002, which the Commission approved.²
- 4 On June 6, 2002, PSE filed on behalf of itself and other parties a “Settlement
Stipulation for Electric and Common Issues and Application for Commission
Approval of Settlement” (“Settlement Stipulation”). The proposed Settlement
Stipulation is unopposed by any party.
- 5 **PARTIES.** Markham Quehrn and Kirstin Dodge, Perkins Coie LLP, Bellevue,
Washington, represent Puget Sound Energy, Inc. John A. Cameron and Traci
Kirkpatrick, Davis Wright Tremaine, represent AT&T Wireless and the Seattle Times
Company. Danielle Dixon, Policy Associate, Northwest Energy Coalition, represents
that organization and the Natural Resources Defense Council. Carol S. Arnold,
Preston Gates Ellis, Seattle, Washington, represents Cost Management Services, Inc.,
and the cities of Auburn, Des Moines, Federal Way, Redmond, Renton, SeaTac,
Tukwila, Bellevue, Maple Valley, and Burien (“Auburn, *et al.*”). Ron Roseman,
attorney at law, Seattle, Washington, represents the Multi-Service Center, the
Opportunity Council, and the Energy Project; Charles M. Eberdt, Manager, Energy
Project also entered his appearance for the Energy Project; Dini Duclos, CEO, Multi-
Service Center, also entered an appearance for that organization. Angela L. Olsen,
Assistant City Attorney, McGavick Graves, Tacoma, Washington, represents the City
of Bremerton. Donald C. Woodworth, Deputy Prosecuting Attorney, Seattle,
Washington, represents King County. Melinda Davison and S. Bradley Van Cleve,
Davison Van Cleve, P.C., Portland, Oregon, represent Industrial Customers of

¹ *WUTC v. PSE, Docket Nos. UE-011570/UG-011571 (consolidated), Ninth Supplemental Order (March 28, 2002).*

² *WUTC v. PSE, Docket Nos. UE-011570/UG-011571 (consolidated), Eleventh Supplemental Order (May 6, 2002).*

Northwest Utilities. Elaine L. Spencer and Michael Tobiason, Graham & Dunn, Seattle, Washington, represent Seattle Steam Company. Edward A. Finklea, Energy Advocates, LLP, represents the Northwest Industrial Gas Users. Donald Brookhyser, Alcantar & Kahl, Portland, Oregon, represents the Cogeneration Coalition of Washington. Michael L. Charneski, Attorney at Law, Woodinville, Washington, represents the City of Kent. Norman J. Furuta, Associate Counsel, Department of the Navy, represents the Federal Executive Agencies (“FEA”). Michael L. Kurtz, Boehm, Kurtz & Lowry, Cincinnati, Ohio, represents Kroger Company. Kirk H. Gibson and Lisa F. Rackner, Ater Wynne LLP, Portland, Oregon, represent WorldCom, Inc. Elizabeth Thomas, Preston Gates Ellis LLP, Seattle, Washington, represents Sound Transit. Harvard M. Spigal and Heather L. Grossman, Preston Gates and Ellis LLP, Portland, Oregon, represent Microsoft Corporation. Simon ffitich, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section, Office of Attorney General. Robert D. Cedarbaum, Senior Assistant Attorney General, and Shannon Smith, Assistant Attorney General, Olympia, Washington, represent the Commission’s regulatory staff (Staff).³

- 6 **COMMISSION:** The Commission approves and adopts the unopposed Settlement Stipulation, with certain modifications, clarifications, and conditions, as a full and final resolution of the remaining issues in Docket No. UE-011570 and of certain issues in Docket No. UG-011571. The Commission incorporates the Settlement Stipulation by reference and makes it a part of this Order. *Appendix A, infra*. The Commission authorizes and requires PSE to make any compliance filings required to effectuate the terms of the Settlement Stipulation and this Order.

MEMORANDUM

I. Introduction.

- 7 This Order marks the culmination of significant efforts by the parties, and by the Commission, to help restore the financial integrity of one of Washington State’s major electric utilities, and to help ensure that PSE’s customers continue to receive

³ In formal proceedings, such as this case, the Commission’s regulatory staff (Staff) functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an “*ex parte* wall” separating the Commissioners, the presiding ALJ, and the Commissioners’ policy and accounting advisors from all parties, including Staff. *RCW 34.05.455*.

reliable electric service at reasonable rates. Ms. Kimberly Harris, PSE's Vice-President of Regulatory Affairs, testified that:

The parties' ability to reach agreement is a significant accomplishment that required an extraordinary commitment on behalf of the parties and their representatives, that in many respects required more effort than would be required for resolution of a rate case through litigation. I believe that the process will have lasting benefits to the Company and its customers because of the quality of the settlement achieved, the extensive communication that occurred regarding various interests and concerns, and the working relationships that have developed through this process. The Company looks forward to continuing to work collaboratively with its customers on many more issues into the future.

Exhibit No. 530 at 2.

8 As we stated in our Ninth Supplemental Order in this proceeding, the Commission is encouraged by the approach of the Company's new management in meeting its public service obligation, which includes the obligation to improve PSE's financial condition and restore the Company's financial vitality. Steps taken or to be taken by PSE both as a result of the terms of settlement, and independently, demonstrate the Company's commitment to building and maintaining greater financial strength on a prospective basis. We commend the Company and the parties for their hard work and success in forging an agreement of impressive and unprecedented scope. Both the Company and its customers will benefit from the agreement we approve today and from continuing constructive collaborative efforts.

II. Background and Procedural History.

9 PSE filed a general rate case on November 26, 2002. The Company sought by its filing permanent increases in both electric and gas rates in the amounts of \$228.3 million per year and \$85.9 million per year, respectively, for an aggregate amount of \$314.2 million. On December 3, 2001, PSE filed both a Petition for Interim Rate Relief and an Electric Tariff Filing in Advice No. 2001-51. The Company sought by that filing to implement a temporary rate increase, subject to refund, to obtain immediate rate relief in the amount of \$170.7 million. PSE requested the Commission to approve Tariff Schedule 128, which would implement an Electric Energy Cost Surcharge rate of \$1.4568¢ per kWh.

- 10 Both the interim and general rate filings were docketed as Nos. UE-011570 and UG-011571.⁴ The Commission convened a prehearing conference in these proceedings on December 20, 2001, in Olympia, Washington, before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, Commissioner Patrick J. Oshie, and Administrative Law Judge Dennis J. Moss. The dockets were consolidated by the Commission's Second Supplemental Order: Prehearing Conference, entered on December 28, 2001. A procedural schedule for both the interim and general phases of these proceedings was set by the Second Supplemental Order, as later amended by the Commission's Fifth and Seventh Supplemental Orders.
- 11 The Commission conducted evidentiary hearings on the interim rate issues in Olympia from February 18, 2002, through February 22, 2002. The Commission heard public testimony in Olympia on the issues related to interim rate relief on February 21, 2002. The parties requested several continuances of the date established for filing briefs (*i.e.*, March 1, 2002) to permit them an opportunity to conduct settlement negotiations with the assistance of Administrative Law Judge C. Robert Wallis as mediator.
- 12 On March 20, 2002, Puget Sound Energy, Inc., the Commission's regulatory staff, Public Counsel, Industrial Customers of Northwest Utilities, Northwest Industrial Gas Users, Kroger Co., AT&T Wireless, Northwest Energy Coalition, Natural Resources Defense Council, and Seattle Steam Company filed a partial settlement in Docket Nos. UE-011570/UG-011571. These parties requested that the Commission enter an order by March 29, 2002, approving and adopting the settlement agreement as a full and final resolution of the interim rate issues, as a resolution of certain other issues pending in Docket Nos. UE-011570/UG-011571, and as full and final resolution of all issues pending in Docket No. UE-011411.⁵ The Commission conducted an evidentiary hearing on the proposed settlement agreement on March 25, 2002, and entered its Ninth Supplemental Order approving and adopting the settlement agreement on March 28, 2002.

⁴ In a related filing, Docketed as No. UE-011600, PSE petitioned for an order authorizing the deferral of a portion of the Company's electric energy supply costs. The Commission entered its Order Granting Accounting Petition on December 28, 2001.

⁵ On October 8, 2001, the Public Counsel Section of the Attorney General's Office filed with the Commission a complaint against PSE in Docket No. UE-011411. The complaint alleges that PSE violated the Commission's Fourteenth Supplemental Order in the Puget/WNG Merger proceeding (Docket No. UE-960195) and the Rate Plan in the underlying merger settlement by failing to transfer the prior Bonneville Power Administration residential exchange credit to general rates on July 1, 2001.

- 13 On April 19, 2002, PSE filed on behalf of itself and King County a proposed Stipulation of Settlement for King County. On April 26, 2002, Commission staff filed comments to which it appended a document captioned “PSE-Staff Stipulation Regarding PSE’s King County Settlement.” On May 6, 2002, following hearing proceedings, PSE and King County filed and presented for the Commission’s consideration a revised Stipulation of Settlement. On May 6, 2002, the Commission, by its Eleventh Supplemental Order, approved and adopted the settlement between PSE and King County and the related Stipulation between PSE and Staff.
- 14 Pursuant to the settlement agreement we approved by our Ninth Supplemental Order, the parties conducted a series of collaboratives during April and May, 2002. According to the Settlement Stipulation now before us, this involved “extensive meetings, formal and informal data exchange, and negotiations, in a good faith effort to resolve the remaining issues in dispute in the electric General Rate Case and common issues in dispute in the gas General Rate Case.” *Stipulation at 3.*
- 15 On June 6, 2002, PSE filed a “Settlement Stipulation for Electric and Common Issues and Application for Commission Approval of Settlement.” On June 7, 2002, several parties filed testimony in support of the Settlement Stipulation. The Settlement Stipulation is signed by 32 of the 34 parties to this proceeding and is unopposed by any party.⁶ The Commission conducted prehearing proceedings on the proposed settlement on June 11, 2002, and evidentiary hearing proceedings on June 13, 14, and 17, 2002. The Commission held a public comment hearing on June 13, 2002.

⁶ The so-called Participating Parties include PSE, the Commission’s regulatory staff, the Public Counsel Section of the Attorney General’s Office (“Public Counsel”), Industrial Customers of Northwest Utilities (“ICNU”), Kroger Company, Northwest Industrial Gas Users (“NWIGU”), AT&T Wireless Services (“AT&T”), Microsoft Corporation, WorldCom, Inc., Seattle Steam Company, Northwest Energy Coalition (“NWEC”) jointly with Natural Resources Defense Council (“NRDC”), Multi-Service Center jointly with Opportunity Council and Energy Project, Cost Management Services, Inc., Federal Executive Agencies, Cogeneration Coalition of Washington, King County, Sound Transit, and the Cities of Auburn, Bremerton, Bellevue, Burien, Des Moines, Federal Way, Kent, Maple Valley, Redmond, Renton, SeaTac, and Tukwila. Although Cogeneration Coalition of Washington is listed as a Participating Party, it is not a signatory to the Settlement Stipulation. Seattle Times Company is neither a Participating Party nor a signatory to the Settlement Stipulation, but does not oppose its approval.

III. Governing Statutes and Rules.

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The following statutory provisions and rules are most central to our discussion and decision:

RCW 80.01.040 General Powers and Duties of Commission.

The utilities and transportation commission shall:

* * *

(3) Regulate in the public interest, as provided by the public service laws, 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, but not limited to, electrical companies

RCW 80.04.130 Suspension of tariff change.

(1) Whenever any public service company shall file with the commission any schedule, classification, rule or regulation, the effect of which is to change any rate, charge, rental or toll theretofore charged, the commission shall have power, either upon its own motion or upon complaint, upon notice, to enter upon a hearing concerning such proposed change and the reasonableness and justness thereof, and pending such hearing and the decision thereon the commission may suspend the operation of such rate, charge, rental or toll for a period not exceeding ten months from the time the same would otherwise go into effect, and after a full hearing the commission may make such order in reference thereto as would be provided in a hearing initiated after the same had become effective. . . .

(2) At any hearing involving any change in any schedule, classification, rule or regulation the effect of which is to increase any rate, charge, rental or toll theretofore charged, the burden of proof to show that such increase is just and reasonable shall be upon the public service company.

RCW 80.28.010 Duties as to rates, services, and facilities.

(1) All charges made, demanded or received by any gas company, electrical company or water company for gas, electricity or water, or for any service rendered or to be rendered in connection therewith, shall be just, fair, reasonable and sufficient.

(2) Every gas company, electrical company and water company shall furnish and supply such service, instrumentalities and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable.

(3) All rules and regulations issued by any gas company, electrical company or water company, affecting or pertaining to the sale or distribution of its product, shall be just and reasonable. . . .

RCW 80.28.020 Commission to fix just, reasonable, and compensatory rates.

Whenever the commission shall find, after a hearing had upon its own motion, or upon complaint, that the rates or charges demanded, exacted, charged or collected by any gas company, electrical company or water company, for gas, electricity or water, or in connection therewith, or that the rules, regulations, practices or contracts affecting such rates or charges are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in any wise in violation of the provisions of the law, or that such rates or charges are insufficient to yield a reasonable compensation for the service rendered, the commission shall determine the just, reasonable, or sufficient rates, charges, regulations, practices or contracts to be thereafter observed and in force, and shall fix the same by order.

Additional parts of Chapters 80.01, 80.04, and 80.28 RCW and Chapters 480-09, 480-80, and 480-100 WAC apply generally.

IV. Discussion and Decision.

17 The Settlement Stipulation now before us was developed through the collaborative process that the Commission approved in its Ninth Supplemental Order in this proceeding. That process began in late March of 2002. The Settlement Stipulation is proposed to resolve all electric issues and issues that are common to the electric and natural gas aspects of this general rate case. Remaining natural gas issues are to be addressed through further collaboration or litigation, consistent with the process approved by the Commission's Ninth Supplemental Order.

18 We acknowledge that the Settlement Stipulation which resulted from collaboration among the many parties to this proceeding is a significant accomplishment that required an extraordinary effort by the parties, their representatives, and Administrative Law Judge C. Robert Wallis, who served as mediator to facilitate the collaborative process.

19 By their Settlement Stipulation, the Participating Parties request that the Commission approve the following general results:

- An overall 4.6 percent electric rate increase. This represents approximately \$59 million in additional annual revenue for PSE, in contrast to the approximately \$228,300,000, or 16.5 percent increase PSE sought through its original filing, and the \$99,441,756, or 7.31 percent increase PSE sought as of March 2002 when the parties settled PSE's request for interim rate relief.
- A power cost adjustment mechanism designed to enhance the Company's financial stability by addressing concerns associated with potentially volatile wholesale power markets and fluctuations in hydropower availability due to uncertain weather conditions.
- A one-year extension, through September 2003, of PSE's time-of-use (TOU) electricity pricing program, with modifications, and with new collaborative efforts to further investigate the cost effectiveness and environmental impact of the program.
- The establishment of a new program to assist low-income PSE customers to pay their electricity and natural gas bills.

- An increased commitment by PSE to electric and natural gas conservation, including establishment of an Advisory Committee to continue collaborative efforts related to conservation.
- Continuation and expansion of service quality performance standards for electric and natural gas service that PSE has followed for the past five years.
- A thorough revision of PSE's tariff schedules that govern the cost-sharing, terms, and conditions of service when cities or others wish to convert overhead power distribution facilities to underground systems.
- Revisions to PSE's line extension and backup distribution services tariff schedules.

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The Settlement Stipulation is a complex and comprehensive set of documents. It includes numerous detailed provisions. In addition, there is comprehensive testimony contained in Exhibit Nos. 526 through 577 offered in support of the Settlement Stipulation. Numerous issues were explored at hearing. *Transcript Vols. xiv-xvii*. Collectively, this evidence covers all significant issues contained in the Settlement Stipulation. In particular, we find adequate supporting evidence pertaining to the various parts of the Settlement Stipulation as follows:

- Electric Revenue Requirements, Common Cost Allocation, and Overall Rate of Return (Exhibit B to Settlement Stipulation): *Exhibit No. 533 (Karzmar); Exhibit No. 556 (Dittmer); Exhibit No. 562 at 3-6 (Lott)*.
- Electric Rate Spread (Exhibit C to Settlement Stipulation): *Exhibit No. 535 at 1-5 (Pohndorf); Exhibit No. 552 (Lazar); Exhibit No. 562 at 7-9 (Lott)*.
- Electric Rate Design (Exhibit D to Settlement Stipulation): *Exhibit No. 535 at 6-11 (Pohndorf); Exhibit No. 553 (Lazar); Exhibit No. 562 (Lott)*.
- Time of Use (TOU) (Exhibit E to Settlement Stipulation): *Exhibit No. 536 (Pohndorf); Exhibit No. 554 (Lazar); Exhibit No. 562 at 9-11 (Lott)*.
- Conservation (Exhibit F to Settlement Stipulation): *Exhibit No. 537 (Pohndorf); Exhibit No. 557 (Klumpp); Exhibit No.*

564 at 1-4 (Steward); Exhibit No. 571 (Dixon); Exhibit No. 572 (Eberdt).

- Low Income (Exhibit G to Settlement Stipulation): *Exhibit No. 538 Pohndorf*; *Exhibit No. 564 at 5 (Steward)*; *Exhibit No. 571 (Dixon)*; *Exhibit No. 573 (Brannon)*.
- Electric Line Extensions (Exhibit H to Settlement Stipulation): *Exhibit No. 539 (Pohndorf)*; *Exhibit No. 555 (Lazar)*; *Exhibit No. 562 at 15 (Lott)*; *Exhibit No. 571 at 8-9 (Dixon)*.
- Relocation and Underground Conversion (Cities) (Exhibit I to Settlement Stipulation): *Exhibit No. 531 (Harris)*; *Exhibit No. 565 (Etchart)*.
- Service Quality Index (SQI) (Exhibit J to Settlement Stipulation): *Exhibit No. 541 (Pohndorf)*; *Exhibit No. 558 (Kimball)*; *Exhibit No. 564 at 6-7 (Steward)*.
- Backup Distribution Service (Exhibit K to Settlement Stipulation): *Exhibit No. 542 (Pohndorf)*; *Exhibit No. 562 at 11-12 (Lott)*.

21 We incorporate the Settlement Stipulation by reference, and include it as an Appendix to this Order. Except to the extent expressly clarified or modified in the body of this Order, we intend that the Settlement Stipulation should speak for itself.

22 **Exhibit A: Power Cost Adjustment Mechanism.** A PCA mechanism should achieve an appropriate balance between risks to customers and risks to utility shareholders. The parties propose a mechanism that would result in a sharing of costs and benefits between PSE and its customers if power costs deviate significantly from those embedded in PSE's rates (*i.e.*, the "power cost baseline" established under the Power Cost Adjustment Issue Agreement).

23 Under the proposed PCA actual allowed power costs over the preceding year are compared with base power costs on an annual basis. If the annual difference exceeds \$20 million in either the positive or the negative direction, a posting is made to the deferral account. As Mr. Lazar explains, if power costs are higher than the PCA baseline, PSE must absorb the first \$20 million of excess costs,⁷ half of the next \$20

⁷ No costs are deferred for possible future collection through a power cost surcharge until allowable power costs exceed normalized power costs by at least \$20 million. *Exhibit No. 551 (Gaines) at 3.*

million, 10 percent of the next \$80 million, and 5 percent of any amounts that exceed \$120 million. *Id.* In like fashion, if power costs are lower than the PCA baseline, PSE retains the first \$20 in savings, half of the next \$20 million, 10 percent of the next \$80 million, and 5 percent of any amounts that exceed \$120 million. *Exhibit No. 331 at 3-4.*

24 In addition to providing PSE incentives to control power costs, the PCA also is designed to promote rate stability even in the face of fluctuating power costs. *See Exhibit No. 551 (Lazar) at 2-3; see also Exhibit No. 562 (Lott) at 14.* Under the proposed mechanism, excess power costs or savings, beyond the \$20 million “dead band” noted above, are posted to a power cost deferral account. The deferral balance, however, must reach \$30 million, plus or minus, before a surcharge or credit is triggered. Thus, in a given year, “power costs would have to exceed normal levels by a total of about \$62 million before a surcharge would be triggered.” *Exhibit No. 551 (Lazar) at 3.*

25 Mr. Lott testified concerning the Power Cost Only Rate Review provision, stating that:

new resources will not be recovered directly through the PCA, but the Company may periodically update its general rates to reflect increased power supply costs associated with new resources or increased costs of existing resources. These Power Cost Only rate proceedings are an exception to the general rule that a company should not be allowed to file single issue rate cases. For that reason, these single issue rate cases are limited and under certain events will trigger a general rate case to true-up all costs. Further, these single issue rate cases will look at all costs included within the PCA mechanism. And, the Company will be required to support these rate proposals in the same detail it must support power supply costs in a general rate proceeding.

Exhibit No. 562 at 14. We expressly clarify that the Power Cost Only Rate Review provisions in the PCA settlement allow for single-issue rate making.

Similarly, no costs are deferred for possible future return to ratepayers through a power cost credit until allowable power costs savings exceed \$20 million. This is the so-called “dead band” that is

26 In colloquy with the witnesses and counsel at hearing, we clarified and confirmed additional aspects of the Power Cost Only Rate Review provisions. We expressly clarify the provisions of this Issue Agreement in three respects, in addition to our clarification in the preceding paragraph of our Order. First, paragraph C.8. of the PCA Issue Agreement is modified to read as follows:

Power Cost Only Rate Review: In addition to the yearly adjustment for power cost variances, there ~~would~~ could be a periodic proceeding specific to power costs that would true up the Power Cost Rate to *all power costs* identified in the Power Cost Rate. The Company can also initiate a power cost only proceeding to add new resources to the Power Cost Rate. In either case, the Company would submit a Power Cost Only Rate filing proposing such change. This filing shall include testimony and exhibits that include the following:

- Current or updated least cost plan
- Description of the need for additional resources (as applicable)
- Evaluation of alternatives under various scenarios
- Adjustments to the Fixed Rate Component
- Adjustments to the Variable Rate Component
- A calculation of pro forma production cost schedules that are consistent with this docket, including power supply and other adjustments impacting then current production costs.

This change captures the point that filings under this provision are discretionary, not required.

27 Second, with specific reference to paragraph C.9. of the PCA Issue Agreement, we discussed with the witnesses and with counsel whether the parties' intent with respect to the Power Cost Only Rate Review provisions, and the legal effect of this provision in particular, was to bring the Power Cost Only Rate Review process within the exceptions to WAC 480-09-310, which provides in relevant part as follows:

“designed to cover approximately one standard deviation of the cost variability associated with stream

1) For the purposes of WAC 480-09-300 through 480-09-335 only, a general rate increase filing is the request by any company regulated by the commission under Title 80 and chapters 81.77 and 81.108 RCW for an increase in rates which meets one or more of the following criteria:

(a) The amount requested would increase gross annual revenue of the company from activities regulated by the commission by three percent or more.

(b) Tariffs are restructured such that the gross revenue provided by any customer class would increase by three percent or more.

(c) The company requests a change in its authorized rate of return on common equity or capital structure.

* * *

(2) The following proceedings shall not be considered general rate increases for companies regulated under Title 80 RCW even though the revenue requested may exceed three percent of the company's gross annual revenue from Washington regulated operations: Periodic rate adjustments for electric utilities as may be authorized by the commission; . . .

We established on the record, and conclude, that the Power Cost Only Rate Review provisions do fall within the exception to this rule governing general rate increase filings, which we highlight by underlining in our partial quote of the rule above.

28 Third, we clarify that to the extent the provisions in paragraph C.11. of the PCA Issue Agreement describe processes before the Commission, they express only the parties' intentions to seek expedited treatment in the fashion described and are not intended to bind the Commission to a particular process or schedule.

29 The parties have requested approval of the PCA mechanics and accounting. The Settlement Terms for Power Cost Adjustment, however, states that the precise costs to be included in the calculation of base power costs have yet to be verified by the

flow.” *Exhibit No. 562 (Lott) at 14.*

parties. *Settlement Stipulation, Exhibit A—PCA Issue Agreement, ¶¶ 12 and 13.* This was confirmed by the parties during our hearing. *TR. 2147-54.* Mr. Lott suggested that verification of the necessary power cost figures could be accomplished through a staff investigation. *TR. 2154-55.* We agree. This is an important and essential step for implementation of the power cost adjustment. Accordingly, we direct the Commission Staff to open an investigation for this purpose and expect that confirmation of the base power cost levels will be resolved quickly, and no later than August 30, 2002.

30 Paragraph 7 of Exhibit B to the Settlement Stipulation refers “to the Company's filed depreciation study incorporated in the adjusted test year.” We made the depreciation study referenced in paragraphs 6 and 7 of the Issue Agreement a part of our record as Exhibit No. 527. *TR. 1775-76.* We find the study adequately supports the amortization rates that are not otherwise expressly addressed in paragraph 7 of the Issue Agreement.

31 **Exhibit D: Electric Rate Design.** The Settlement Stipulation provides that the three Internet Service Provider (ISP) customers that have been served under special contracts approved in connection with the termination of Schedule 48 following the *Air Liquide* litigation will be served prospectively under Schedule 31. In one respect, however, Exhibit D is inartfully worded in establishing the settlement terms for electric rate design. *TR. 1885-93 (colloquy with counsel).* Accordingly, we modify the fourth bullet-point under paragraph 7 of the Issue Agreement to read as follows:

Internet Service Providers (“ISP”) (Special Contract Customers):

The three ISP customers currently served under special contract will be served under Schedule 31 Primary Voltage Service. Based upon the line extension policy in effect as of the date below (i.e., June 5, 2002), the customers will receive a full refund of credit under Schedule 85 with respect to payments made to the Company in association with constructing Company-owned facilities to establish service for those customers. The refunds credits will be made with interest at the same rate applied to customer deposits as provided under Schedule 85. Future incremental load and facilities requirements for these customers will be subject to the then effective line extension policies and provisions and /or other tariffs. Any of

these three customers may, at any time, take service under any other PSE tariff for which it qualifies.

32 We confirmed that the revenue credit now described in this section of the Settlement Agreement is available to all Schedule 31 customers in accordance with the terms of Schedule 85. *TR. 1889, 1892-93 (colloquy with counsel)*. Given this, we find the proposed revenue credit is not proposed as a preferential treatment for the ISP customers and is not discriminatory.

33 **Exhibit E: Time-of-Use (TOU) Rates.** We expressed at hearing our dismay that despite the Commission's repeated requests for information that would allow us to evaluate the potential benefits asserted in support of our initial approval of TOU rates, and our prior extensions and modifications of the pilot, no such information has been furnished to the Commission.

34 The Settlement Stipulation, at Exhibit E, establishes a collaborative to evaluate the TOU pilot program during calendar year 2003. Because we want to ensure that the collaborative will timely produce the information we need to evaluate the TOU program, we require that the collaborative will, at a minimum, present the Commission with four progress reports as follows:

1. Study Design by November 1, 2002: The research design, including a description of the statistical, econometric and other analysis techniques, which will allow a determination of program costs, TOU's effect on peak and overall energy consumption, and the costs and benefits of changes in consumption on PSE and the region; the research design to determine consumer acceptance of the program; the schedule of activities leading to a final report; and data needs and collection methods.

2. Data Collection by February 3, 2003: Progress of data collection efforts; an interim assessment of the capability of the method(s) identified in the November 1, 2002 report to achieve the specified objectives; identified adjustments to the research design; and up-to-date observations regarding changes in consumption patterns and

consumer acceptance resulting from the negotiated modifications to the program.

3. Preliminary Findings by May 1, 2003: Initial findings regarding the effects of TOU pricing.

4. Final Report and Recommendations by July 1 2003:

Conclusions regarding the observed effects of TOU pricing; the implications of those conclusions for the expected effects of TOU pricing during periods of wholesale price stability and wholesale price instability; and recommendations regarding whether or not the program should continue in its current form, in an amended form, or be discontinued.⁸

35 Finally, we turn to paragraph 6 of the TOU Issue Agreement. Specifically, the final sentence of this paragraph states:

Additionally, in any public statements PSE makes regarding its pilot program, PSE will acknowledge that the scope and extent of environmental or conservation benefits (if any) resulting from its pilot program have yet to be determined and are still being evaluated.

The parties did not intend the prohibition on public statements concerning the pilot time-of-use program to be this restrictive, and we find the sentence to be unnecessarily over-reaching. *TR. 2088-96 (colloquy with counsel)*. Accordingly, we strike this sentence from the Settlement Stipulation.

36 **Exhibit F: Conservation.** The Settlement Stipulation does not specify what particular conservation programs will be implemented, or the cost of those programs. It does establish a commitment by the parties to establish a formal Advisory Committee and for PSE to develop a conservation plan and file with us the full details of that plan and related budgets by August 1, 2002. The response to Bench Request No. B.7. states:

⁸ Should the collaborative be unable to reach consensus on either the program's effect or recommendations for the program's future, the commission would accept majority/minority reports.

The August 1, 2002 filing will include program descriptions, projected budgets, estimated savings and revised tariffs. Detailed evaluation plans are not expected to be included in the August 1, 2002 filing. However, such plans will be developed in conjunction with the Conservation Advisory Committee and are expected to be finalized by October 31, 2002. The schedule for filing evaluation results will be included in those evaluation plans.

37 Conservation is an important resource available to the Company for meeting its load-service obligations efficiently and at lowest cost. However, the evaluation of the Company's conservation programs for actual performance (*e.g.*, measured or reasonably estimated savings, the associated costs, and the calculation of cost-effectiveness relative to the agreed-upon avoided costs) is a very important measure of the Company's conservation efforts. We will require that the conservation program evaluation plans be filed for Commission Staff review no later than November 29, 2002. The program evaluation plans should include, at a minimum, the research design for establishing program savings and costs, and the method for calculating cost-effectiveness.

38 **Exhibit I: Relocation and Underground Conversions.** The Settlement Stipulation would completely replace existing Tariff Schedules 70 and 71 with new Tariff Schedules that are fundamentally different both conceptually and substantively. Current Schedule 70 provides terms and conditions for conversion of overhead distribution systems serving residential single phase loads. Current Schedule 71 provides terms and conditions for commercial and three phase loads. *Exhibit No. 530 at 1-2.* While those descriptions are, in part, the subject of ongoing litigation,⁹ the important point here is that the new Schedules proposed via the Settlement

⁹ In *City of Kent v. WUTC* (Thurston County No. 02-2-00774-8) and *Cities of Auburn, et al. v. WUTC* (Thurston County No. 02-2-00341-6), the respective cities have appealed the Commissions Third Supplemental Order (January 28, 2002) in the consolidated matters styled *City of Kent v. PSE*, Docket No. UE-010778, and *Cities of Auburn, Bremerton, Des Moines, Federal Way, Lakewood, Renton, SeaTac, and Tukwila v. PSE*, Docket No. UE-010911. These two appeals would be dismissed with prejudice following a Commission order approving the Settlement Stipulation and the expiration of the statutory appeals period applicable to that order. In *City of SeaTac v. WUTC* (King County No. 02-2-03746-1 KNT) and *City of Clyde Hill v. WUTC* (King County No. 02-2-07014-1 SEA), the respective cities have appealed the Commissions Third Supplemental Order (January 28, 2002) in the consolidated matters styled *City of SeaTac v. PSE*, Docket No. UE-010778, and *City of Clyde Hill v. PSE*, Docket No. UE-010911. The Settlement Stipulation makes no provision for the disposition of these appeals.

Stipulation abandon the operative distinctions based on the type of facilities covered in favor of distinctions based on the nature of the entity that requests underground conversion. As Ms. Harris testified:

The proposed new Schedule 71 will provide terms and conditions for underground conversions *when the conversion customer is a government entity* (i.e., municipalities or counties), whether or not the conversion is commercial, residential, three-phase or single-phase. The proposed new Schedule 70 will provide terms and conditions for all such underground conversions of overhead distribution when the conversion customer is *not* a government entity.

Exhibit No. 531 at 2.

39 In light of the conceptually different bases for the old and new Schedules, we think it advisable, in order to avoid confusion, to provide the new Tariff schedules with new numbers.

40 ***Commission Decision:*** We find that the Settlement Stipulation, taken as a whole, and modified, clarified, and conditioned as we have directed, strikes an appropriate balance among the broad range of interests and issues represented in this proceeding. The parties provided extensive testimony concerning the details of the proposed settlement and expressed their collective view that the proposed resolutions of the issues addressed by the Settlement Stipulation are in the public interest. This testimony provides a solid record on the basis of which we find that the Settlement Stipulation results in rates that are fair, just and reasonable, and is, in all other respects, in the public interest. Accordingly, we approve the Settlement Stipulation and adopt it with the modifications, clarifications, and conditions we have stated, as the full and final resolution of the issues pending in Docket No. UE-011570 and for those issues resolved by the Settlement Stipulation that are pending in Docket No. UG-011571.

FINDINGS OF FACT

41 Having discussed above all matters material to our decision, and having stated general findings, the Commission now makes the following summary findings of fact.

Those portions of the preceding discussion that include findings pertaining to the Commission's ultimate decisions are incorporated by this reference.

- 42 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including electric companies.
- 43 (2) Puget Sound Energy, Inc., is a "public service company" and an "electrical company" as those terms are defined in RCW 80.04.010, and as those terms otherwise may be used in Title 80 RCW. Puget Sound Energy, Inc., is engaged in Washington State in the business of supplying utility services and commodities to the public for compensation.
- 44 (3) Puget Sound Energy, Inc., filed on November 26, 2001, certain tariff revisions that were suspended by Commission Orders entered in Docket Nos. UE-011570 and UG-011571 on December 12, 2001. The general rates proposed by Puget Sound Energy, Inc.'s, as-filed tariff revisions are the principal subject matter of the Commission's inquiry in these proceedings. We find that the rates proposed by tariff revisions filed by Puget Sound Energy, Inc., on November 26, 2001, and suspended by prior Commission order, are not just, fair, or reasonable
- 45 (4) Puget Sound Energy, Inc., on behalf of itself and other parties to this proceeding, filed a proposed Settlement Stipulation on June 6, 2002.
- 46 (5) The existing rates for electric service provided in Washington State by Puget Sound Energy, Inc., are insufficient to yield reasonable compensation for the service rendered. Puget Sound Energy, Inc., requires prospective relief with respect to the rates it charges for electric service provided in Washington State.
- 47 (6) The rates, terms, and conditions of service that result from adoption of the Settlement Stipulation that is attached to this Order as Appendix A and incorporated into the body of this Order as if set forth in full, subject to the

modifications, clarifications, and conditions stated in the body of this Order, are fair, just, reasonable, and sufficient.

- 48 (7) The rates, terms, and conditions of service that result from adoption of the Settlement Stipulation, modified, clarified, and conditioned as stated in the body of this Order, are neither unduly preferential nor discriminatory.
- 49 (8) The Settlement Stipulation, considered as a whole, and as modified, clarified, and conditioned in its individual parts as discussed in the body of this Order, is in the public interest.

CONCLUSIONS OF LAW

50 Having discussed above in detail all matters material to our decision, and having stated general findings and conclusions, the Commission now makes the following summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the Commission's ultimate decisions are incorporated by this reference.

- 51 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, this proceedings. *Title 80 RCW.*
- 52 (2) The rates proposed by tariff revisions filed by Puget Sound Energy, Inc., on November 26, 2001, and suspended by prior Commission order, are not just, fair, or reasonable and should be rejected. *RCW 80.28.010.*
- 53 (3) The existing rates for electric service provided in Washington State by Puget Sound Energy, Inc., are insufficient to yield reasonable compensation for the service rendered. *RCW 80.28.010; RCW 80.28.020.*
- 54 (4) Puget Sound Energy, Inc., requires relief with respect to the rates it charges for electric service provided in Washington State. *RCW 80.01.040; RCW 80.28.060.*
- 55 (5) The Commission must determine the fair, just, reasonable, and sufficient rates to be observed and in force under Puget Sound Energy, Inc.'s, tariffs that

govern its rates, terms, and conditions of service for providing electricity and natural gas to customers in Washington State. *RCW 80.28.020*.

- 56 (6) The Settlement Stipulation filed by the parties on June 6, 2002, which is attached to this Order as Appendix A and incorporated by reference as if set forth in full in the body of this Order, considered as a whole, and as modified, clarified, and conditioned in the body of this Order, is in the public interest. The Settlement Stipulation should be approved and adopted by the Commission as a reasonable resolution of the issues presented by its terms. *WAC 480-09-465; WAC 480-090-466*.
- 57 (7) The rates, terms, and conditions of service that result from this Order are fair, just, reasonable, and sufficient. *RCW 80.28.010; RCW 80.28.020*.
- 58 (8) The rates, terms, and conditions of service that result from this Order are neither unduly preferential nor discriminatory. *RCW 80.28.020*.
- 59 (9) The Commission's prior orders in this proceeding, and in any related proceedings discussed in the body of this Order, should be amended to the extent necessary, or rescinded to the extent required, to effectuate the provisions of this Order. *RCW 80.04.210; WAC 480-09-815*.
- 60 (10) The Commission Secretary should be authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order. *WAC 480-09-340*.
- 61 (11) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order. *Title 80 RCW*.

ORDER

- 62 (1) THE COMMISSION ORDERS That the proposed tariff revisions filed by Puget Sound Energy, Inc., on November 26, 2001, and suspended by prior Commission order, are rejected.

- 63 (2) THE COMMISSION ORDERS FURTHER That the Settlement Stipulation filed by the parties on June 6, 2002, which is attached to this Order as Appendix A and incorporated by reference as if set forth in full in the body of this Order, is approved and adopted as a full and final resolution of this general rate proceeding, subject to the clarifications, modifications, and conditions stated in the body of this Order.
- 64 (3) THE COMMISSION ORDERS FURTHER That Puget Sound Energy, Inc., is authorized and required to file tariff sheets following the effective date of this Order that are necessary and sufficient to effectuate its terms. The required tariff sheets shall bear an effective date of July 1, 2002.
- 65 (4) THE COMMISSION ORDERS FURTHER That the Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order.
- 66 (5) THE COMMISSION ORDERS FURTHER That it retains jurisdiction over the subject matter and the parties to effectuate the provisions of this Order.

DATED at Olympia, Washington, and effective this 20th day of June 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission with respect to certain issues resolved. 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 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).

APPENDIX A
SETTLEMENT STIPULATION