

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

BELLINGHAM COLD STORAGE
COMPANY and GEORGIA-PACIFIC WEST,
INC.,

Complainants,

v.

PUGET SOUND ENERGY, INC.,
Respondent.

NO. UE-001014

NO. UE-000735

PUGET SOUND ENERGY, INC.'S
ANSWER TO COMPLAINANTS'
MOTION TO SUSPEND
PROCEDURAL SCHEDULE
IMMEDIATELY

Puget Sound Energy, Inc. ("PSE") answers in opposition to the above-referenced motion ("Motion") as follows:

1. On July 31, 2000, the Commission issued an order in this proceeding directing PSE and the Complainants to "enter or continue good faith negotiations." *Order Directing Parties to Negotiate; Denying Motion, UE-001014 (July 31, 2000), p. 11*. In prompt response to this decision, PSE sent a letter to Bellingham Cold Storage Company and Georgia-Pacific West, Inc. (collectively "Complainants"), indicating that PSE was eager to "resume negotiations with Complainants." This letter is referred to in Complainants' Motion, and a copy of this letter is attached as Exhibit A.

2. Complainants' Motion states a desire to "accept the invitation" to resume negotiations. *Motion, p. 1*. Complainants' Motion also unequivocally states that "Complainants are prepared to do so." *Motion, p. 1*. As such, no further action by the Commission is necessary to enable the parties to comply with the Commission's July 31, 2000 order.

3. Complainants offer no factual or legal basis to support the Motion to suspend the schedule in this proceeding. The Commission has set the schedule and Complainants offer no precedent or supporting affidavits to justify the relief Complainants seek. Complainants say nothing more than "it being apparent that the full energies of the parties will be necessary to resolve differences" it therefore "seems logical to suggest a complete focus on negotiations rather than case-building." *Motion, p. 1*.

4. PSE has been and continues to be ready and able to work diligently to resolve differences. As noted in the Affidavit of William A. Gaines attached to PSE's *Answer to Complainants' Emergency Motion For Implementation of Optimal Price Stability*, filed with the

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PROCEDURAL SCHEDULE IMMEDIATELY- 1**

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Commission on July 27, 2000, PSE has and continues to make every effort to pursue *good faith* negotiations with Complainants. The Commission's July 31, 2000 order has rejuvenated this effort as a bilateral process. This is a positive development, and one which PSE believes is largely attributable to the Commission's July 31, 2000 Order and the clear benchmarks for dispute resolution established by the Commission in its Pre-Hearing Order.

5. It would be unwise to now suspend the very schedule that is driving the parties to resolve their differences. Staying on schedule to resolve an adjudication that the *Complainants initiated* is not now and never has been a mutually exclusive alternative to negotiation. It is axiomatic in resolving disputes that deadlines drive compromise and promote settlement. Any and all objections to this schedule have previously been raised, addressed by the Commission, and in PSE's instance, a request for a time extension to respond to Complainants' motion for emergency relief has been denied.

6. It would also be unfair to suspend the schedule for this proceeding. Complainants cannot now be credibly heard to complain that they lack resources to pursue a schedule in proceeding that is *less aggressive* than the schedule that they proposed at the Pre-Hearing Conference. *Prehearing Conference Order, ¶ 9, p. 3*. Subsequent to the Pre-Hearing Conference, Complainants have brought and argued an emergency motion, have served two data requests on PSE, have filed another motion objecting to PSE's responses to the initial data request, and now bring this Motion. It is quite apparent that Complainants expect everyone else in this proceeding to work day and night to meet their demands. Complainants should be held to the schedule in this proceeding, which is less aggressive than the schedule that they proposed.

7. The schedule Complainants seek to upset is a schedule that was put in place in response to Complainants' allegations that an emergency required expedited proceedings. Certainly, if "an emergency" of the nature Complainants have alleged truly existed, one would expect Complainants to pursue every opportunity to resolve this dispute on all fronts. Has the "emergency" gone away? Perhaps this Motion should be heard as a motion to allow these proceedings to continue along a more normal schedule, after the Commission has addressed pending dispositive motions. With all due respect to Complainants, Complainants' actions in this proceeding are not comporting with Complainants' words.

8. The timing of Complainants' motion to suspend schedule is also suspect. It comes two days before Complainants' response to dispositive motions is due, and two days before their response to PSE's initial discovery requests are due. Requiring Complainants to respond to PSE's dispositive motions, and the Commission's ruling on such motions, is a very effective way to continue to encourage the parties to negotiate by narrowing and focusing the issues that divide them.

9. The Commission, PSE and other parties to this proceeding have committed substantial resources to meeting the schedule demanded by Complainants. To upset this schedule would also be offensive to judicial economy. Without the incentive to Complainants to resolve this dispute that is provided by this proceeding, PSE believes that, just like allegations of "emergency," Complainants will once again assert "impasse," leaving no time to proceed on

the original schedule (which is already very aggressive), forcing the Commission, PSE and other parties to once again reorder their business and priorities to suit Complainants.

10. Had Complainants believed that their desire for expedited schedule precluded meaningful negotiations, they should have raised this issue at the Pre-hearing Conference. An assertion at the Pre-hearing Conference by the Complainants that their scheduling demands precluded any meaningful opportunity to negotiate might have caused the Commission pause in approving the schedule we are now all working under. However, no such statements were ever made, the unsubstantiated allegations in Complainants' Motion fall short of demonstrating such inability, and Complainants' aggressive pursuit of this litigation does not comport with such unsubstantiated claims of being too busy. Complainants' Motion should be denied and the schedule be maintained as a means to ensure that the parties continue to negotiate in good faith, facing benchmarks that will either result in the Commission's settlement or otherwise result in full and final disposition of this matter.

DATED this ____th day of August 2000.

PERKINS COIE LLP

By

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Attorneys for Puget Sound Energy, Inc.

CERTIFICATE OF SERVICE

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I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, via facsimile and by mailing with postage prepaid to:

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Dated at _____, Washington, this _____ day of _____, 2000.

Suzanne Katz