

[Service Date July 29, 2002]

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET NO. UE-011570 and
)	UG-011571 (consolidated)
Complainant,)	
)	
v.)	THIRTEENTH SUPPLEMENTAL
)	ORDER: CLARIFYING PROCESS;
PUGET SOUND ENERGY, INC.,)	AUTHORIZING PARTIES TO FILE
)	SURREBUTTAL TESTIMONY;
Respondent.)	REQUIRING SUBMISSION BY PUGET
)	SOUND ENERGY, INC.
.....)	

MEMORANDUM

1 **PROCEEDINGS:** This proceeding concerns a general rate case filing by Puget Sound Energy, Inc. (PSE or the Company) by which the Company seeks permanent increases in both electric and gas rates. The Commission, by prior orders, has approved several settlement stipulations that have resolved all issues related to electric rates, and some issues related to gas rates. The unresolved issues concerning gas rates remain subject to further litigation on a previously established schedule.

2 **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 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 (Commission Staff).

3 **MOTION AND RESPONSES:** The current procedural schedule, established by the Commission’s Tenth Supplemental Order in this proceeding, provides that Commission Staff, Public Counsel, and Intervenors will file direct testimony with respect to the remaining issues by August 30, 2002. The procedural schedule also provides that PSE will file any rebuttal to such testimony on September 17, 2002, and that cross-rebuttal testimony may be filed on that date, if requested and allowed.

4 On July 15, 2002 the Northwest Industrial Gas Users filed their Motion for Leave To File Cross-Rebuttal Testimony. Seattle Steam joined the Motion by a separate filing. NWIGU and Seattle Steam argue that pre-filed cross-rebuttal testimony will promote the efficient use of hearing time before the Commissioners by reducing the time necessary for cross-examination and will result in a more thoroughly developed record. Seattle Steam adds that, for its part, it intervened in this proceeding to support the position PSE takes in its initial testimony in this case with respect to rate design and rate spread. Seattle Steam states that if PSE’s position remains unchanged on

these issues, Seattle Steam should have the opportunity to file testimony to rebut testimony that may be filed by other parties challenging PSE's original testimony.

5 Commission Staff filed a letter with the Commission on July 16, 2002, requesting that the Commission wait until after Staff, Public Counsel, and intervenors file their testimony and exhibits on August 30, 2002, to determine whether cross-rebuttal testimony will be permitted. Staff argues that all points the parties would address through cross-rebuttal testimony may be addressed in their direct cases. According to Staff, cross-rebuttal, therefore, would be "duplicative, inefficient, and a waste of valuable resources." This argument appears to be based on the concept that the opportunity to file direct testimony on August 30, 2002, includes the opportunity to file testimony supporting PSE's position. Indeed, Staff argues that if a party does not present its position through testimony on August 30, 2002, it should not be allowed to file cross-rebuttal.

6 Public Counsel filed its Answer to the pending Motion on July 22, 2002. Public Counsel makes essentially the same arguments as Commission Staff.

7 It appears that the parties may have different concepts concerning the purposes of the direct testimony scheduled for filing by August 30, 2002, and the cross-rebuttal testimony to be filed by September 17, 2002, as authorized in the ordering paragraphs below. This is understandable, in that the Commission's Tenth Supplemental Order does not use any term of art or otherwise elaborate on the nature of the testimony to be filed by August 30, 2002, describing it only as the date for "Staff, Public Counsel and Intervenor Direct." We provide clarification and guidance to the parties concerning what is expected, and what is permitted, in our ordering paragraphs below.

8 Given concerns expressed by Commission Staff in its letter of July 16, 2002, we express our confidence that all parties recognize the importance of an efficient and focused inquiry. The parties in this proceeding have consistently demonstrated a high degree of sophistication and professionalism, and we expect that will be evident in the decisions they make concerning whether to prepare and prefile testimony on August 30, 2002. We also expect their decisions whether to file cross-rebuttal will be informed by the substance of the testimony filed on August 30, 2002, and that such cross-rebuttal testimony as is filed, if any, will be properly limited in scope and aimed at promoting efficient use of the parties' and the Commission's resources.

9 Public Counsel states in its Answer that the parties are still engaged in settlement negotiations through July 31, 2002, pursuant to the schedule adopted in our Tenth Supplemental Order. If the parties have not achieved a settlement in principle by that date, the remaining disputed issues presumably will go to hearing. To further promote efficient use of the parties' and the Commission's resources, we require below that PSE will provide guidance to the parties and to the Commission concerning the prefiled testimony and exhibits it intends to rely on during this phase of these proceedings.

ORDER

10 THE COMMISSION ORDERS That:

- 1) August 30, 2002, is the opportunity for Commission Staff, Public Counsel, and all Intervenors who wish to present a witness in support of, or opposed to, PSE's positions concerning the unresolved issues in this proceeding to prefile direct testimony in support of their respective positions; and
- 2) September 17, 2002, is the opportunity for PSE to file its rebuttal to any testimony adverse to its positions as articulated by its witnesses in their prefiled direct testimony that is relevant to the issues that remain unresolved.

11 THE COMMISSION ORDERS FURTHER That NWIGU's Motion is granted. Parties whose positions are adverse to those articulated by other parties via testimony filed on August 30, 2002, may file cross-rebuttal testimony on September 17, 2002. Parties that do not prefile testimony on August 30, 2002, should not file cross-rebuttal testimony on September 17, 2002, absent express leave from the Commission to do so.

12 THE COMMISSION ORDERS FURTHER That to promote efficient use of the parties' and the Commission's resources, PSE is required to file by August 7, 2002, a list identifying all prefiled testimony and exhibits upon which it intends to rely at hearing on the remaining contested issues in this proceeding.

DATED at Olympia, Washington, and effective this 29th day of July 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS,
Administrative Law Judge