November 7, 2001

VIA EMAIL AND U.S. MAIL

Carole Washburn, Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, Washington 98504-7250

Re: UE-011442 and UE-010410, PSE Conservation Incentive Credit

Dear Ms. Washburn:

Public Counsel offers these comments on Puget Sound Energy's petition for an accounting order, Docket No. UE-010410, and the tariff changes filed to reduce the conservation incentive credit (CIC) from 5 cents/kWh, Docket No. UE-011442. We oppose the imposition of any deferral mechanism and recommend the Commission deny PSE's request to modify the accounting petition in UE-010410. We do not oppose the company's request to change the tariffs to reduce the amount of the CIC.

We believe approval of the company's request for an accounting order would result in retroactive ratemaking, and for that reason should be dismissed. The lawful rate included in a Commission-approved tariff was a 5-cent/kWh credit, and conspicuously did not include a surcharge to recover the credit. At the time the credit was put in place, customers received no information from the company that they might be liable to repay the credit, a portion of the credit, or indeed more money than they received from the credit.

Even if Puget were able to overcome this legal hurdle, the deferral proposal it makes is seriously flawed in three ways and would deserve denial by the Commission on the merits. First, PSE proposes to change the fundamental allocation of benefits and risks from the CIC by shifting the cost burden to customers, after having captured the bulk of the benefits of selling the power saved by customers into the high wholesale markets of the spring. Indeed, Public Counsel proposed and PSE specifically rejected a shared savings mechanism, where Puget could have split the difference between the wholesale and retail rates, as a means for allocating risk and reward. Puget instead chose to offer customers a defined benefit of 5 cents/kWh, reap the rewards of a wholesale price much higher than that and accept the risk the wholesale price would decline.

Second, Puget proposes to recover "lost revenues" in its deferral methodology, a significant departure from WUTC precedent with implications for all of the demand-side management programs run by jurisdictional utilities. Such a policy change should not be adopted without the opportunity for interested parties to provide the Commission with a reasonable record on which it could base such a substantive decision. Even if the Commission entertains such a notion in this proceeding, the proposal the company makes is flawed. It fails to recognize that PSE does not "lose" the variable portion of the retail rate, it instead recovers that variable cost when it runs the plant for sale into the market (or it does not incur the variable cost if the plant does not operate).

Finally, PSE proposes to recover the costs of a program it asserts is not cost-effective. Leaving aside the question of whether the company has performed an evaluation of the program using the Commission's standards for demand-side programs, it is patently undesirable to allow the company to recover costs through the tariff rider that do not meet the rider's explicit requirement of cost-effectiveness.

Public Counsel does not oppose a modification of the tariff to reduce the credit below 5 cents/kWh. If indeed the program is not cost-effective, it ought to be curtailed. It was never intended to become a permanent effort, but, in our view, was a temporary response to a set of circumstances that existed at the time. Our premise was that the electric supply situation was uncertain, and the industrial curtailment programs in place at the time ought to be expanded to provide other customers with a similar incentive to reduce their demand on the system. The CIC was intended to be one component of a broader suite of strategies to save energy, such as expanding and improving existing demand-side management efforts. We continue to believe improvements in PSE’s programs are warranted, and suggest that they are even more timely if the company chooses to eliminate the CIC.

Thank you for your consideration of these comments. I intend to be available via the conference bridge for tomorrow’s open meeting.

Sincerely,

Matt Steuerwalt