

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

Re: Petition for an Order (1) Amending
Order 03 and (2) Granting an Exemption
From the Provisions of WAC 480-93-110(2)

DOCKET UE-030080

DOCKET UE-030128

(Consolidated)

RESPONSE ON BEHALF OF COMMISSION STAFF

**TO PUGET SOUND ENERGY, INC.'S PETITION FOR AMENDMENT OF
ORDER 03 AND WAIVER OF WAC 480-93-110(2)**

June 25, 2009

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Transportation Commission

I. OVERVIEW

1 Puget Sound Energy, Inc. (“PSE” or “Company”) asks the Commission to amend its Order 03¹ to extend the deadline for completing the work related to the Isolated Facilities Program. The Commission approved that program in its Order 02.² PSE also asks the Commission to grant a waiver of WAC 480-93-110(2) for repairs to limited categories of isolated facilities.

2 For the reasons discussed below, Commission Staff supports the deadline extensions PSE requests. The Commission should grant the waiver as requested, provided that PSE agrees to conduct its assessment of mobile home facilities systematically, completes that assessment by December 31, 2010, and includes a progress report in its semi-annual report for the Isolated Facilities Program. Staff also recommends the Commission clarify the terminology that is used for describing certain facilities, to avoid future misunderstandings.

II. BACKGROUND

3 In its Order 02 in these dockets, the Commission approved a Settlement Agreement that contained the “Isolated Facilities Program.” The specifics of the program are detailed in Appendix A, Part 1 of the approved Settlement Agreement.

4 As the name implies, “isolated facilities” are pipeline facilities that are electrically isolated, that is, they are not connected to any of the Company’s cathodic protection systems. As explained in the Narrative filed with the Settlement Agreement, the Isolated Facilities Program is designed to “identify and locate gaps in PSE’s corrosion protection systems, to better enable PSE to efficiently inspect, remediate if necessary, and to monitor

¹ Order 03, Order Amending Order 02, Dockets PG-030080 & 030128 (April 26, 2006).

² Order 02, Order Sustaining Complaint; Approving and Adopting Settlement Agreement, Dockets PG-030080 & 030128 (January 31, 2005).

these facilities for compliance with Commission pipeline safety rules.”³

5 The Isolated Facilities Program has a July 1, 2009, completion deadline.⁴ Assuming
PSE’s failure constitutes substantial non-compliance with the Settlement Agreement, PSE is
at risk to pay the \$150,000 remaining suspended penalty,⁵ among other possible sanctions.
Staff is not recommending any penalty at this time.

III. PSE’S PETITION

6 In its Petition, PSE states that it has completed 98 percent of the Isolated Facilities
Program, by locating most of the isolated facilities and conducting any required
remediation.⁶ According to PSE, the facilities which remain were “not anticipated in the
original estimate of work,” nor did PSE anticipate the complexity of some locations and
remediations.⁷

7 For these reasons, PSE seeks a December 31, 2010, deadline for isolated facilities
consisting of riser inspections (including “EUFs” and unmetered risers), mains, casings,
railroad and highway casings, stubs, quality controls, combination services, mapping
corrections, and certain above ground regulators, and a December 31, 2014, deadline for
service casings, mobile home park “buried fuel lines,” and certain sidewalk regulators.⁸

8 PSE also seeks a waiver of WAC 480-93-110(2), which states:

(2) Each gas pipeline company must complete remedial action within ninety
days to correct any cathodic protection deficiencies known and indicated by
any test, survey, or inspection. An additional thirty days may be allowed for

³ Narrative Supporting Settlement Agreement, filed in Dockets PG-020080& 030128 (January 19, 2005) at 5-6, ¶ 15.

⁴ “Isolated Facilities Program” (contained in Appendix B, Part 1 of the approved Settlement Agreement) at 4, § 10, 3rd ¶: “In no event will the program be completed later than July 1, 2009.”

⁵ Settlement Agreement at 4, § 20 (PSE has completed the SAP enhancements, which, per the Settlement Agreement, reduced the \$200,000 suspended penalty by \$50,000).

⁶ Petition at 3, ¶¶ 8-9.

⁷ Petition at 4, ¶ 10.

⁸ Petition at 5, ¶ 11.

remedial action if due to circumstances beyond the gas pipeline company's control the company cannot complete remedial action within ninety days. Each gas pipeline company must be able to provide documentation to the commission indicating that remedial action was started in a timely manner and that all efforts were made to complete remedial action within ninety days. (Examples of circumstances allowing each gas pipeline company to exceed the ninety-day time frame include right of way permitting issues, availability of repair materials, or unusually long investigation or repair requirements.)

9 A waiver of WAC 480-93-110(2) would permit PSE to avoid the requirement that a gas pipeline company remediate within 90-120 days any gas pipeline facilities that do not comply with Commission pipeline safety rules related to cathodic protection of pipelines. PSE proposes the following mitigation measures: 1) The waiver applies only to mobile home park “extended service,” and certain above ground and sidewalk regulators; 2) PSE will conduct leak surveys semi-annually for certain locations, where PSE has not performed a cathodic protection (CP) assessment, or where the CP reading is below the level required by WAC 480-93-110(1); and 3) PSE will prioritize repairs/remediation based on the conditions discovered.⁹

10 PSE says that repairs to these types of facilities cannot reasonably be completed within the time limits contained in the rule, and a waiver would promote “thorough investigation and careful remediation.”¹⁰

IV. DISCUSSION

11 *Need Clarity in Facilities Descriptions.* The terminology PSE uses in its Petition is not as clear as it needs to be, in order to prevent future misunderstandings about the scope and nature of the task ahead. For example, PSE wants to include the term “EUF” in Section 10.1 of the Isolated Facilities Program (on page 5 of Appendix B, Part 1 of the Settlement

⁹ Petition at 7-8, ¶ 17.

¹⁰ Petition at 7, ¶ 16.

Agreement). “EUF” stands for “extended utility facility.”¹¹ Staff understands this term to simply mean a service line or main line downstream from a meter. For example, the Company may place a meter relatively far away from the customer premise, and extend additional service line pipe to the premise, and connect to customer-owned pipe there. The term “EUF” is a PSE term; it is not found in Commission rules or the Code of Federal Regulations adopted therein.

12 Another example of a definitional issue is PSE’s use of the term “mobile home buried fuel lines” in its deadline extension request,¹² and the term mobile home park “extended service” in its rule waiver request.¹³ Staff’s understands these terms to refer to the same types of facilities: mains or service lines as defined in Commission rules.

13 Accordingly, Staff recommends that the Commission note in its order that the terms “EUF”, “buried fuel lines,” and “extended services” refer to mains or service lines as defined in Commission rules.¹⁴

14 *Program Completion Deadlines.* The Isolated Facilities Program was established in 2005, in part to address Staff’s concerns that PSE has metallic pipeline facilities that are not cathodically protected. These facilities are isolated from PSE’s normal cathodic protection systems. The Isolated Facilities Program calls for PSE to locate these facilities and provide any needed protection or remediation.

¹¹ Petition at 4, ¶ 11.

¹² Petition at 5, ¶ 11.

¹³ Petition at 7-8, ¶ 17.

¹⁴ In WAC 480-93-999(1) the Commission has adopted, in part, 49 C.F.R. Part 192. 49 C.F.R. § 192.3 defines “main” as “a distribution line that serves as a common source of supply for more than one service line,” and it defines “service line” as “a distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer’s piping, whichever is further downstream, or at the connection to customer piping if there is no meter.”

15 Since the Isolated Facilities Program began, Staff has reviewed PSE’s periodic status reports on the program, met with the Company from time-to-time about progress on the program and included discussion of the program’s progress in regular monthly meetings that are held with PSE to discuss pipeline safety and compliance issues. In addition, through compliance audits, Staff has located isolated facilities that PSE itself did not locate, and PSE has incorporated this information into the program. Through these meetings and other interactions, Staff has kept informed of PSE’s progress. Late last year, Staff became aware of the difficulties PSE was having meeting the July 1, 2009, deadline.

16 Based on Staff’s experience with the program to date, Staff believes the problems PSE itemizes are valid. While it is within the realm of the possible that PSE could have completed the Isolated Facilities Program by the current deadline, PSE has expended considerable resources on the program and has periodically provided Staff appropriately detailed program information on a timely basis. PSE’s proposed deadlines appropriately distinguish between types of facilities, so this is a refined proposal, not “one size fits all.” Therefore, Staff supports PSE’s request to extend the deadlines.

17 However, the Commission should make it clear that these deadlines are firm and PSE will not seek to extend them further. The exception is for Above Ground Regulators discussed by PSE in its Petition, Exhibit B, page 12. PSE proposes a December 31, 2010 deadline for completing the assessment for these facilities, but offers no deadline for remediation. The Commission should require a December 31, 2014 deadline for remediation of these facilities, with the understanding that PSE may need to seek an extension based on the conditions it finds in its assessment. This is the exception to the “no further deadline extension” condition Staff seeks. The exception is reasonable because PSE

does not know what conditions it needs to address until it conducts the assessment. This exception is not required for the mobile home park facilities because those facilities are less complex.

18 *Waiver of UTC Rules.* PSE correctly states the Commission’s standard for rule waivers: The waiver must be “consistent with the public interest, the purpose of the underlying regulation and applicable statutes.”¹⁵

19 The purpose of the 90-day mitigation requirement in WAC 480-93-110(2) is to assure prompt attention to a safety non-compliance situation. Some of these facilities are near people’s residences.

20 Therefore, Staff recommends the Commission grant the waiver PSE requests, provided that PSE conduct a systematic assessment of the mobile home park facilities to be completed on or before December 31, 2010, and that PSE include a report on its progress under the waiver in its semi-annual report to the Commission for the Isolated Facilities Program. The other conditions PSE proposes (semi-annual leak surveys and prioritization of repairs/remediation) are acceptable. Staff notes that there is no waiver of Commission rules for addressing any leaks that PSE may find in its assessment.

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¹⁵ Petition at 6, ¶ 14, quoting WAC 480-07-110.

V. CONCLUSIONS

21 For the reasons stated above, the Commission should grant PSE's Petition to change the deadlines for completing the Isolated Facilities Program, and for a waiver of WAC 480-93-110(2), under the conditions recommended above.

DATED this 25th day of June, 2009.

Respectfully Submitted,

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