

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY, INC.

Respondent.

DOCKET NO. UE-060266

DOCKET NO. UG-060267

JOINT MOTION OF
COMMISSION STAFF, PUBLIC
COUNSEL, THE NORTHWEST
INDUSTRIAL GAS USERS, AND
THE KROGER COMPANY FOR
PERMISSION TO FILE
SURREBUTTAL TESTIMONY

I. IDENTITY OF MOVING PARTIES

I This Joint Motion is filed by the Staff of the Washington Utilities and Transportation Commission, the Public Counsel Section of the Attorney General's Office, the Northwest Industrial Gas Users Association, and The Kroger Company (collectively, "the Moving Parties"). Staff is represented by Robert D. Cedarbaum, Senior Counsel, 1400 S Evergreen Park Drive SW, Olympia, Washington, 98504. Public Counsel is represented by Simon J. ffitch, Assistant Attorney General, 900 Fourth Avenue, Suite 2000, Seattle, Washington, 98164. The Northwest Industrial Gas Users is represented by Edward A. Finklea, Attorney at Law, 1001 Southwest Fifth Avenue, Suite 2000, Portland, Oregon, 97204. The Kroger Company is represented by Michael L. Kurtz, Attorney at Law, 36 East Seventh Street, Suite 1510, Cincinnati, Ohio, 45202.

II. STATEMENT OF RELIEF REQUESTED

2 Pursuant to WAC 480-07-375(1)(d), the Moving Parties request permission to submit the surrebuttal testimony of James M. Russell. Mr. Russell's testimony is limited to the proposal of Puget Sound Energy, Inc. ("PSE" or "the Company") for a "known and measurable" adjustment for transmission and distribution plant added to rate base since September 30, 2005, the end of the test year in this case.¹ PSE's proposal is offered for the first time on rebuttal as an alternative to the Depreciation Tracker requested in the Company's direct case.

III. FACTS CONSTITUTING THE BASIS FOR THE MOTION

3 The general rate case filed by the Company in Docket Nos. UE-060266 and UG-060267 was submitted to the Commission on February 15, 2006. That filing included a request for a tracker mechanism to recover the incremental depreciation expense associated with the Company's investments in electric and natural gas transmission and distribution plant.² Details regarding this "Depreciation Tracker" appeared throughout the Company's direct testimony and exhibits that accompanied the initial filing.³

4 The Moving Parties engaged in extensive analysis and discovery of the Company's direct testimony and exhibits, including the testimony and exhibits that pertained to the Depreciation Tracker. On July 25, 2006, the Moving Parties filed their response testimony and exhibits. Witnesses for Staff,⁴ Public Counsel,⁵ The Kroger Company,⁶ the Northwest

¹ Exhibit No. __ (JHS-19T) at 30-32 (Story).

² Exhibit No. __ (JHS-1T) at 67:17-68:10 (Story).

³ Exhibit No. __ (JHS-1T) at 56:6-78:8 (Story); Exhibit No. __ (JHS-10) (Story); Exhibit No. __ (JHS-11) (Story); Exhibit No. __ (JHS-12) (Story); Exhibit No. __ (JKP-1T) at 34:14-35:5 (Phelps); Exhibit No. __ (JKP-10) (Phelps); Exhibit No. __ (JAH-1T) at 43:4-44:8 (Heidell); Exhibit No. __ (JAH-8) (Heidell); Exhibit No. __ (KPK-1T) at 35:7-39:3 (Karzmar); Exhibit No. __ (KPK-6) (Karzmar); Exhibit No. __ (KPK-7) (Karzmar); Exhibit No. __ (SML-1CT) (McLain).

⁴ Exhibit No. __ (JMR-1T) at 24:11-30:9 (Russell).

⁵ Exhibit No. __ (MLB-1TC) at 23:4-31:1 (Brosch).

Industrial Gas Users,⁷ and the Federal Executive Agencies⁸ opposed the Company's Depreciation Tracker.

5 On August 23, 2006, the Company filed its rebuttal testimony and exhibits. PSE did not withdraw the Depreciation Tracker. It proposed as an alternative an adjustment to recover the cost of post-test year transmission and distribution plant the Company claimed did not produce revenue or reduce expenses.

IV. ARGUMENT IN SUPPORT OF MOTION

6 There are several reasons supporting the request to file limited surrebuttal testimony. First, surrebuttal testimony is allowed when facts or new matters are offered for the first time by a party on rebuttal.⁹ The Company's proposed adjustment for post-test year plant additions satisfies that standard. The adjustment appears for the first time in the Company's rebuttal case and is based on facts alleged for the first time in the Company's rebuttal case.¹⁰

7 The Company may argue that the adjustment and alleged factual support are not new because they were suggested by a witness for the Federal Executive Agencies ("FEA").¹¹ However, the FEA suggestion was only briefly described and, even then, only in hypothetical terms.¹² No adjustment was actually proposed.¹³ That testimony stands in stark contrast to the Company's detailed rebuttal and very real proposed adjustment.

⁶ Exhibit No. __ (KCH-1T) at 3:5-9:14 (Higgins).

⁷ Exhibit No. __ (DWS-1T) at 2:4-4:18 (Schoenbeck).

⁸ Exhibit No. __ (RCS-1T) at 3:2-14:6 (Smith).

⁹ 75 Am Jur 2d, Trial, §377.

¹⁰ For example, Exhibit No. __ (JHS-25) (Story) is alleged to reflect the net additions (consisting of additions, retirements and transfers) of non-revenue producing transmission and distribution plant, and related depreciation expense, for the period October 2005 through June 2006. Exhibit No. __ (JHS-19T) at 31:1-32:3 (Story).

¹¹ Exhibit No. __ (KJH-3T) at 11:13-19 (Harris).

¹² Exhibit No. __ (RCS-1T) at 14-19 (Smith).

¹³ Exhibit No. __ (RCS-1T) at 18:1-7 (Smith).

8 Even in hypothetical terms, the FEA and PSE proposals are markedly different. The FEA would limit an adjustment to plant additions through December 2005,¹⁴ while the Company's proposal extends through June 2006.¹⁵ The FEA would reflect the increase in accumulated depreciation on existing transmission and distribution plant,¹⁶ while PSE does not offset increased plant with accumulated depreciation on existing plant.¹⁷ Finally, the FEA would exclude additions to capacity,¹⁸ while PSE's adjustment includes such additions.¹⁹

9 Second, PSE's new adjustment increases the Company's electric revenue deficiency by \$8.8 million and its gas revenue deficiency by \$3.5 million.²⁰ These are significant amounts on which the Moving Parties should fairly be allowed to comment. Mr. Russell's surrebuttal testimony will complete the record on this issue and, thus, assist the Commission in fulfilling its statutory duty to set rates that are fair, just, reasonable and sufficient.²¹

10 Finally, the surrebuttal testimony of Mr. Russell is attached to this motion. This will allow the Company to prepare fully for hearing without prejudice. It is the Moving Parties that will be prejudiced if Mr. Russell's surrebuttal testimony is prohibited.

11 For the reasons set forth above, the Commission should grant the request of the Moving Parties to submit the surrebuttal testimony of James M. Russell regarding the

¹⁴ Exhibit No. ___ (RCS-1T) at 14:9-13 (Smith).

¹⁵ Exhibit No. ___ (JHS-25) (Story).

¹⁶ Exhibit No. ___ (RCS-1T) at 17:8-18 (Smith).

¹⁷ Exhibit No. ___ (JHS-25) (Story).

¹⁸ Exhibit No. ___ (RCS-1T) at 16:10-11 (Smith).

¹⁹ Exhibit No. ___ (JHS-25) (Story).

²⁰ *Id.*

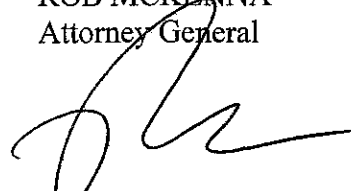
²¹ RCW 80.28.020.

Company's new adjustment for post-test year additions to transmission and distribution plant.²²

Dated this 8th day of September, 2006.

Respectfully submitted,

ROB MCKENNA
Attorney General



ROBERT D. CEDARBAUM
Senior Counsel
Counsel for Washington Utilities and
Transportation Commission Staff

²² The Company should not be allowed to respond to Mr. Russell's surrebuttal testimony either in prefiled testimony or "live" at hearing. The Company violated the limitations of rebuttal testimony in proposing its new adjustment. It should not be rewarded for that violation.