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BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

IN THE MATTER OF THE PETITION OF:

No. UE-061626

PUGET SOUND ENERGY, INC.

PUGET SOUND ENERGY, INC.'S
RESPONSE TO (1) CITY OF
TUMWATER'S MOTION TO STRIKE
PUGET SOUND ENERGY'S REPLY TO
TUMWATER'S ANSWER AND
(2) REPLY OF COMMISSION STAFF
TO PUGET SOUND ENERGY'S
MOTION FOR ORAL ARGUMENT AND
MOTION TO REPLY IN SUPPORT OF
PETITION FOR REVIEW

For a Declaratory Order on Schedule 74 and
the Schedule 74 Design Agreement Between
Puget Sound Energy, Inc. and the City of
Tumwater

On October 24, 2007, Puget Sound Energy ("PSE") submitted a Motion to Submit a Reply in Support of Petition for Review ("Motion for Reply"), seeking permission from the Washington Utilities and Transportation Commission ("Commission") to submit a reply in response to five discrete and unanticipated arguments contained in the answers of Commission Staff ("Staff") and the City of Tumwater ("City"). The City has filed a Motion to Strike PSE's Reply to Tumwater's Answer, and Staff has objected in a response.

The City argues that PSE should reasonably have anticipated each of the three arguments to which PSE has replied. The City asserts that PSE simply ignored relevant testimony from the adoption of Schedule 74, *State v. Public Utility District No. 1 of Clark*

PUGET SOUND ENERGY'S RESPONSE TO
TUMWATER'S MOTION TO STRIKE- 1

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1 *County*, 55 Wn.2d 645, 349 P.2d 426 (1960), and *Colonial Pipeline Company v. State*, 366
2 N.Y.S.2d 949, 81 Misc.2d 696 (1975). However, as pointed out in PSE's Motion for Reply,
3 whether or not PSE knew of the existence of this testimony and cases is irrelevant. PSE
4 could not reasonably be expected to respond in advance to the City's analysis of these
5 materials, which was faulty. PSE should be allowed to point out to the Commission the
6 errors in the City's analysis.
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12 Similarly, PSE could not have reasonably anticipated that Staff would reverse course
13 on a key issue in this case, and PSE should be allowed to address the full impact of that
14 decision. Finally, Staff also has made certain new arguments that are simply faulty or
15 incorrect, and PSE should be allowed to address them.
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20 Because PSE has responded only to legal arguments by the City and Staff that were
21 new and not reasonably anticipated, PSE respectfully requests that its Motion to Submit a
22 Reply in Support of Petition for Review be granted.
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26 RESPECTFULLY SUBMITTED this 31st day of October, 2007.
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29 **PERKINS COIE LLP**

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31 By: 

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PUGET SOUND ENERGY'S RESPONSE TO
TUMWATER'S MOTION TO STRIKE – 2

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