

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKETS PG-030080 & PG-030128
TRANSPORTATION COMMISSION,)	
)	ORDER 04
Complainant,)	
)	
v.)	ORDER GRANTING PETITION TO
)	AMEND ORDER 03 AND FOR
PUGET SOUND ENERGY, INC.,)	EXEMPTION FROM WAC 480-93-
)	110(2), SUBJECT TO CONDITIONS;
Respondent.)	AMENDING ORDERS 02 AND 03
)	
.....)	

BACKGROUND

- 1 **Proceeding:** Dockets PG-030080 and PG-030128 are complaints of the Washington Utilities and Transportation Commission (Commission) against Puget Sound Energy (PSE). The complaint alleged that PSE failed to comply with and violated federal and state pipeline safety regulations, and rules and orders of the Commission.

- 2 **Background:** On January 19, 2005, PSE and Commission Staff (Staff) filed a Settlement Agreement for the purpose of resolving all issues raised in the Complaint. On January 31, 2006, the Commission entered Order 02—Order Sustaining Complaint; Approving and Adopting Settlement Agreement. Appendix B to the Settlement Agreement set forth the Isolated Facilities Program to which PSE and Staff agreed as part of the settlement.

- 3 “Isolated facilities” are pipeline facilities that are electrically isolated; they are not connected to any of PSE’s cathodic protection systems, which protect against corrosion. 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 these facilities for compliance with

Commission pipeline safety rules.”¹ The company established the Isolated Facilities Program in part to address Staff’s concerns that PSE has metallic pipeline facilities that 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.

- 4 On April 12, 2006, PSE and Staff filed a Joint Motion to Amend Order 02. They asked the Commission to amend its Order to modify deadline dates for certain specific PSE reports required under that order, to the extent it prescribed deadlines for compliance with report filing deadlines for the Isolated Facilities Program and the Bare Steel Replacement Program described in the order. On April 25, 2006, the Commission granted the joint motion and entered Order 03—Order Amending Order 02.

MEMORANDUM

A. Introduction

- 5 On June 12, 2009, PSE filed a petition for an order making two requests: (1) to amend Order 03 to extend the completion date for the Isolated Facilities Program and (2) to grant an exemption from the provisions of WAC 480-93-110(2), the Commission’s corrosion control rule, to allow time to complete work identified in the Isolated Facilities Program.
- 6 On June 19, 2009, the Commission issued two bench requests to PSE to assist in the consideration of PSE’s petition. The Commission also requested a response to the petition from Staff.
- 7 PSE filed its responses to these bench requests on June 25, 2009. The same day, Staff filed its response, generally supporting the company’s petition, and recommending the Commission impose conditions on the requests to extend the completion date and grant an exemption from the corrosion control rule.

¹ Narrative Supporting Settlement Agreement, Dockets PG-030080& 030128 (January 19, 2005) at 5-6, ¶ 15.

B. PSE Petition

1. Extension of Time to Complete the Isolated Facilities Program

- 8 The Commission originally approved the Isolated Facilities Program as it appeared in Appendix B to the Settlement Agreement, incorporated by reference in Order 02. Section 10.1 of the Isolated Facilities Program currently requires PSE to complete work under the program no later than July 1, 2009. PSE states that it has completed 98 percent of the work originally identified in the Isolated Facilities Program. However, PSE has identified additional elements that expand the scope of work anticipated by PSE and Staff when the Settlement Agreement was drafted four years ago. As provided in PSE's periodic status reports to the Commission, PSE continues to expend significant time and resources in determining the location of isolated facilities and performing appropriate remediation when PSE finds isolated facilities.
- 9 PSE asks the Commission to extend the completion date for the Isolated Facilities Program to December 31, 2010, for eleven work elements and to December 31, 2014, for three work elements. Exhibit A to PSE's petition reflects the company's proposed revisions to the Isolated Facilities Program, including the revised deadlines to complete the program. Exhibit B to PSE's petition provides a status of the work completed and describes in more detail the additional work included in the proposed program revisions. The status of the work completed and the description of additional work provided in Exhibit B is consistent with the information provided in PSE's petition.
- 10 In response to the Bench Requests, PSE claims that it has thoroughly reviewed all aspects of the work within the scope of the Isolated Facilities Program and "feels confident that, to the best of all known and researched information, all remaining work has been identified."² In addition, PSE claims to be fully committed to timely completion of the program by the requested dates and promises to continue to dedicate the resources needed to successfully achieve the newly proposed deadlines.

² PSE's Response to Bench Request No. 01.

2. Exemption from WAC 480-93-110(2)

- 11 WAC 480-93-110(2) requires that PSE complete remedial action within ninety days to correct any cathodic protection deficiencies known and indicated by any test, survey, or inspection. However, PSE is unable to remediate a number of isolated facilities subject to the program within the required 90-day period due to the volume and complexity of the work and difficult local permitting requirements. Accordingly, PSE requests that the Commission grant an exemption of WAC 480-93-110(2) as allowed by WAC 480-93-230 and WAC 480-07-110. PSE's request is limited to the following categories of isolated facilities, which are detailed in Exhibit B to PSE's petition: mobile home park extended service, above-ground regulators (service piping downstream of regulators) and sidewalk regulators (service piping downstream of regulators).
- 12 The Commission may grant an exemption from the application of its rules in individual cases if consistent with the public interest, the purposes underlying regulation, and applicable statutes.³ PSE claims that applying WAC 480-93-110(2) to the additional work under the program would impose undue hardship because the work is numerous and complex, and cannot reasonably be completed in the time frame originally anticipated. PSE also claims that application of this rule to the additional work would contradict the underlying purpose of the Isolated Facilities Program and the spirit of the Settlement Agreement. Further, PSE states that applying the rule would be contrary to the public interest because it would act to restrict, rather than encourage, thorough investigation and careful remediation, which ultimately increases public safety.
- 13 PSE proposes to mitigate risk resulting from this exemption and maintain an equal or greater level of safety by conducting a leak survey twice each year at locations where either (1) PSE has not performed a cathodic protection assessment or (2) a reading has been established and is verified to be below the requirement established in WAC 480-93-110(1).

³ WAC 480-07-110.

C. Staff Position

- 14 Staff supports PSE's request to extend the deadlines, but recommends the Commission condition approval of PSE's petition and clarify certain terms in the petition. Staff became aware late last year of the difficulties PSE was having meeting the July 1, 2009, deadline. Based on Staff's experience with the program to date, Staff believes the problems itemized by PSE are valid, noting that PSE has expended considerable resources on the program and has periodically provided Staff appropriately detailed program information on a timely basis. In addition, through compliance audits, Staff has identified other isolated facilities, and PSE has incorporated this information into the program. Staff also notes that the proposal is refined, and not "one size fits all," in that the proposed deadlines appropriately distinguish between types of facilities.
- 15 Staff recommends that the Commission condition approval of the petition and revised program on ensuring that the deadlines are firm and that PSE shall not seek to extend them further.⁴ PSE proposes a December 31, 2010, deadline for completing the assessment for above-ground regulators, but offers no deadline for remediation. Therefore, Staff recommends that the Commission 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. Staff finds this exception reasonable because PSE does not know what conditions it will need to address until it conducts the assessment. Staff also finds that this exception is not required for the mobile home park facilities because those facilities are less complex.
- 16 Staff further recommends that the Commission clarify the terminology that PSE uses in its petition to describe certain facilities. Staff finds the terminology unclear and seeks clarification to prevent future misunderstandings about the scope and nature of the work ahead. The terms Staff identifies as in need of clarification are "EUF," "buried fuel lines," and "extended services." "EUF" stands for "extended utility facility." Though this term is not found in Commission rules or the Code of Federal Regulations incorporated by reference in the Commission's rules, Staff understands

⁴ However, Staff recognizes an exception to this condition for the above-ground regulators PSE discusses in its petition. *See* PSE Petition, Exhibit B, at page 12.

this term to mean a service line or main line downstream from a meter. Staff understands the terms “buried fuel lines” and “extended services” to refer to mains or service lines as defined in Commission rules. 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.⁵

- 17 Finally, Staff recommends that the Commission grant the rule exemption 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 exemption in its semi-annual report to the Commission for the Isolated Facilities Program. Furthermore, Staff finds the conditions proposed by PSE (semi-annual leak surveys and prioritization of repairs/remediation) to be acceptable.

D. Commission Decision

- 18 After reviewing PSE’s petition, the attached exhibits, Staff’s response, and the company’s response to our Bench Requests, we find reasonable the company’s proposal to modify the Isolated Facilities Program and obtain an exemption from the Commission’s corrosion control rule, if Staff’s recommended conditions apply.

- 19 The company’s request to extend the deadline to complete the Isolated Facilities Program is a result of PSE’s agreement to expand the scope of work originally anticipated in Appendix A to the Settlement Agreement, thereby increasing public safety. We conclude that extending the deadline is consistent with the public interest, the purposes underlying regulation, and applicable statutes. Extending the deadline to complete the Isolated Facilities Program encourages thorough investigation and careful remediation, which ultimately increases public safety. We agree with Staff’s recommendation that the new deadlines be firm and that PSE not seek to extend them

⁵ 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.”

further. PSE's compliance with Commission rules governing corrosion has been an issue for a number of years. Multiple extensions of the time for PSE to comply with these rules is not in the public interest, nor does it promote public safety. Therefore, we condition our grant of the petition on PSE modifying Section 10.1 of the Isolated Facilities Program, as set forth in Exhibit A to PSE's petition, attached to and incorporated by reference to this Order, to reflect that PSE must complete the work elements "no later than December 31, 2010" and "no later than December 31, 2014."

20 As the revised Isolated Facilities Program reflects that PSE will complete only its assessment of the above-ground regulators by December 31, 2010, and not remediation, we adopt Staff's recommendation that the Isolated Facilities Program reflect that PSE must complete its remediation of these facilities by December 31, 2014. As PSE will not know what conditions it must remediate until it completes its assessment, we recognize that PSE may need to seek an extension beyond the December 31, 2014, remediation deadline based on the conditions it finds in its assessment. If PSE determines after completing its assessment that it will need an extension of the December 31, 2014, remediation deadline, the Company must submit a petition for an extension of this deadline no later than June 30, 2011. We conclude that this possible exception to our "no additional extensions" condition is reasonable because the required remediation of above-ground regulators is not yet known. Furthermore, we agree with Staff's recommendation to clarify some of the key terms PSE uses in its petition. This clarification is necessary to prevent future misunderstandings about the scope and nature of the work ahead.

21 PSE's request for an exemption of WAC 480-93-110(2) would allow PSE to complete the additional work without violating Commission rules. By limiting the exemption to the facilities subject to the Isolated Facilities Program and applying Staff's recommended conditions, PSE should be able to mitigate the risk resulting from the exemption, thereby maintaining or increasing the level of safety. Therefore, PSE's petition for an exemption from the provisions of WAC 480-93-110(2) should be granted, subject to conditions.

ORDER

THE COMMISSION ORDERS:

- 22 (1) The petition of Puget Sound Energy, Inc., to amend Order 03 in Dockets PG-030080 and PG-030128, and to amend the Isolated Facilities Program approved in Order 02, as set forth in Exhibit A to PSE’s petition, attached to and incorporated by reference to this Order, is granted, subject to the following conditions:
- (a) The deadlines referenced in Section 10.1 of the Isolated Facilities Program shall reflect that “PSE will complete the work elements no later than December 31, 2010” and “no later than December 31, 2014.”
 - (b) The remediation of above-ground regulators is to be completed no later than December 31, 2014. PSE may seek to extend this deadline based on the conditions it finds in its assessment of these facilities.
 - (c) The terms “EUF,” “buried fuel lines,” and “extended services” referenced in PSE’s petition are to be considered mains or service lines as defined in 49 C.F.R. Part 192, and adopted by the Commission in WAC 480-93-999.
- 23 (2) PSE’s petition for an exemption from the provisions of WAC 480-93-110(2), limited to its application to the facilities identified in the Isolated Facilities Program set forth in Exhibit A to PSE’s petition, attached to and incorporated by reference to this Order, is granted, subject to the following conditions:
- (a) PSE must conduct a leak survey twice each year at locations where either (1) PSE has not performed a cathodic protection assessment or (2) a reading has been established and is verified to be below the requirement established in WAC 480-93-110(1);

- (b) PSE must conduct a systematic assessment of the mobile home park facilities to be completed no later than December 31, 2010; and
 - (c) PSE must include a report on its progress under the waiver in its semi-annual report to the Commission for the Isolated Facilities Program.
- 24 (3) The Commission retains jurisdiction over the subject matter and parties to this proceeding to effectuate the provisions of this Order in the protection of the public safety.

DATED at Olympia, Washington and effective July 1, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.

[Service Date July 1, 2009]

Exhibit A