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March 12, 2013

**VIA ELECTRONIC FILING**

Steven King  
Acting Executive Director and Secretary  
Washington Utilities & Transportation Commission  
1300 S. Evergreen Park Drive, S.W.  
P.O. Box 47250  
Olympia, WA 98504-7250

Re: Dockets UE-130137 and UG-130138  
Joint Comments of Public Counsel and NWIGU

Dear Mr. King:

The Public Counsel Division of the Washington Attorney General's Office ("Public Counsel"), and the Northwest Industrial Gas Users ("NWIGU") (collectively, "Joint Parties") submit this letter in response to the Washington Utilities and Transportation Commission's ("Commission") inquiry to the parties at the March 5 recessed open meeting in Dockets UE-130137 and UG-130138 ("Expedited Rate Filing"). Commission Staff and Puget Sound Energy, Inc. ("PSE") have proposed resolution of the following three dockets: UE-121373, Centralia Coal Transition Power Purchase Agreement ("Centralia"); UE-121697 and UG-121705, Proposals to Implement Decoupling Mechanisms for electric and natural gas service (the "Decoupling Petition"); and the Expedited Rate Filing docket.

**Overall Recommendation**

Joint Parties offer the following recommendation to resolve the current procedural problems arising out of the proposed global settlement between Commission Staff and PSE in the above referenced PSE dockets. The Joint Parties recommend that the Centralia case reconsideration be resolved promptly and separately on its merits. At the same time, the Expedited Rate Filing and Decoupling Petition dockets should be promptly consolidated, suspended, and set for hearing with an expeditious but reasonable schedule that includes the opportunity for settlement discussions (see discussion and recommended schedule below). In the event that any settlements are reached in the consolidated dockets, the settlements can readily be considered under the familiar process in the Commission's rules.<sup>1</sup>

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<sup>1</sup> WAC 480-07-700 to 750.

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The Expedited Rate Filing and Decoupling Petition present complex issues of first impression that are not susceptible of merely informal analysis and resolution. The Joint Parties' recommended approach of suspending these dockets is also consistent with comments previously filed by the individual Joint Parties, and the Industrial Customers of Northwest Utilities. Those prior comments indicated that the proposals in these dockets, while containing some questions of policy for the Commission, require analysis of detailed and specific underlying facts relied on by PSE,<sup>2</sup> the veracity of which the other parties must be provided an opportunity to test.

### **Response to Commission Inquiry**

At the March 5 recessed Open Meeting, the Commission requested that the parties respond to what would happen procedurally if: (a) no settlement was reached in the three proceedings; (b) a partial settlement was reached in the three proceedings; or (c) a global settlement was reached in the three proceedings. As an initial matter, Joint Parties observe that the procedural problems are solely a result of the attempted bilateral "global" approach of Commission Staff and PSE. The burden should be on those parties to explain how they would propose to address the multiple questions posed by this effort. Joint Parties do not accept the threshold premise that parties should be required to enter into "global settlement" discussions in these unrelated dockets. However, the following comments are offered in an effort to address the Commission's questions.

#### *All Party Global Settlement*

The three proceedings identified above are in vastly different phases and procedural postures. Because of those differences, there are procedural hurdles, legal issues, and timing issues that make the prospect of an all-party global settlement unlikely. In the event an all-party global settlement is reached, there is also a chance the Commission could reject one or more terms of the settlement, which may cause one or more parties to reject the settlement and request a hearing. In that event, the Commission would need to schedule a hearing in all the dockets, since parties would be returned to their litigation positions. As noted, each case would return to a different procedural status. Absent consolidation, the hearings would need to be conducted separately.

#### *No Settlement or Multiparty/Non-unanimous Settlement*

The Joint Parties' recommendation to consolidate and set for hearing the Expedited Rate Filing and the Decoupling Petition remains appropriate even if there is a bilateral or other non-unanimous settlement (for example between PSE and Commission Staff). Not every party is a participant in all three proceedings, and those parties not involved in one proceeding (or that have not agreed to a settlement in one proceeding) should not be deprived of their rights to fully participate in another proceeding. As noted, if the Expedited Rate Filing and Decoupling

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<sup>2</sup> For example, PSE's recently revised decoupling filing includes testimony of two witnesses (Ms. Barnard and Mr. Piliaris) and nineteen exhibits, filed March 1, 2013.

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Petition are consolidated and set for hearing, separate from the Centralia docket, then any settlement outcome can be dealt with normally under the Commission rules.

### **Proposed Schedule including Settlement Dates**

In conjunction with the consolidation/adjudication recommendation for the Expedited Rate Filing and Decoupling Petition, and in order to provide a process with certainty and fairness for all parties, the Joint Parties respectfully propose the following procedural schedule for adoption at a prehearing conference, including dates for all-party settlement conferences as is customarily done.<sup>3</sup>

Joint Parties believe that the review process could be completed in no more than six months, allowing any approved rates to be effective for the next heating season. This is the same timeline proposed in the Commission Staff framework outlined in Ken Elgin's testimony in PSE's 2011 general rate case. This approach allows a reasonable time for the discovery needed to make settlement conferences productive, an opportunity to respond to testimony already filed, and an evidentiary hearing if needed, both for the benefit of the Commission and the parties. A six month schedule is significantly shorter than the schedule for a general rate case, but sufficient to allow all parties to explore the merits of these two proposals, and to establish a complete record for the Commission's decision.

Joint Parties propose the following schedule for the consolidated Expedited Rate Filing and Decoupling Petition dockets:

|   |  |
|---|--|
| Prehearing Conference   | March 21 (if 10 day notice can be waived)  |
| Initial Technical/Issues Conference                           | April 4 (Staff, PSE, Joint Parties and ICNU have already agreed to meet on this date.) |
| Additional Issues/Settlement conf.                            | As agreed by parties, prior to testimony date  |
| Testimony of Joint Parties and Other Intervenors <sup>4</sup> | June 4   |
| Rebuttal/Cross Answering Testimony                            | June 18  |
| Settlement Conferences  | June 27-28   |
| Hearing   | July 16-18   |
| Post Hearing Briefs (if needed)                               | August 16  |
| Final Order (approx)  | September 18   |

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<sup>3</sup> WAC 480-07-700(3)(a).

<sup>4</sup> Staff's filing date would be determined at the prehearing conference.

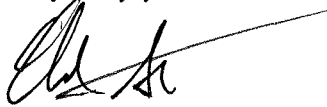
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Joint Parties understand this schedule would be subject to final approval by the Commission after input from parties at a prehearing conference. This schedule contemplates that resolution of the unrelated Centralia docket would be conducted separately from the Expedited Rate Filing and Decoupling Petition dockets.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Chad M. Stokes', with a long horizontal line extending to the right.

Chad M. Stokes

Cc: UE-130137 & UG-130138 Service Lists