

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND	)	DOCKET NO. UE-011570 and
TRANSPORTATION COMMISSION,	)	UG-011571 (consolidated)
)	
Complainant,	)	FOURTEENTH SUPPLEMENTAL
	)	ORDER: GRANTING APPLICATION
v.	)	TO AMEND TWELFTH
	)	SUPPLEMENTAL ORDER
PUGET SOUND ENERGY, INC.,)	
)	
Respondent.)	
.....)	
In the Matter of the Requested Waiver	)	DOCKET NO. UE-021447
of Statutory Notice in Connection with)	
the Tariff Revisions Filed by	)	ORDER GRANTING LESS THAN
	)	STATUTORY NOTICE AND WAIVER
Puget Sound Energy .....	)	OF WAC 480-100-194

1 **PROCEEDINGS.** On November 26, 2001, Puget Sound Energy, Inc. (“PSE” or the “Company”) filed tariff revisions designed to effectuate a general rate increase for electric and gas services. On December 3, 2001, PSE filed a request for an interim electric rate increase. These proceedings were consolidated under Docket Nos. UE-011570 and UG-011571. The Commission established procedural schedules for an interim phase (electric) hearing and general rate phase (electric and gas) hearing.

2 On June 20, 2002, the Commission approved the multi-party settlement stipulation of disputed electric and common issues in PSE's pending general rate case, Docket Nos. UE-011570 and UG-011571 in its Twelfth Supplemental Order: Rejecting Tariff Filing; Approving and Adopting Settlement Stipulation dated June 20, 2002 (“Order”).

3 On November 6, 2002, PSE filed its Application for Amendment of Rate Case Order Provisions Regarding Time-of-Use (TOU) Rates. Also on November 6, 2002, Puget Sound Energy (PSE) filed with the Commission revisions to its currently effective Tariff WN U-60, designated as Third Revised Sheet No. 307, First Revised Sheet No. 308, First Revised Sheet No. 309, and Second Revised Sheet No. 324. The purpose

of the filing is to accelerate the termination date of PSE's Time-of-Use (TOU) rates, so that the current TOU pilot program will end November 18, 2002 rather than in September 2003.

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PARTIES. Markham Quehrn and Kirstin Dodge, Perkins Coie LLP, Bellevue, Washington, represent Puget Sound Energy, Inc. John A. Cameron and Traci Kirkpatrick, Davis Wright Tremaine, represent AT&T Wireless and the Seattle Times Company. Danielle Dixon, Policy Associate, Northwest Energy Coalition, represents that organization and the Natural Resources Defense Council. Carol S. Arnold, Preston Gates Ellis, Seattle, Washington, represents Cost Management Services, Inc., and the cities of Auburn, Des Moines, Federal Way, Redmond, Renton, SeaTac, Tukwila, Bellevue, Maple Valley, and Burien ("Auburn, *et al.*"). Ron Roseman, attorney at law, Seattle, Washington, represents the Multi-Service Center, the Opportunity Council, and the Energy Project; Charles M. Eberdt, Manager, Energy Project also entered his appearance for the Energy Project; Dini Duclos, CEO, Multi-Service Center, also entered an appearance for that organization. Angela L. Olsen, Assistant City Attorney, McGavick Graves, Tacoma, Washington, represents the City of Bremerton. Donald C. Woodworth, Deputy Prosecuting Attorney, Seattle, Washington, represents King County. Melinda Davison and S. Bradley Van Cleve, Davison Van Cleve, P.C., Portland, Oregon, represent Industrial Customers of Northwest Utilities. Elaine L. Spencer and Michael Tobiason, Graham & Dunn, Seattle, Washington, represent Seattle Steam Company. Edward A. Finklea, Energy Advocates, LLP, represents the Northwest Industrial Gas Users. Donald Brookhyser, Alcantar & Kahl, Portland, Oregon, represents the Cogeneration Coalition of Washington. Michael L. Charneski, Attorney at Law, Woodinville, Washington, represents the City of Kent. Norman J. Furuta, Associate Counsel, Department of the Navy, represents the Federal Executive Agencies ("FEA"). Michael L. Kurtz, Boehm, Kurtz & Lowry, Cincinnati, Ohio, represents Kroger Company. Kirk H. Gibson and Lisa F. Rackner, Ater Wynne LLP, Portland, Oregon, represent WorldCom, Inc. Elizabeth Thomas, Preston Gates Ellis LLP, Seattle, Washington, represents Sound Transit. Harvard M. Spigal and Heather L. Grossman, Preston Gates and Ellis LLP, Portland, Oregon, represent Microsoft Corporation. Simon ffitch, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section, Office of Attorney General. Robert D. Cedarbaum, Senior Assistant

Attorney General, and Shannon Smith, Assistant Attorney General, Olympia, Washington, represent the Commission's regulatory staff (Staff).¹

5 **COMMISSION:** The Commission grants PSE's Application for Amendment of Rate Case Order Provisions Regarding Time-of-Use (TOU) Rates. The Commission grants the requested waiver of statutory notice in connection with the tariff revisions filed by PSE on November 6, 2002, and authorizes the tariff revisions to become effective on November 18, 2002. The Commission grants the requested waiver of the customer notice provisions of WAC 480-100-194.

MEMORANDUM

6 On June 20, 2002, the Commission approved the multi-party settlement stipulation of disputed electric and common issues in PSE's pending general rate case, Docket Nos. UE-011570 and UG-011571 in its Twelfth Supplemental Order: Rejecting Tariff Filing; Approving and Adopting Settlement Stipulation dated June 20, 2002 ("Order"). The Order approved and incorporated by reference Exhibit E, Settlement Terms for Time of Use (TOU). Exhibit E provided that

[PSE's] current pilot time of use (TOU) program for small consumers (residential and Schedule 24) shall be extended to September 30, 2003, to permit creation of a collaborative and to conduct a thorough evaluation of the program.

Order, Ex. E, § B.2.²

7 Customers were permitted to opt out of the TOU program, but customers remaining on the program were required to pay an additional \$1.00 per month beginning July 1, 2002, to help pay for the incremental meter reading and data handling costs of the program. An additional \$0.16/customer/month was to be recovered through higher kwh charges in the TOU rate schedules. *Id.* at §§ D.4.-5. The TOU rate differential was also adjusted. *Id.* at § E.8.

¹ In formal proceedings, such as this case, the Commission's regulatory staff (Staff) functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an "ex parte wall" separating the Commissioners, the presiding ALJ, and the Commissioners' policy and accounting advisors from all parties, including Staff. *RCW 34.05.455.*

² The pilot program for large customers (Schedules 25, 26, 31) ended on October 1, 2002. *See* Order, Ex. E, § H.14.

- 8 The Order required PSE to notify continuing participants in the program if their participation in the program was not cost effective for one or more months in a given quarter. Such notice was to provide a comparison of the customer's bill under TOU to what the customer's bill would have been under the applicable flat rate for all months during the quarter. The first quarterly information was to measure the third quarter of 2002, with notice sent to customers beginning no later than thirty days after October 1, 2002. Order, Ex. E, § F.9.
- 9 The Order further provides that at the end of the extended TOU pilot program, no later than September 30, 2003, customers are to default to service under the equivalent non-TOU tariff schedule applicable to them "[u]nless the customer requests to remain on the TOU rate schedule regardless of the personal economic consequences." Order, Ex. E, § G.13.
- 10 Exhibit E of the Order also approved a TOU collaborative process to explore issues including the cost-effectiveness and conservation impact of TOU programs. Order, Ex. E, § I.15. The Commission's Order further required that the TOU collaborative present it with four progress reports regarding the collaborative's work, beginning on November 1, 2002, and ending with a Final Report and Recommendation by July 1, 2003. Order at ¶ 34. The TOU pilot program remains an important source of information to the Commission. The Commission, for example, is keenly interested in learning whether the combination of conservation and peak shaving by customers on TOU rates resulted in lower average electricity bills than would have resulted had those customers remained on flat electricity rates. This order does not alter the analysis requirements or reporting schedule included paragraph 34 of the 12th Supplemental Order. The Commission, however, may later amend the reporting requirements to reflect changed circumstances.
- 11 The TOU collaborative began its work pursuant to the Order. On November 1, 2002, PSE filed the required Study Design report. Collaborative participants have raised serious questions about the cost-effectiveness of TOU rates as currently configured.
- 12 PSE has also recently provided the requisite notice regarding the bill impacts of the program for individual customers. In conducting its analysis for such notice, PSE determined that only six percent (6%) of customers remaining on the TOU program were paying less for their electric power than if they were taking service under the

equivalent non-TOU tariff schedule. PSE determined that ninety-four percent (94%) of customers remaining on the TOU program were paying higher electric bills than they would have paid if they had opted out of the program. On average, customers paid \$0.80 more per month than they would have if they were not on the TOU program, although some customers paid several dollars more because of their continued participation in the program.

- 13 Because nearly all of its current TOU customers are paying more under the program than they would if they were not on the program, PSE seeks through its Application and the proposed revised tariff sheets to end the TOU pilot program early, and to move remaining TOU customers to the equivalent non-TOU tariff schedule applicable to them.
- 14 To accomplish this change, PSE proposes that the expiration date for TOU rates that is set forth in the Order, Exhibit E, Sections B.2., E.8, and G.13 be amended from September 30, 2003 to November 18, 2002, and that PSE be ordered to default current TOU customers to the equivalent non-TOU tariff schedule applicable to them as of the termination of the TOU tariff schedules.
- 15 The Commission has authority to amend its Order as requested pursuant to RCW 80.04.210 and WAC 480-09-815. PSE has provided notice of its Application to the parties who executed the Settlement Terms for Time of Use (TOU), Exhibit E to the Order, and to all parties to the general rate case, Docket Nos. UE-011570 and UG-011571.
- 16 The Commission also has authority to approve the requested termination date, which provides for less than thirty-day notice, pursuant to RCW 80.28.060 and 480-80-122. PSE requests that the Commission approve the earlier termination date because doing so will reduce the bills of most of the customers who are currently taking service under the TOU tariff schedules. PSE also requests that the Commission exempt the proposed revision of the TOU tariff schedules from the notice requirements of WAC 480-100-194, pursuant to WAC 480-100-008, because such exemption is consistent with the public interest, the purposes of the underlying regulation, and applicable statutes. PSE proposes to provide notice to customers of the termination of the TOU schedules through billing inserts sent out after the Commission's approval of the termination.

17 On November 6, 2002, Puget Sound Energy (PSE) filed with the Commission revisions to its currently effective Tariff WN U-60, designated as Third Revised Sheet No. 307, First Revised Sheet No. 308, First Revised Sheet No. 309, and Second Revised Sheet No. 324. The purpose of the filing is to accelerate the termination date of PSE's Time-of-Use (TOU) rates, so that the current TOU pilot program will end November 18, 2002 rather than in September 2003. PSE also requests a waiver of the customer notice provisions of WAC 480-100-194. PSE again proposes to notify customers of the elimination of the time-of-use rates through bill inserts sent after Commission approval of the application.

18 WAC 480-80-121 requires thirty days' notice prior to the effective date of the tariff. The tariff sheets bear an inserted effective date of December 7, 2002. This date recognizes statutory notice as required. The Company requests, however, that statutory notice be waived as authorized in WAC 480-80-122, and that the revisions become effective November 18, 2002. Since the proposed tariff revisions are found to be fair, just, and reasonable, and waiver of statutory notice is consistent with the public interest, it is appropriate that the Commission grant the waivers PSE requests with an effective date of November 18, 2002.

FINDINGS OF FACT

19 Having discussed above all matters material to our decision, and having stated general findings, the Commission now makes the following summary findings of fact. Those portions of the preceding discussion that include findings pertaining to the Commission's ultimate decisions are incorporated by this reference.

20 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including electric companies.

21 (2) Puget Sound Energy, Inc., is a "public service company" and an "electrical company" as those terms are defined in RCW 80.04.010, and as those terms otherwise may be used in Title 80 RCW. Puget Sound Energy, Inc., is

engaged in Washington State in the business of supplying utility services and commodities to the public for compensation.

- 22 (3) PSE's time-of-use rates no longer are fair, just, and reasonable.
- 23 (4) PSE's tariff filing of November 6, 2002, in Advice No. 2002-26, is in the public interest and produces results that are fair, just, and reasonable.

CONCLUSIONS OF LAW

24 Having discussed above in detail all matters material to our decision, and having stated general findings and conclusions, the Commission now makes the following summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the Commission's ultimate decisions are incorporated by this reference.

- 25 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings. *Title 80 RCW.*
- 26 (2) The Commission's prior orders in Docket Nos. UE-011570/UG-011571, and in any related proceedings discussed in the body of this Order, should be amended to the extent necessary, or rescinded to the extent required, to effectuate the provisions of this Order. *RCW 80.04.210; WAC 480-09-815.*
- 27 (3) The proposed tariff revisions to PSE's WN U-60 Tariff G – (Electric Tariff), Third Revised Sheet No. 307, First Revised Sheet No. 308, Original Sheet No. 309, and Second Revised Sheet No. 324, should become effective on November 18, 2002.
- 28 (4) The Commission should grant PSE's request to waive the provisions of WAC 480-100-194.
- 29 (5) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order. *Title 80 RCW.*

ORDER

- 30 (1) THE COMMISSION ORDERS That PSE's Application for Amendment of Rate Case Order Provisions Regarding Time-of-Use (TOU) Rates is granted. The expiration date for TOU rates that is set forth in the Commission's Twelfth Supplemental Order, Exhibit E, Sections B.2., E.8, and G.13 is amended from September 30, 2003, to November 18, 2002, and that PSE is ordered to default current TOU customers to the equivalent non-TOU tariff schedule applicable to them as of the termination of the TOU tariff schedules.
- 31 (2) THE COMMISSION ORDERS FURTHER That PSE's requested waiver of statutory notice in connection with the tariff revisions it filed on November 6, 2002, is granted and the tariff revisions shall become effective on November 18, 2002.
- 32 (3) THE COMMISSION ORDERS FURTHER That it retains jurisdiction over the subject matter and the parties to effectuate the provisions of this Order.

DATED at Olympia, Washington, and effective this 15th day of November 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission with respect to certain issues resolved. 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 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).