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August 1, 2007

VIA ELECTRONIC FILING

Ms. Carole J. Washburn
Executive Secretary
Washington Utilities & Transportation Commission
133 S. Evergreen Park Drive SW
Olympia, WA 98504-7250

Re: Docket No. UE-061895: Rulemaking to Implement Initiative Measure No. 937; Puget Sound Energy, Inc's Response to 7/9/07 Comments of Public Counsel.

Dear Ms. Washburn:

In response to the Third Comments of Public Counsel dated July 9, 2007, Puget Sound Energy, Inc. ("PSE or the Company") provides the following written comments.

The Act Provides for the Recovery of Administrative Penalties and a PCORC Is an Appropriate Mechanism By Which To Seek Recovery

PSE disagrees with Public Counsel's comments that administrative penalties may not be collected in retail electric rates and that recovery may not be sought in a power cost only rate case ("PCORC").

The Energy Independence Act (the "Act") provides that the Commission shall determine whether a utility may recover administrative penalties in electric rates. RCW 19.285.060(4). Thus, Public Counsel is wrong in asserting that "[e]xisting law, policy and precedent are clear that penalty amounts may not be collected in retail electric rates." See Public Counsel Comment Letter at 6.

The June 15 Draft Rules propounded by the Commission ("Draft Rules") leave open the possibility that a utility may recover administrative penalties in rates under certain circumstances. As noted in PSE's July 9 Comment Letter, PSE believes that the Draft Rules should more specifically set forth the criteria where recovery of such penalties is permitted. However, at a minimum, the Commission should reject Public Counsel's argument that recovery of administrative penalties is prohibited by law, given that the Act expressly provides the possibility of recovery.

Further, the Draft Rules correctly recognize that because these penalties fall within the ambit of power costs, recovery can be sought in either a general rate case or a power cost only type rate proceeding. See WAC 480-109-050(5). In contrast, Public Counsel wrongly contends that recovery of administrative penalties should not be permitted in a PCORC. As PSE stated in its June 9, 2007 Comment Letter, allowing recovery of an administrative penalty when the cost of the administrative penalty is less than the prevailing cost of renewable energy credits or eligible renewable resources should be allowed. The administrative penalty would serve as a buffer should conditions be such that paying the penalty would be the least cost option for meeting the targets and would prevent ratepayers from being unduly burdened with excessive costs. When a utility elects to pay an administrative penalty in lieu of acquiring more expensive renewable resources or RECs, the administrative penalty is a proxy for the renewable resource. Just as the utility would be able to recover the renewable resource as a power cost, it should also recover the administrative penalty as a power cost—either in a PCORC or general rate case.

In addition, Public Counsel mischaracterizes the nature of the PCORC when it states that "the primary purpose of the PSE PCORC . . . is to allow inclusion of new generating facilities in rates without awaiting a full rate case, with a secondary purpose of allowing some update of PCA power costs." Public Counsel Comment Letter at 7. PSE's PCORC and Power Cost Adjustment Mechanism ("PCA") were established as part of a settlement of PSE's 2001 general rate case. See WUTC v. PSE, Docket Nos. UE-011570 and UG-011571 (Twelfth Supplemental Order and Exhibit A to Settlement Stipulation). Paragraph 25 of the Twelfth Supplemental Order states that the PCORC "will look at all costs included within the PCA mechanism." Additionally, page 5 of Exhibit A to the Settlement Stipulation states that there would be a periodic proceeding specific to power costs that true up the Power Cost Rate to *all power costs* (italics in original document) identified in the Power Cost Rate. Exhibit A goes on to state that "[t]he Company can also initiate a power cost only proceeding to add new resources to the Power Cost Rate." Thus, contrary to Public Counsel's assertions, updating power costs is a primary purpose of the PCORC.

Moreover, the fact that PSE and other parties to the 2007 PCORC, WUTC v. PSE, Docket No. UE-070565, agreed as part of a settlement agreement to participate in a collaborative to discuss the terms of the PCORC should not impact the Draft Rules. Unless the terms of the PCORC are altered by settlement or by Commission order, they remain as set forth in the 2001 GRC

settlement documents. The recent PCORC settlement that Public Counsel referenced does not alter the terms of the PCORC. It merely provides a forum for interested parties to get together and discuss issues related to the PCORC. PSE does not anticipate that the PCORC will be discontinued as a result of the collaborative or that the scope of the PCORC will be circumscribed, as Public Counsel claims. Rather, PSE sees the collaborative as an opportunity to more clearly spell out the terms of a PCORC proceeding, including issues such as the number of PCORCs that may be filed in one year; the number and timing of updates that the Company may file in a PCORC, etc. See WUTC v. PSE, Docket No. UE-070565, Settlement Agreement at 6.

Notice to Customers

The Commission should reject Public Counsel's proposed revisions to WAC 480-109-040(4), which impose requirements on utilities that go beyond the requirements set forth in the Act. Public Counsel's proposed rule language would require a utility to provide copies of its current report and all historical reports to any person. This contrasts to the language of Act that requires a utility to make its annual progress reports available to its customers. RCW 19.285.070(3). The Commission should reject Public Counsel's proposal which expands the language of the Draft Rules beyond the language of the Act and beyond the scope of authority that the administrative rules and tariffs regulate—a utility's obligation to its customers. This expanded obligation is particularly onerous when one considers that the Draft Rules require all current and historical reports be made available. It should be sufficient to require a utility to make available to its customers its most recent annual progress report and the annual progress reports for the preceding five years.

Thank you for your consideration of these important issues.

Very truly yours,

Sheree Strom Carson

cc: Nicolas Garcia
Eric Englert, PSE