

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET U-111465
TRANSPORTATION COMMISSION,	)	
	)	
Complainant,	)	ORDER 03
	)	
v.	)	
	)	ORDER GRANTING MOTION TO
PUGET SOUND ENERGY, INC.,	)	EXTEND DISCOVERY
	)	
Respondent.	)	
	)	
.....	)	

1     **NATURE OF PROCEEDING:** On December 14, 2011, the Washington Utilities and Transportation Commission (Commission) by and through its Staff filed a complaint against Puget Sound Energy, Inc. (PSE or Company). The complaint alleges as many as 1,639 violations of improperly charging a disconnect visit charge for visits other than for the purpose of actual disconnection. PSE filed an Answer on December 30, 2011.

2     **PARTY REPRESENTATIVES:** Michael Fassio, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (Commission Staff or Staff).<sup>1</sup> Donna Barnett and Jason Kuzma, Perkins Coie, Bellevue, Washington, represent PSE. Lisa Gafken, Senior Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section of the Washington Office of Attorney General (Public Counsel).

3     **PROCEDURAL SCHEDULE.** On February 10, 2012, the Washington Utilities and Transportation Commission (Commission) entered Order 01, Prehearing Conference Order, establishing a procedural schedule in this docket. Order 01 authorized

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<sup>1</sup> In formal proceedings, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of the proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See RCW 34.05.455.

discovery pursuant to the Commission's rules and established August 24, 2012, as the closing date for the discovery process.

4 On May 25, 2012, and again on August 20, 2012, the Commission issued Notices granting the parties' joint motions for continuances of all remaining filing deadlines, as well as the date of the evidentiary hearing. Neither of the parties' motions noted a need to extend the discovery closing date; consequently, the Commission's Notices did not alter that date.

5 **MOTION TO EXTEND DISCOVERY.** On September 19, 2012, Public Counsel filed with the Commission a Motion to Extend Discovery to Reflect New Hearing Date. Public Counsel explained that despite attempts to informally resolve the matter, another party refused to respond to discovery requests because the original closure date for discovery had already passed. Public Counsel contends that in order to avoid prejudicing the parties' ability to obtain meaningful information with regard to information contained in rebuttal testimony, the Commission must now formally extend the discovery period.

6 On September 21, 2012, Commission Staff filed a letter stating no opposition to Public Counsel's motion.

7 On September 24, 2012, PSE filed its Opposition to Public Counsel's Motion. PSE disagrees with Public Counsel's characterization of the unrevised discovery deadline as a "scheduling anomaly" and contends that the discovery cutoff was always a date certain: August 24, 2012. Further, PSE argues that it will be prejudiced by re-opening discovery by having to respond to Public Counsel's data requests which PSE believes could have been filed before the original deadline.

8 **COMMISSION DECISION.** The original procedural schedule established dates for a variety of milestone events in this docket, to include filing dates for testimony, a discovery cutoff, and a hearing. When the parties sought their initial continuance, they requested that all dates (except the discovery cutoff) be rolled back by three weeks. When the parties sought their second continuance, they requested that the remaining testimony filing date be rolled back by two weeks and the hearing be

postponed by four weeks. When granting each of these requests, the Commission did not consider the effect of not also modifying the discovery cutoff.

9 Having now considered Public Counsel's motion, PSE's opposition, and Staff's non-opposition, the Commission finds that the original procedural schedule contemplated a discovery cutoff that would occur only after all testimony was filed and all settlement conferences had been completed. Failure to extend the discovery cutoff created a scheduling anomaly that could prejudice a party's ability to prepare for hearing. The Commission does not find actual prejudice to any party by extending the discovery period to honor the same time intervals created in the original procedural schedule.

10 The Commission finds that Public Counsel has demonstrated good cause to extend the discovery cutoff and grants Public Counsel's request. Finally, the Commission confirms its original modifications to the response time for discovery requests made after the filing of responsive testimony: responses are due five business days after the request is made.

### **ORDER**

#### **THE COMMISSION ORDERS:**

- 11 (1) Public Counsel's motion to extend discovery is granted; and
- 12 (2) The response time for discovery requests shall be five business days; and
- 13 (3) Discovery will close on October 5, 2012.

Dated at Olympia, Washington, and effective September 25, 2012.

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**ADAM E. TOREM**  
Administrative Law Judge