

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

WESTERN VILLAGE, LLC, D/B/A)	DOCKET UE-051828
WESTERN VILLAGE ESTATES)	(consolidated)
)	
Complainant,)	
)	
v.)	
)	
PUGET SOUND ENERGY, INC.)	
)	
Respondent.)	
)	
.....)	
)	
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION)	DOCKET UE-051966
)	(consolidated)
Complainant,)	
)	
v.)	ORDER NO. 03
)	
PUGET SOUND ENERGY, INC.)	
)	INITIAL ORDER RECOMMENDING
Respondent.)	APPROVAL AND ADOPTION OF
)	SETTLEMENT AGREEMENT
.....)	

1 **Synopsis:** *This Order proposes approval and adoption of the proposed Settlement Agreement among the Company, Commission Staff, Public Counsel, Western Village, and Manufactured Housing Communities of Washington as a full resolution of the issues in this proceeding. This Order also recommends approval of PSE’s proposed tariff revisions, and dismissal of Western Village’s complaint with prejudice.*

I. INTRODUCTION

2 **Nature of Proceedings:** Docket UE-051828 is a formal complaint and petition for declaratory order (Complaint) filed by Western Village , LLC, d/b/a Western Village Estates (Western Village) against Puget Sound Energy (PSE or the Company). Western Village is a manufactured home community located in Oak Harbor,

Washington. The Complaint alleges that PSE refuses to access, repair, maintain and replace the electrical service facilities at Western Village, contrary to PSE's tariff.

3 Docket UE-051966 concerns PSE's proposed revisions to Tariff WN U-60, Tariff G, to clarify the responsibilities regarding the installation, ownership, maintenance and replacement of service lines to non-residential customers, including service lines to multi-family residential structures and service lines within mobile home parks.

4 **Procedural history.** Western Village filed its complaint on November 18, 2005. On December 19, 2005, PSE answered the Complaint, denying that it had any responsibility to maintain or repair the service lines for each manufactured home beyond the secondary termination at the transformer or handhole. PSE also filed proposed revisions to its Tariff WNU-60, Electric Tariff G, Schedules 80 and 85, to clarify that manufactured housing community/mobile home park owners – rather than their tenants – are responsible for service lines at these communities/parks. The Commission suspended the operation of the tariff revisions by Order entered January 11, 2006.

5 The Commission convened a prehearing conference in Dockets UE-051828 and UE-051966 on February 9, 2006 in Olympia, Washington, before Administrative Law Judge (ALJ) Karen Caillé. The Parties agreed to consolidate the two dockets, and acknowledged that Western Village had the burden of proof in the Complaint proceeding, while PSE had the burden of proof with respect to its tariff revisions. The ALJ granted Manufactured Housing Communities of Washington's (MHCW) petition to intervene in both dockets, and Western Village's motion to intervene in Docket UE-051966. The Parties agreed to a procedural schedule which accommodated the distinction in burdens of proof for the two proceedings and provided time for the Parties to engage in settlement discussions.

6 Western Village and PSE submitted prefiled direct testimony supporting their positions in the proceedings for which each had the burden of proof. They also submitted prefiled response testimony to each others prefiled direct testimony. Prior to the submission of any testimony by Staff or Public Counsel, the Parties reached agreement on all issues raised in this proceeding.

7 The Parties filed a Settlement Agreement and Supporting Narrative on June 12, 2006. The proposed settlement is uncontested and, if approved, would resolve all issues in these proceedings.

8 **Initial Order.** The presiding administrative law judge recommends approval and adoption of the proposed Settlement Agreement, approval of the tariff revisions, and dismissal of Western Village's complaint with prejudice.

9 **Appearances.** The parties' representatives follow.

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II. DISCUSSION

10 **Background.** On June 21, 2005, electric service to a lot at Western Village Estates, a mobile home park, failed. PSE installed an auto transformer as a temporary fix, replaced and repaired a PSE splice vault, and determined that the failure had occurred in the service line at the lot.² Consistent with PSE's interpretation of its tariff and experience with other mobile home park owners, PSE informed the property manager at Western Village that the failure was in the service line,³ that it was the park's responsibility, and suggested that Western Village hire an electrician to repair the service so that PSE could redeploy its auto transformer.⁴

11 In response, the attorney for Western Village sent a letter to PSE denying any responsibility for the repair of any electrical service within the park. The letter directed PSE to "complete whatever repairs you believe are necessary to provide service to *your customers*. However, in doing so, Western Village assumes no responsibility for any expense incurred by PSE."⁵

¹ In formal proceedings, such as this case, the Commission's regulatory 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 Ex. 32T, Logan Direct Testimony, p. 21; Ex. 47.

³ A "service line" is the electrical line that extends from the PSE-owned transformer or secondary voltage handhole to the meter pedestal or other connection at the trailer. Ex. 47.

⁴ Ex 32T, Logan Direct Testimony, p. 21, Ex. 48.

⁵ *Id.* (Emphasis added).

- 12 As a result of this letter, PSE conducted additional analysis regarding the term “Customer” in Schedules 80 and 85. Since it appeared that the defined term “Customer” meant the end-use customer on the face of the tariff, PSE informed Western Village that it agreed that the park was not responsible for the cost of the repairs, but rather the park’s tenant on the lot that had the service failure. PSE further informed Western Village that because of the initial confusion as to who was responsible for the repairs, PSE had decided to forego assessing the park tenant for repair costs.⁶
- 13 However, because PSE does not believe that a mobile home park tenant or a multi-family structure tenant, rather than the mobile home park or multi-family structure owner, should be responsible for service lines at the park or to the multi family structure, PSE filed its proposed tariff revisions.⁷
- 14 **Western Village Complaint.** The Complaint describes Western Village as comprised of 128 individual lots which are rented to its residents for purposes of the placement of the residents’ manufactured homes in which they reside.⁸ The Complaint states that Western Village is not master metered for electrical service provided by PSE. Instead, PSE provides electrical service directly to the residents of Western Village for which PSE bills each individual resident.⁹
- 15 The Complaint alleges that the residents of Western Village are PSE’s customers, and PSE bills the residents at a residential rate which is set by PSE’s Tariff in an amount to recapture PSE’s costs to repair, maintain, and replace service facilities as Western Village.¹⁰ The Complaint alleges that PSE owns electrical service facilities at each resident’s lot, and each resident’s manufactured home at Western Village connects to PSE’s service facilities for purposes of receiving electrical service. The Complaint alleges that PSE’s electrical service facilities at each resident’s lot connects to service

⁶ *Id.*, pp. 21-22; Ex. 49.

⁷ *Id.*, p. 22.

⁸ Western Village Complaint, ¶6.

⁹ *Id.*, ¶¶7-8.

¹⁰ *Id.*, ¶¶9-10.

facilities which were installed by PSE or its predecessors, and which have been maintained and replaced by PSE at all times relevant to this matter.¹¹

16 The Complaint states that neither Western Village nor its residents had any control over how the electrical service facilities were installed by PSE or its predecessors. Because neither Western Village nor its residents had any control over how the electrical service facilities were installed, and they were not allowed to participate in the maintenance of the electrical service over time, the current and future problems with the electrical service facilities are due to causes beyond either Western Village's or its residents' control.¹² Complainant contends that neither Western Village nor its residents are responsible for the repair, maintenance, or replacement of the electrical service facilities at the premises.¹³

17 Complainant seeks declaratory relief from the Commission including an order that

- defines the rights and obligations of Western Village, its residents, and PSE concerning access, repair, maintenance, and replacement of electrical facilities at the premises;
- states PSE's tariff provisions relating to access, repair, maintenance, and replacement of electrical facilities at the premises are intended for manufactured home communities that are master metered, and not for communities like Western Village, where residents' service facilities connect to PSE's service facilities which then connect to service facilities that were installed and maintained by PSE or its predecessors; and
- clarifies and amends PSE's tariff to confirm that neither Western Village nor its residents are responsible for access, repair, maintenance or replacement of the electrical service facilities at the premises past the

¹¹ *Id.*, ¶¶11-13.

¹² *Id.*, ¶15.

¹³ *Id.*

point of connection of PSE's service facilities to each resident's manufactured home.¹⁴

- 18 **PSE Answer.** PSE states that it was responsible for maintaining and repairing the electrical facilities at Western Village up to the point at which PSE's electric distribution system ended.¹⁵ PSE claimed that it had not had any responsibilities for installing, maintaining, repairing or replacing service lines at manufactured housing communities/mobile home parks since at least October 21, 1977, when revisions to Schedule 86 of PSE's Electric Tariff G became effective that provided:

UNDERGROUND SERVICE LINES TO MULTI-FAMILY RESIDENTIAL STRUCTURES, MOBILE HOME PARKS AND NON-RESIDENTIAL FACILITIES – The Customer shall install, own and maintain all secondary underground service facilities beyond the secondary termination at the transformer or handhole.¹⁶

PSE claims that this limitation on Company responsibility for service lines has remained essentially unchanged since Commission approval in 1977, and is currently found in Schedule 85. Schedule 85 expanded in 2002 to include service line provisions that had been located until that time in Schedule 86. At that time, the revised Schedule 85 cancelled the prior Schedule 86.¹⁷

- 19 PSE asserts that Schedule 85 continued to treat service lines in most mobile home parks in the same manner as service lines to multi-family residential structures and non-residential facilities. It included within the definition of "Non-Residential"

Service to commercial, industrial or lighting (excluding street lighting circuitry) Customers, or to multi-family residential structures, mobile home parks, and recreational facilities.¹⁸

¹⁴ *Id.* ¶20.

¹⁵ PSE Answer to Complaint, ¶6.

¹⁶ *Id.*, ¶7.; PSE Schedule 86, §3.

¹⁷ *Id.*

¹⁸ *Id.*, ¶8.

PSE states that a mobile or manufactured home is considered a Single-Family Residence under Schedule 85 only if it is located on a legal residential lot, is approved for occupancy as a permanent single family residence by the local governing agency or agencies, is permanently located on a foundation, has had the axles and wheels removed, and meets all other requirements for a manufactured or mobile home permit as required by the local governing agency or agencies.¹⁹

20 PSE references Schedule 85 with respect to secondary voltage service line costs:

Non-Residential Secondary Voltage Services

(a) Underground Service

The Customer shall be responsible for ownership and operation of all underground services and for all costs for installation, maintenance and replacement thereof.²⁰

PSE also references Schedule 85 with respect to the Point of Delivery for underground service at secondary voltages to Non-Residential Customers. The Point of Delivery is at “the load side of the transformer or secondary handhole if located on the private property being served.”²¹

21 PSE states that in its experience, the “Customer” responsibility for repairing service lines at manufactured housing communities/mobile home parks that is required by Schedule 85 is typically taken on by the manufactured housing community/mobile home park owner rather than the individual residents of a manufactured home that may have a service line failure.²² However, PSE noted that its current Schedule 85 could be read to place the “Customer” responsibility for maintenance and repair of existing service lines on the end-use customer who is currently receiving service from

¹⁹ *Id.*

²⁰ *Id.*, ¶9; PSE Schedule 85, Sheet 85-f, §2.

²¹ *Id.*

²² *Id.*, ¶11.

the Company; in this case, the tenant resident of a manufactured home at Western Village.²³

22 Thus, PSE filed revisions to its tariff at the same time it filed its Answer, proposing to explicitly make mobile home park owners – rather than their tenants – responsible for service lines at mobile home parks.²⁴ Among the changes proposed, those to Sheet 85-f represent the heart of the clarification sought through the Company’s proposed tariff revisions. This expands the current language setting forth the entity responsible for Non-Residential Secondary Voltage Service in order to clarify that owners (not tenants) of rented mobile home park spaces and multi-family complexes are responsible for service lines.²⁵ The Company also proposes the addition of the term “Applicant” in Schedule 85 to clarify that those who apply to the Company for line extensions are responsible for meeting the line extension requirements in Schedule 85, except where reference is specifically made to the “Customer.”²⁶

23 PSE requests that the Commission issue an order

- dismissing the Complaint, with prejudice,
- denying Complainant’s request for declaratory relief,
- declaring that PSE is not responsible for installing, maintaining, replacing or repairing underground service lines beyond the transformers or secondary handholes of PSE’s electric distribution system in mobile home parks where the lots are rented to tenants, such as at Western Village, and
- approving PSE’s proposed tariff revisions to clarify and specifically provide that mobile home park owners that rent lots to tenants, rather than their tenants, are responsible for installing, maintaining, replacing or repairing underground service lines beyond the transformers or secondary

²³ *Id.*, ¶14.

²⁴ *Id.*, ¶17.

²⁵ Ex. 32T, Logan Prefiled Direct Testimony, p.25.

²⁶ *Id.*, p. 24.

handholes of PSE's electric distribution system within their mobile home parks.²⁷

- 24 **Settlement Agreement.** The proposed Settlement Agreement is a full settlement of all issues presented in this proceeding, executed by PSE, Commission Staff, Public Counsel, Western Village and MHCW. The proposed Settlement Agreement, with Exhibits A, B, and C is attached to this Order as Appendix A, and is largely self-explanatory. The major points in the Settlement Agreement are discussed below.
- 25 The Parties agree that the Commission should approve the revisions to PSE's Electric Tariff G, Schedules 80 and 85 that are set forth in Exhibit C to the proposed Settlement Agreement.²⁸ Generally, these revisions clarify that responsibility for underground secondary voltage service lines at manufactured housing communities/mobile home parks and for multi-family structures does not rest with PSE. Instead, with the exception of certain existing service lines, the owners of manufactured housing communities/mobile home parks and multi-family structures own and are responsible for underground service lines on their property, from installation to maintenance, repair and replacement.²⁹
- 26 The Parties agree that the meter pedestals and meter bases at mobile home parks are not owned by PSE and PSE has no responsibilities associated with them. By contrast, the actual meter for each mobile home is owned and maintained by PSE.³⁰
- 27 The agreed tariff revisions set forth in Exhibit C to the proposed Settlement Agreement carve out an exception to the general rule that property owners of mobile home parks, manufactured housing communities and multi-family structures are responsible for underground secondary voltage service lines on their property.
- For existing underground secondary voltage service lines installed prior to the date of this Settlement Agreement, PSE will have the responsibility for

²⁷ *Id.*, ¶40.

²⁸ Settlement Agreement, ¶19.

²⁹ *Id.* ¶20.

³⁰ *Id.* ¶25.

maintaining and repairing any and all underground service lines installed by PSE at mobile home parks, manufactured housing communities and multi-family structures, including replacing such service lines if necessary.³¹

- For electric facilities constructed prior to October 21, 1977, there shall be a presumption that the Company installed the service lines. This presumption can be overcome if PSE can show that the Company did not install the service line that needs repair.³²
- For electric facilities constructed on or after October 21, 1977, there shall be a presumption that the property owner installed the service lines. This presumption can be overcome if the property owner can show that the PSE installed the service line that needs repair.³³
- The Parties agree that all existing service lines in Western Village as of the date of this Settlement Agreement were installed by the Company.³⁴

28 The Parties agree that the Commission should admit into evidence all of the prefiled direct and response testimony and exhibits of PSE and Western Village.³⁵

29 **Decision.** This Order recommends that the Commission approve and adopt the proposed Settlement Agreement, approve the revisions to PSE's Electric Tariff G, Schedules 80 and 85, and dismiss Western Village's complaint with prejudice.

30 The Commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the Commission. WAC

³¹ PSE's obligation to perform such work is conditioned on the property owner providing access to the service line and a clear working area on the ground above the portion of the service line that requires repair that is sufficiently large to permit the repair to be performed. Settlement Agreement, ¶26.

³² Settlement Agreement, ¶27.

³³ *Id.* ¶28.

³⁴ *Id.* ¶31.

³⁵ *Id.* ¶33 d.

480-07-750. Here, the Commission resolves these questions by reviewing the proposed Settlement Agreement and supporting narrative, the prefiled testimony and exhibits of PSE and Western Village, and the record in this proceeding.

31 Based on the record developed in this proceeding, the issues raised in this complaint are adequately addressed and resolved by the proposed Settlement Agreement. The Parties have reached an agreement that settles the current dispute, and that adopts tariff revisions to address the issue going forward.

32 The proposed Settlement Agreement satisfies the interests of Commission Staff and Public Counsel who dispute the proposition that PSE could have transferred ownership (and thus, maintenance, repair and replacement responsibilities) of the service lines at issue to others through a tariff revision alone.³⁶

33 The Agreement satisfies the interests of Western Village and MHCW who do not agree that ownership transferred by the 1977 tariff revision and do not want to have old service lines installed by the Company “dumped” on them thirty or more years after installation.³⁷

34 The Agreement satisfies the interests of PSE who is not prepared to take on responsibility for service lines installed by third parties over the past three decades, over which PSE had no oversight or control.³⁸

35 Finally, the Agreement satisfies the public interest by establishing clear rules to facilitate restoration of electric service to end-use customers as quickly as possible, with a minimum of delay caused by disputes over who is responsible for performing or paying for repairs or replacement. It speaks to the broader interests of property owners, tenants, and ratepayers.

36 Under the circumstances, the proposed Settlement Agreement is fair and in the public interest, and should be approved and adopted as a full resolution of the issues pending

³⁶ *Id.* ¶35.

³⁷ *Id.* ¶36.

³⁸ *Id.* ¶37.

in Dockets UE-051828 and UE-051966, consolidated. The revisions to PSE's Electric Tariff G, Schedules 80 and 85 in Exhibit C of the Settlement Agreement are just and reasonable and should be approved.

III. FINDINGS OF FACT

37 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the parties and the reasons therefore, the undersigned ALJ now makes and enters the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:

38 (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.

39 (2) Puget Sound Energy, Inc. (PSE) is a "public service company" and an "electrical company" as those terms are defined in RCW 80.04.010, and as those terms otherwise are used in Title 80 RCW. PSE is engaged in Washington State in the business of supplying utility services and commodities to the public for compensation.

40 (3) Western Village is a manufactured home community located in Oak Harbor, Washington, comprised of 128 individual lots which are rented to its residents for purposes of the placement of the residents' manufactured homes.

41 (4) PSE installed the existing service lines in Western Village and provides electric service to Western Village residents.

42 (5) On November 18, 2005, Western Village filed a complaint and petition for declaratory order against PSE, alleging that PSE refuses to access, repair,

maintain and replace electrical service facilities at Western Village, contrary to PSE's tariff. The Commission docketed the matter as UE-051828.

- 43 (6) In response to the complaint, PSE filed revisions to its currently effective Tariff WNU-60, Electric Tariff G, Schedules 80 and 85 on December 19, 2006, to clarify that manufactured housing community/mobile home park owners are responsible for service lines at these communities/parks. The Commission docketed the matter as UE-051966.
- 44 (7) The Commission suspended the operation of the proposed tariff revisions by Order entered January 11, 2006, pending an investigation and hearing concerning the proposed changes and whether they are just and reasonable.
- 45 (8) The Commission consolidated Dockets UE-051828 and UE-051966 on February 17, 2006.
- 46 (9) On April 26, 2006, PSE, Commission Staff, Public Counsel, Western Village, and Manufactured Housing Communities of Washington filed a Settlement Agreement that, if approved would resolve all the issues in these dockets.

IV. CONCLUSIONS OF LAW

47 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the undersigned ALJ now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:

- 48 (1) The Commission has jurisdiction over the subject matter of this proceeding and the parties to the proceeding.
- 49 (2) The proposed Settlement Agreement, attached to this Order as Appendix A, and incorporated by reference as if set forth in full in the body of this Order

should be approved and adopted by the Commission as a reasonable resolution of the issues presented.

- 50 (3) The proposed revisions to PSE's Electric Tariff G, Schedules 80 and 85, attached as Exhibit C to the Settlement Agreement are just and reasonable and should be approved by the Commission.
- 51 (4) PSE should be authorized and required to make compliance filing to implement the terms of this Order, including appropriate tariff sheets, within 21 days after the effective date of a final order.
- 52 (5) The Commission is authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order.
- 53 (6) The Commission should dismiss Western Village's complaint with prejudice.
- 54 (7) The Commission should retain jurisdiction to effectuate the terms of this Order.

55 Based on the above findings of fact and conclusions of law, the undersigned administrative law judge makes and enters the following initial order.

V. INITIAL ORDER

THIS ORDER RECOMMENDS That the Commission:

- 56 (1) Approve and adopt the Settlement Agreement executed by PSE, Commission Staff, Public Counsel, Western Village and MHCW filed on June 12, 2006, which is attached to this Order Appendix A, and incorporated by reference as if set forth in full in the body of this Order.
- 57 (2) Authorize and require PSE to file tariff sheets that are necessary and sufficient to effectuate the terms of this Order within 21 days after the effective date of a final order.

- 58 (3) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, a compliance filing that implements the requirements of this Order.
- 59 (4) Dismiss Western Village's complaint against PSE with prejudice.
- 60 (5) Retain jurisdiction to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective July 7, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

KAREN M. CAILLÉ
Administrative Law Judge

NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3), as amended in the 2006 legislative session, provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion. You will be notified if this order becomes final.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and eight copies of any Petition or Answer must be filed by mail delivery to:

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