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October 29, 2012

VIA ELECTRONIC FILING & ABC LMI

David Danner
Executive Director and Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Pk. Dr. S.W.
P. O. Box 47250
Olympia, WA 98504-7250

Re: WUTC v. PSE
Docket U-111465

Dear Mr. Danner:

Enclosed please find the original and three (3) copies of Public Counsel's Narrative in Support of Settlement Agreement for filing in the above entitled docket.

Sincerely,

LISA W. GAFKEN
Assistant Attorney General
Public Counsel Division
(206) 464-6595

LWG:cjw
Enclosures

cc: Service List (E-mail and U S Mail)

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

DOCKET U-111465

PUBLIC COUNSEL'S NARRATIVE
IN SUPPORT OF SETTLEMENT
AGREEMENT

1. Public Counsel submits the following Narrative in Support of Settlement Agreement.

I. INTRODUCTION

2. The Parties have reached a full settlement agreement, as defined in WAC 480-07-730(1). The signatories to the Settlement Agreement are Puget Sound Energy, Inc., (hereinafter "PSE" or "Company"), Staff of the Washington Utilities and Transportation Commission (hereinafter "Commission Staff"), and the Public Counsel Section of the Washington Attorney General's Office (hereinafter "Public Counsel").
3. Commission Staff has included a summary of the issues and of the Settlement Agreement under the titles "Scope of Underlying Dispute" and "Summary of the Proposed Settlement".¹ Public Counsel has reviewed Commission Staff's summary and hereby adopts and incorporates the same by this reference. Nothing in the summary is intended to modify the Settlement Agreement's terms.
4. The Parties do not intend to file documentation supporting the Settlement Agreement in addition to their individual narratives supporting the Settlement Agreement and the Settlement

¹ Sections II. and III. of Commission Staff Narrative Supporting Settlement Agreement.

Agreement.² Should the Commission require additional information or supporting documentation, the Parties are willing to provide such information or documentation to the extent possible.

5. Under WAC 480-07-740(1)(d), the Commission will schedule a hearing to consider the proposed Settlement Agreement if it believes that holding a hearing will assist in its decision whether to adopt the proposed settlement. If the Parties' submissions in support of the Settlement Agreement and the record in this matter provide the Commission with sufficient information, Public Counsel would encourage the Commission to proceed on a paper record.

II. STATEMENT REGARDING WHY THE SETTLEMENT AGREEMENT SATISFIES PUBLIC COUNSEL'S INTEREST AND THE PUBLIC INTEREST

6. Public Counsel considers the Settlement Agreement proposed by the Parties to be a fair and reasonable resolution of the current docket. Approval of the Settlement Agreement would provide certainty with respect to the outcome of this matter and avoid the costs and time associated with a contested hearing.

A. Customers Have Been Or Will Be Made Whole.

7. PSE inappropriately charged customers a \$13 disconnection visit fee for collections visits made on Company-designated "non-disconnect" days.³ Company-designated "non-disconnect" days are days for which PSE decided it would not disconnect service to customers, usually in conjunction with a holiday or storm, or due to a business or operations purpose, such as an

² Under the Settlement Agreement, the Parties agree to stipulate into the record all testimony and exhibits filed in this matter to date. Settlement Agreement at ¶ 20.

³ Response Testimony of Mr. Archuleta, Exhibit No. GA-1T at 2:17-19.

inability to reconnect customers within 24 hours or an inability to effectively respond to customer calls.⁴

8. The inappropriate charges affected the most vulnerable population of customers as these customers – customers who face the threat of disconnection – are often households with low-income.⁵ A \$13 charge is significant to a low-income customer and likely has a material impact on the customer's personal budget.

9. PSE has refunded charges where a direct refund to the customer was possible. Refunding the customers and making them whole is appropriate and in the public interest. In some instances, the refunds were made more than a year or two after the improper charges.⁶

10. For a small number of customers (14), a direct refund was not possible due to bankruptcy proceedings filed by the customers.⁷ In lieu of direct refunds to the 14 specific customers affected by bankruptcy, PSE has committed to make contributions in the amount of the refunds to the PSE HELP rate assistance program.⁸ This contribution in lieu of direct refunds is appropriate because the bankruptcy proceedings discharged the debt for the customer, and the contribution will go to assist the group of customers affected by PSE's noncompliance in this case.

⁴ Response Testimony of Mr. Archuleta, Exhibit No. GA-1T at 3:4-10.

⁵ Testimony of Ms. Pearson, Exhibit No. RP-1T at 9:3-6.

⁶ See Testimony of Ms. Pearson, Exhibit No. RP-10T at 7:7-15. For example, PSE's responses to formal Data Requests indicate that charges from December 2009 were not corrected until June 2012. Response to Staff Data Request No. 012, Attachment A; Response to Staff Data Request No. 009, Supplemental Attachment A.

⁷ Settlement Agreement at ¶ 11; Responses to Public Counsel Data Request Nos. 22, 24, and 26.

⁸ Settlement Agreement at ¶ 11. PSE HELP is PSE's energy rate assistance program for low-income households.

B. The Proposed Settlement Captures the Company's Commitment to Improve its Business Practices in a Manner that is in the Public Interest.

11. Under the Settlement Agreement, PSE agrees to discontinue collections visits to customer service addresses on days the Company designates to be "non-disconnect" days.⁹ This agreement alters the Company's business practice of sending field representatives to service addresses solely for the purpose of collecting money on days that the Company has no intent to disconnect.¹⁰
12. Prior to visiting the customer's service address, PSE would send at least two disconnection notices informing the customer that he or she may be disconnected for nonpayment.¹¹ Those notices include a date on which the customer may expect to be disconnected.¹² Field representatives are dispatched to the customer's service address by a "disconnect service order."¹³
13. On Company-designated "non-disconnect" days, PSE's field representatives are informed that the intent is to collect money, not disconnect the customer.¹⁴ Public Counsel concurs with Staff's testimony that this practice is very likely misleading and potentially intimidating to customers.¹⁵
14. The Settlement Agreement addresses Public Counsel's concern that PSE's collections

⁹ PSE will discontinue its business practice immediately upon entry of a Commission Order approving the Settlement Agreement. Settlement Agreement at ¶ 12.

¹⁰ See Response Testimony of Mr. Archuleta, Exhibit No. GA-1T at 3:13-17.

¹¹ WAC 480-90-128(6)(a) and (d); WAC 480-100-128(6)(a) and (d).

¹² WAC 480-90-128(6)(a)(i); WAC 480-100-128(6)(a)(i). PSE has 10 days during which it may disconnect pursuant to a particular notice. 480-90-128(6)(c) and (f); WAC 480-100-128(6)(c) and (f).

¹³ Response Testimony of Mr. Archuleta, Exhibit No. GA-1T at 5:5-6.

¹⁴ Response Testimony of Mr. Archuleta, Exhibit No. GA-1T at 5:7-9.

¹⁵ Rebuttal Testimony of Ms. Pearson, Exhibit No. RP-10T at 1:18 – 3:3.

practice is intimidating, misleading, and harmful to customers. While PSE is entitled to collect moneys owed to it by customers, it may not collect those moneys using methods that intimidate and mislead customers. Furthermore, business practices that intimidate and mislead customers are not in the public interest. PSE's agreement to discontinue collections activity on Company-designated "non-disconnect" days improves PSE's business practices in a way that advances the public interest.

C. The Proposed Settlement Agreement Includes Sufficient Penalty and Other Monetary Consequences for PSE's Non-Compliance.

15. Under the proposed Settlement Agreement, PSE agrees to pay a penalty of \$430,000. PSE further agrees that it will not seek recovery of the penalty amount from its ratepayers.¹⁶
16. PSE identified in discovery 2,835 erroneously charged disconnection visit fees between December 14, 2009, and December 31, 2009; 2,664 erroneously charged disconnection visit fees in 2010; and 3,611 erroneously charged disconnection visit fees between January 1, 2011, through May 3, 2011, for a total of 9110 violations.¹⁷ The number of violations indicates that PSE's non-compliance was systematic and pervasive. The violations also cannot be explained away as simply a glitch in the system; the inappropriate fees were charged only after a disconnect service order was generated, the Company decided no service disconnections would occur, and a field representative visited the service address.
17. The penalty amount agreed to in the Settlement Agreement takes into account the sheer number of violations, the flawed business practice that allowed the violations to occur, and the

¹⁶ Settlement Agreement at ¶ 9.

¹⁷ Ms. Pearson, Exhibit No. RP-10T at 5:4-9. PSE provided information about the December 2009 violations on August 29, 2012, when it responded to Staff Data Request No. 012, which is included in Exhibit to Rebuttal Testimony of Ms. Pearson, Exhibit No. RP-12.

harm to customers, while also acknowledging the Company's response to the situation. In May 2011, the Company implemented a new procedure that effectively prevented customers from being charged the disconnect visit fee for visits occurring on days that were Company-designated "non-disconnect" days. In addition, PSE has refunded customers.

18. This penalty amount is appropriate based on the extent of PSE's non-compliance, customer harm, and the measures PSE took to prevent further erroneous charges. Additionally, PSE has agreed to change its business practices to ensure that customers are not unnecessarily intimidated and misled by its collections activities, and Public Counsel appreciates this significant improvement. For all of these reasons, the amount of shareholder responsibility under the Settlement Agreement is justified.

III. SUMMARY OF LEGAL POINTS THAT BEAR ON THE SETTLEMENT

19. WAC 480-90-128 and WAC 480-100-128 contain provisions relating to disconnection of natural gas and electric services. Under both sections, a utility may disconnect service only after certain notices are provided to the customer.¹⁸ Those notices must include a disconnection date.¹⁹ The utility must disconnect within 10 days of the date stated in the notice, or if it fails to do so, it must send a new notice.²⁰ A utility representative dispatched to disconnect service must accept payment at the service address. The utility may charge a fee for the visit if such a fee is consistent with the terms of PSE's tariff.²¹
20. Under WAC 480-07-730(1), parties may file a full settlement, which is a settlement

¹⁸ WAC 480-90-128(6)(a) and (d); WAC 480-100-128(6)(a) and (d).

¹⁹ WAC 480-90-128(6)(a)(i); WAC 480-100-128(6)(a)(i).

²⁰ WAC 480-90-128(6)(c) and (f); WAC 480-100-128(6)(c) and (f).

²¹ WAC 480-90-128(6)(k); WAC 480-100-128(6)(k).

entered into by all parties of a proceeding that resolves all issues presented. The Commission has discretion to accept such a settlement, impose conditions on its acceptance, or reject such a settlement.²² The Settlement Agreement filed in this case represents the entire agreement among the Parties. Public Counsel recommends the Commission accept the Settlement Agreement in its entirety.

21. DATED this 29th day of October, 2012.

ROBERT M. McKENNA
Attorney General



LISA W. GAFKEN
Assistant Attorney General
Public Counsel Division

²² WAC 480-07-750.

CERTIFICATE OF SERVICE

Docket No. U-111465

I hereby certify that a true and correct copy of Public Counsel's Narrative in Support of Settlement Agreement was sent to each of the parties of record shown below in sealed envelopes, via: First class mail and E-Mail.

SERVICE LIST

**** = Receive Highly Confidential; * = Receive Confidential; NC = Receive Non-Confidential**

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DATED: October 29, 2012.



CAROL WILLIAMS
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