

**EXHIBIT NO. KWL-1T
DOCKET NOS. UE-090704/UG-090705
2009 PSE GENERAL RATE CASE
WITNESS: KIM W. LANE**

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

**Docket No. UE-090704
Docket No. UG-090705**

**PREFILED REBUTTAL TESTIMONY (NONCONFIDENTIAL) OF
KIM W. LANE
ON BEHALF OF PUGET SOUND ENERGY, INC.**

DECEMBER 17, 2009

PUGET SOUND ENERGY, INC.

**PREFILED REBUTTAL TESTIMONY (NONCONFIDENTIAL) OF
KIM W. LANE**

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1 **PUGET SOUND ENERGY, INC.**

2 **PREFILED REBUTTAL TESTIMONY (NONCONFIDENTIAL) OF**
3 **KIM W. LANE**

4 **I. INTRODUCTION**

5 **Q. Please state your name, business and address.**

6 A. My name is Kim W. Lane. My business address is 10885 N.E. Fourth Street,
7 Bellevue, WA 98004. I am employed by Puget Sound Energy, Inc. (“PSE” or
8 “the Company”) as a License Implementation Manager in Hydroelectric
9 Resources.

10 **Q. Have you prepared an exhibit describing your education, relevant**
11 **employment experience, and other professional qualifications?**

12 A. Yes, I have. It is Exhibit No. KWL-2.

13 **Q. Are you sponsoring any other exhibits to be introduced in this proceeding?**

14 A. Yes. I am sponsoring Exhibit No. KWL-3. This exhibit provides two tables
15 (Table 1 and Table 2) that itemize operations and maintenance operations and
16 maintenance (“O&M”) expenditures that will be required during the rate year for
17 implementation of the Baker Project License and the Snoqualmie Project License.
18 I refer to these tables (below) in my testimony.

1 Committee. These activities will require O&M expenditures during the rate year
2 of \$4,740,511. These costs are related to non-power resources. These
3 expenditures will not reduce power costs or result in improved or more efficient
4 generation going forward. There are no offsetting financial benefits to be gained
5 by the Company. PSE must incur these expenses as an element of an ongoing
6 (life of the license) FERC mandated investment in non-power resources protected
7 by the Federal Power Act ("FPA").

8 Although the Snoqualmie Project FERC License was issued in 2004, changes to
9 the river hydrology and channel alignment attributable to the U.S. Army Corps of
10 Engineers ("Corps") flood control project, coupled with technological
11 advancements identified through the process of detailed engineering and design,
12 required significant modification of plans for replacement of the diversion dam,
13 refurbishment of Plant 1 and refurbishment of some elements of Plant 2. PSE
14 applied for and, in June 2009, FERC approved a License amendment. The
15 amendment also revised the construction schedule and other aspects of the
16 License, such that the bulk of the construction work is just now getting underway.
17 These activities will require O&M expenditures during the rate year of
18 \$1,012,745. As with the Baker Project, these additional costs are related to non-
19 power resources that will not reduce power costs or result in improved or more
20 efficient generation. There are no offsetting financial benefits to be gained by the
21 Company.

1 **III. BAKER PROJECT LICENSE IMPLEMENTATION**

2 **Q. Can you briefly describe the Baker Project?**

3 A. The Baker Project consists of two dams and related facilities for generating
4 hydroelectric energy located on the Baker River in Skagit and Whatcom Counties,
5 north of, and partially within, the Town of Concrete. The installed capacity of the
6 Baker River Project is approximately 170 MW. The Baker project is licensed by
7 FERC.

8 **Q. Did the Company receive a new FERC License for the Baker Project in**
9 **2008?**

10 A. Yes, FERC issued a new License for this project in October of 2008. The
11 issuance of this License brought closure to a relicensing process that began in the
12 spring of 2000 under a FERC-approved Alternative Licensing Process. The
13 Company entered into a Settlement Agreement with all stakeholders in that
14 process, setting forth the terms of a new License in an offer of settlement to
15 FERC. The Company filed the Settlement Agreement with FERC on
16 November 30, 2004. The requisite final approval processes by state authorities
17 and FERC took an additional four years to complete. However, all of this hard
18 work led to a favorable result. The 50-year License that was issued in October
19 2008 was consistent with the Settlement Agreement and no third-party appeals
20 were filed.

1 **Q. What type of responsibilities does the new License impose on PSE?**

2 A. A hydropower license issued under the FPA governs a wide range of activities,
3 not just generation. In order to issue a license, FERC must determine that the
4 licensee has proposed a comprehensive plan that is best adapted for improving or
5 developing a waterway. This plan not only covers the utilization of water-power
6 for generation purposes, but it must also provide for the adequate protection,
7 mitigation, and enhancement of fish and wildlife, cultural resources, flood
8 control, water quality, recreation and other public benefits. Particularly in the
9 case of relicensing, and in the case of both the Snoqualmie Project and the Baker
10 Project, the in-place generation facilities are essentially “approved” for the term
11 of the new License (with some opportunity for minor upgrades and efficiency
12 improvements). However, the bulk of the investment required by the new
13 License is in non-power resources. While these projects remain good overall
14 investment relative to the value they produce going forward, many of the costs
15 associated with license implementation are not offset by a corresponding power
16 benefit.

17 **Q. Did the Company proactively seek to reduce and contain these costs in the**
18 **relicensing proceeding?**

19 A. Yes, in fact, cost containment was one of the primary benefits to the Company in
20 entering into the Settlement Agreement. Many of these costs are associated with
21 “mandatory conditions” that can be unilaterally imposed by various state and

1 federal resource agencies (such as the U.S. Forest Service, the National Marine
2 Fisheries Service, the U.S. Fish and Wildlife Service and the Washington State
3 Department of Ecology). Throughout the settlement process, the Company
4 sought and obtained agreement on numerous items that substantially reduced cost,
5 risk and potential delays associated with these items.

6 **Q. What are the scope and nature of the costs that will be incurred in the**
7 **implementation of the Baker License?**

8 A. It is important to remember that this is a 50-year License. The further out in time
9 that you try to predict cost, the more variables you must take into consideration.
10 Our current estimate is that full implementation of the Baker Project License will
11 require capital expenditures of approximately \$231,436,897 (2008 dollars), and
12 O&M expenditures of approximately \$189,800,000 (2009 dollars). In all cases,
13 the License requires that the Company make these investments. They are not
14 optional. Since the License was issued in October 2008, our focus has been
15 expenditures that must be made over the next six years. I have a very high-level
16 of confidence in the need for, the amount of, and the timing of expenditures to
17 occur to implement the Baker Project License over the next two years.

18 **Q. Are you familiar with the operations and maintenance cost adjustment**
19 **proposed by the Company in this proceeding for the Baker Project?**

20 A. Yes, I am aware of a \$4,740,511 adjustment proposed by the Company in this
21 proceeding that accurately reflects O&M expenditures that the Company must

1 and will incur during the rate year (April 2010 through March 2011) to implement
2 the Baker Project License.

3 **Q. Would you please identify the specific terms and conditions of the Baker**
4 **Project License that require these costs to be incurred during the rate year.**

5 A. Yes. Please refer to Exhibit No. KWL-3, Table 1. I prepared Table 1 and now
6 refer to Table 1 as part of my testimony. Table 1 provides a detailed statement of
7 the O&M expenditures that the Company will incur, during the rate year, to
8 implement the requirements of the Baker Project License.

9 The first column of Table 1 references the specific License article or requirement
10 that governs the activity in question. I also provide a brief explanation of what
11 must be done to satisfy this obligation. I also state whether the expenditure is a
12 fixed dollar amounts established by the License itself, or if the expenditure is a
13 reasonable and reliable cost estimate of expenditures that will be required to
14 support the activity in question. Some License articles require both fixed fee
15 payments and expenditures in support of License implementation activities.

16 The second column of Table 1 states the O&M expenditure, in a dollar amount,
17 for the referenced License article or requirement. All such amounts are then
18 totaled at the bottom of Table 1 (second column, bottom row). The total amount
19 of the O&M expenditures that the Company will incur, during the rate year, to
20 implement the requirements of the Baker License is \$4,740,511.

1 **Q. In addition to the O&M expenditures you just explained, are there also**
2 **annual charges for the use of government lands applicable to use of the**
3 **Baker Project?**

4 A. Yes, under Section 10(e)(1) of the Federal Power Act, 16 U.S.C. § 803(e)(1),
5 hydropower licensees using federal lands are required to "pay to the United States
6 reasonable annual charges in an amount to be fixed by [the FERC] . . . for
7 recompensing [the United States] for the use, occupancy, and enjoyment of its
8 lands or other property." Payment of such annual charges is also a requirement of
9 the License. The Baker Project uses federal lands and is subject to these FERC
10 annual charges for use of federal lands.

11 **Q. Have these FERC annual charges for use of federal lands recently increased?**

12 A. Yes, on February 24, 2009, FERC adopted an updated fee schedule for purposes
13 of calculating these annual charges for use of federal lands. *Update of the*
14 *Federal Energy Regulatory Commission's Fees Schedule for Annual Charges for*
15 *the Use of Government Lands*, 74 Fed. Reg. 8184 (February 24, 2009) FERC
16 Stats. & Regs. ¶ 31,288 (2009); *see also* Order Denying Rehearing, 129 FERC ¶
17 61,095 (October 30, 2009). FERC's regulations (18 C.F.R. § 11.2(b)) double the
18 U.S. Bureau of Land Management's ("BLM's") linear right-of-way fees to
19 establish the annual fees for the use of federal lands for project works other than
20 transmission lines, such as these Baker Project federal lands. *See* Order Denying
21 Rehearing, 129 FERC ¶ 61,095, at para. 8 (October 30, 2009). FERC issued an

1 invoice to PSE for the Baker Project's 2009 annual charges for use of federal
2 lands in the amount of \$887,223.64. This constitutes a significant increase from
3 the 2008 invoiced amount of \$231,252.63.

4 **Q. Do you expect the annual charges for use of federal lands to increase in**
5 **2010?**

6 A. Yes, the total fee in 2010 will be \$1,109,030.00. There are three documents that
7 substantiate PSE's determination of annual charges for use of federal lands in
8 2010. First, the BLM published in the Federal Register / Vol. 73, No. 212 /
9 Friday, October 31, 2008 / Rules and Regulations, 43 CFR Parts 2800, 2880, and
10 2920, *Update of Linear Right-of-Way Schedule; Final Rule*. In this publication,
11 BLM states "we have added final section 2806.23(b) which provides for a phase-
12 in of the initial implementation of the Per Acre Rent Schedule by reducing the
13 2009 per acre rent by 25 percent. In calendar year 2009, all holders will pay
14 75 percent of the scheduled rental rates, and thereafter, 100 percent of the
15 scheduled rental rates." The second relevant document is FOREST SERVICE
16 2009-2010, State and County Linear Fee, Zones 2009 Linear Fee Schedule
17 (11/21/2008), which indicates that Skagit and Whatcom counties are zone 7. The
18 third document, the FERC invoice, indicates the 2009 rate for such lands to be
19 \$231.04 per acre in 2009. PSE's determination of fees for 2010, consistent with
20 18 C.F.R. § 11.2(b), applies 100 percent of the scheduled rental rate (as opposed
21 to 75 percent in 2009).

1 **Q. Is there a consequence to the Company if it does not make these**
2 **expenditures?**

3 A. Yes, absent an extension of time or some other form of relief granted by FERC, if
4 the Company did not takes the steps necessary to implement the License in
5 accordance with its terms, the Company would be in violation of the License and
6 subject to the enforcement provisions of the FPA. In such cases, FERC has the
7 authority to issue compliance orders, impose civil penalties and potentially revoke
8 the License. Additionally, the multi-party Settlement Agreement remains in full
9 force and effect. If the Company did not take the steps necessary to implement
10 the License in accordance with its terms, the Company would also be in breach of
11 the Settlement Agreement.

12 **Q. How certain are you that these numbers are accurate?**

13 A. I am very certain that these numbers are accurate. I have worked diligently over
14 the last ten months to determine and manage these costs. To summarize:

15 \$1,821,641 of the \$4,740,511 adjustment reflects expenditures where the amount
16 in question is specified by the License. The License affords no discretion as to
17 either the requirement or the amount of the payment.

18 \$2,918,870 of the \$4,740,511 adjustment reflects expenditures where the
19 Company's obligation is not stated as a dollar amount. Rather, the obligation is a
20 task or an activity that must be performed during the rate year. To determine

1 these costs, budgets for each License requirement (by License article) are
2 developed by project managers assigned to these tasks. The following process is
3 used to develop and refine these budgets:

- 4 • The specific License article or project to be budgeted is reviewed and required
5 actions, and the schedule for such actions, are identified.
- 6 • The scope of work for internal and external resources is developed.
- 7 • External work is generally work performed by contractors, although certain
8 agencies also perform such work to implement the Baker Project License,
9 such as the State of Washington Department of Fish & Wildlife and the
10 United States Forest Service.
- 11 • Materials to be provided by PSE are identified and costs are determined and
12 assigned
- 13 • Selected contractor proposals provide the basis for external costs and are
14 incorporated into the budget.
- 15 • The amount of time required to complete internal work scope is itemized and
16 entered into PSE's budgeting system, which calculates costs for each labor
17 category, by department.
- 18 • Unit pricing is developed by the department that maintains the budget system,
19 ensuring that proper labor rates with overheads are utilized in the budgeting
20 process, and that appropriate overheads are applied to internal and external
21 cost categories.
- 22 • The project schedule (as required by the License) is used to develop the
23 budget cash flow, and this is the basis for the monthly allocations.
- 24 • Actual costs are posted to PSE's budget system and budgeted costs for each
25 month replaced by the actual cost as project expenditures are entered.

26 The Baker Project License and the Snoqualmie Project License budgets are reviewed
27 monthly, and great care is taken to ensure accurate cash flows have been entered and
28 the expenditure rates match budget cash flows as close as possible.

1 **Q. Will the Company receive any offsetting benefits from these expenditures?**

2 A. If you are referring to financial benefits (such as reduced costs/improved
3 efficiencies in our operations), the answer is no. As explained above, these costs
4 are related to non-power resources that will not reduce power costs or result in
5 improved or more efficient generation.

6 **Q. Does the FERC License provide opportunities for generation upgrades and
7 or improved efficiencies?**

8 A. The License approved additional units at Lower Baker that will increase the
9 licensed capacity of the project to 200 MW. These turbines were proposed in the
10 Settlement Agreement and approved by FERC in order to provide the physical
11 mechanism to regulate instream flows for the benefit of aquatic resources. When
12 these turbines go into service, so will a more restrictive instream flow
13 requirement. The net effect is that the annual output of the Baker Project may
14 slightly increase, depending upon the availability of water. However, any
15 generation gained is marginal and is unrelated to any of the \$4,740,511
16 adjustment proposed by the Company.

17 **IV. SNOQUALMIE PROJECT LICENSE IMPLEMENTATION**

18 **Q. When did FERC issue a License for the Snoqualmie Project?**

19 A. On June 29, 2004, FERC issued a License to operate the 42 MW Snoqualmie
20 Falls Hydroelectric Project, FERC Project No. 2493. The Project consists of a

1 dam and two powerhouses located on the Snoqualmie River in the City of
2 Snoqualmie and King County, Washington. PSE began implementing the License
3 in 2004 and commenced work in July 2004 when it initiated upgrades to Plant 2.

4 **Q. What is the status of the Company's efforts to implement the Snoqualmie**
5 **License?**

6 A. Although PSE began its efforts to implement the Snoqualmie License in 2004,
7 concurrent with these efforts, the U.S. Army Corps of Engineers (“Corps”)
8 implemented a flood control project that removed natural obstructions to the river
9 channel upstream of the Snoqualmie Project. Changes to the river hydrology and
10 channel alignment attributable to the Corps project, coupled with technological
11 advancements identified through the process of detailed engineering and design,
12 required changes to the License and significant modification of plans for
13 replacement of the diversion dam, refurbishment of Plant 1 and some elements of
14 Plant 2. PSE applied for and, in June of 2009, FERC approved a License
15 amendment addressing these changed circumstances. The amendment also
16 revised the construction schedule and other aspects of the License, such that the
17 bulk of the work required by the License will now occur over the next two to four
18 years.

1 **Q. Are you familiar with the operations and maintenance cost adjustment**
2 **proposed by the Company in this proceeding for the Snoqualmie Project?**

3 A. Yes, I am aware of a \$1,012,745 adjustment proposed by the Company in this
4 proceeding that accurately reflects O&M expenditures that the Company must
5 and will incur during the rate year (April 2010 through March 2011) to implement
6 the Snoqualmie Project License.

7 **Q. Would you please identify the specific terms and conditions of the**
8 **Snoqualmie Project License that require these costs to be incurred during**
9 **the rate year.**

10 A. Yes. Please refer to Exhibit No. KWL-3, Table 2. I prepared Table 2 and now
11 refer to Table 2 as part of my testimony. Table 2 provides a detailed statement of
12 the O&M expenditures that the Company will incur during the rate year to
13 implement the requirements of the Snoqualmie Project License.

14 The first column of Table 2 references the specific License article or requirement
15 that governs the activity in question. I also provide a brief explanation of what
16 must be done to perform these obligations and the costs associated with
17 performance of these obligations.

18 The second column of Table 2 states the O&M expenditure, in a dollar amount,
19 for the referenced License article or requirement. All such amounts are then
20 totaled at the bottom of Table 2 (second column, bottom row). The total amount

1 of the O&M expenditures that the Company will incur during the rate year to
2 implement the requirements of the Snoqualmie Project License is \$1,012,745.

3 **Q. Is there a consequence to the Company if it does not make these**
4 **expenditures?**

5 A. Yes, as noted earlier, FERC has authority to issue compliance orders, impose civil
6 penalties and potentially revoke the License.

7 **Q. How certain are you that these numbers are accurate?**

8 A. I am very confident that we have reasonably and reliably determined the costs
9 that the Company will incur in implementing the Snoqualmie Project License
10 during the rate year. The Snoqualmie License, in contrast to the Baker License,
11 has few fixed payment obligations. However, costs to be incurred during the rate
12 year were determined through the rigorous budgeting procedures that I described
13 earlier. Costs are determined relative to the specific requirements of each License
14 article (scope), as is the required timeline for implementation (schedule), with
15 direct input from the appropriate resources managers (subject matter experts).
16 Once these costs are established (budget) the activities in question are
17 aggressively managed to progress on schedule and within budget.

18 **Q. Will the Company receive any offsetting benefits from these expenditures?**

19 A. No. These costs are related to non-power resources that will not reduce power
20 costs or result in improved or more efficient generation. While there may be

1 important environmental benefits that run to the public at large for undertaking
2 these efforts, they do not return a financial benefit to the Company.

3 **V. CONCLUSION**

4 **Q. Please summarize your conclusions.**

5 A. Compliance with the FERC License for the Baker Project requires actions and
6 expenditures that FERC determined to be necessary to protect, mitigate and
7 enhance aquatic resources, cultural resources, recreational resources, water
8 quality and terrestrial resources, and to support ongoing collaboration with the
9 Baker River Coordinating Committee. These activities will require O&M
10 expenditures during the rate year of \$4,740,511. These costs are all related to
11 non-power resources. There are no offsetting financial benefits to be gained by
12 the Company.

13 The bulk of the work required to implement the Snoqualmie Project FERC
14 License is just now getting underway. These activities will require O&M
15 expenditures during the rate year of \$1,012,745. As with the Baker Project, these
16 additional costs are related to non-power resources that will not reduce power
17 costs or result in improved or more efficient generation. There are no offsetting
18 financial benefits to be gained by the Company.

19 **Q. Does that conclude your prefiled rebuttal testimony?**

20 A. Yes.