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July 19, 2004

Via Email and U.S. Mail

Carole J. Washburn
Office of the Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
Olympia, WA 98504-7250

RECEIVED
04 JUL 19 PM 4:06
UTILITY AND TRANSPORTATION COMMISSION

Re: Docket Nos. PG-030080 and PG-030128

Dear Ms. Washburn:

Enclosed for filing is an original and thirteen (13) copies of Puget Sound Energy, Inc.'s Answer in the above-captioned dockets. Please return a conformed copy to the undersigned in the self-addressed, stamped envelope provided for your convenience.

Thank you for your assistance in this matter.

Very truly yours,

Sheree Strom Carson

SSC:cgm
Enclosures

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BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

DOCKET NOS. PG-030080
PG-030128

ANSWER OF
PUGET SOUND ENERGY, INC.

INTRODUCTION

1. Puget Sound Energy, Inc.'s ("PSE" or the "Company") address for purposes of this proceeding is:

Greg Zeller
Director, Safety and Operations Performance
Puget Sound Energy, Inc.
PO Box 90868 MS:XRD-LL
Bellevue, Washington 98009-0868
Phone: 425-462-3864
Fax: 425-462-3770
Email: greg.zeller@pse.com

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PSE's representative for purposes of this proceeding is:

Sheree Strom Carson
Jason T. Kuzma
Perkins Coie LLP
10885 N.E. Fourth Street, Suite 700
Bellevue, WA 98004-5579
Phone: 425-635-1400
Fax: 425-635-2400

2. PSE appreciates the Commission's important responsibilities in auditing and enforcing pipeline safety with respect to the companies it regulates. PSE is committed to constructing and maintaining a natural gas system that is safe and meets high standards of excellence. The Company believes that its system is safe. Nevertheless, PSE is constantly looking for ways to improve and enhance pipeline safety. In that regard, the Company welcomes the Commission Staff's audits of its facilities as an additional means of checking whether PSE's systems and processes related to pipeline safety are working effectively, and as an additional source of information regarding improvements that might be made to such processes or systems.

3. With these fundamental principles in mind, PSE answers the Complaint of the Washington Utilities and Transportation Commission (the "Commission") dated June 29, 2004 (the "Complaint") as stated below. With respect to factual allegations that are admitted below, PSE also provides additional information related to the circumstances of the incidents at issue. PSE does not do so in order to excuse itself from responsibility for achieving high standards of excellence in matters related to pipeline safety, but rather to aid the Commission, Staff and other parties in understanding the context of the alleged violations and in

1 determining what level of sanctions may be appropriate, if any, to the extent particular
2 incidents constitute violations of the cited regulations.
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7 **ANSWER**

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9 4. Because paragraph 1 contains no legal or factual allegations, PSE neither
10 admits nor denies this paragraph.
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13 **I. PARTIES**

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15 5. Answering paragraph 2, PSE admits that the Commission is an agency of the
16 State of Washington, authorized by Title 80 RCW to regulate in the public interest the rates,
17 services, facilities and practices of all persons engaging within the State of Washington in the
18 business of supplying any utility service or commodity to the public for compensation, and
19 related activities, including gas companies.
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23 6. Answering paragraph 3, PSE admits that it is an electrical and gas company
24 subject to regulation by the Commission pursuant to RCW 80.01.040(3), et al.
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28 **II. JURISDICTION**

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30 7. Answering paragraph 4, PSE admits that the Commission generally has
31 jurisdiction over this matter pursuant to the provisions of RCW 80.01, RCW 80.04,
32 RCW 80.28 and chapter 480-93 WAC. With respect to specific provisions cited in the
33 Complaint, Paragraph 4 contains legal conclusions to which no answer is required.
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37 **III. FACTUAL ALLEGATIONS**

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39 8. Answering paragraph 5, PSE admits that the Commission Pipeline Safety Staff
40 ("Staff") conducted pipeline safety inspections of PSE facilities and operations in King, Pierce
41 and Kittitas Counties during 2003. The second sentence of paragraph 5 states the opinions
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1 and conclusions of Staff for which an answer is inappropriate and is therefore denied. PSE
2 neither admits nor denies the third sentence of paragraph 5, which describes an aspect of the
3 structural format of the Complaint and does not contain any factual or legal allegations that
4 require an answer.
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8 9. Answering paragraph 6, PSE admits that 49 C.F.R. § 192.13(c) requires PSE,
9 as a gas pipeline operator, to "maintain, modify as appropriate, and follow the plans,
10 procedures, and programs that it is required to establish under [Title 49, Code of Federal
11 Regulations, Part 192]." The second sentence of paragraph 6 states a legal opinion or
12 conclusion for which an answer is inappropriate and is therefore denied. PSE neither admits
13 nor denies the third and fourth sentences of paragraph 6, which describe an aspect of the
14 structural format of the Complaint and do not contain any factual or legal allegations that
15 require an answer.
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24 10. Answering paragraph 7, PSE admits the allegation in the first sentence that the
25 Commission provided PSE with a copy of Staff's investigation reports in this docket. PSE
26 also admits the allegation in the second sentence that the Commission previously provided a
27 copy of Staff's investigation reports to PSE in Docket Nos. UG-011274 and UG-20401. The
28 third sentence of paragraph 7 states a legal opinion or conclusion for which an answer is
29 inappropriate and is therefore denied. PSE denies that any investigation reports were attached
30 to the Complaint that was served on PSE in this docket, but admits that it has subsequently
31 been provided with a copy of the referenced documents.
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40 11. PSE neither admits nor denies paragraph 8, which describes an aspect of the
41 structural format of the Complaint and does not contain any factual or legal allegations that
42 require an answer.
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1 12. Answering paragraph 9, PSE admits the allegation in the first sentence that
2 PSE's cathodic protection test site records indicated that six test sites were not tested at an
3 interval of once each calendar year, with an interval not to exceed 15 months. The testing for
4 these six test sites ranged from 6 to 55 days past due, and none of the sites had a prior history
5 of past due inspections. PSE had a total of 9,853 sites within Pierce County at the time of
6 the audit.
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12 13. Further answering paragraph 9, PSE admits the allegation in the second
13 sentence that Staff found a cathodically-protected steel service that was not monitored on a
14 ten-year cycle. PSE has added this site to its ten-year monitoring schedule. PSE admits that
15 the steel service discussed in the third sentence had not yet been found under its plat review
16 program but disagrees with the second part of the sentence, which implies that the plat review
17 is complete. PSE did implement a Company-wide plat review process in response to a
18 previous notice of probable non-compliance issued by the Commission in Docket No. UG-
19 011273. The purpose of the plat review process is to identify possible isolated steel risers and
20 steel-wrapped services that would not be discovered through the critical bond program. The
21 Company initiated the plat review in 2002, knowing there would be two phases. PSE
22 completed the intensive map review by hiring temporary contractors. The field review was
23 initiated in 2004 to identify potential isolated services and is underway. PSE's field review
24 process includes steps to recheck the maps in order to capture locations that may have been
25 missed during the map review phase. This aspect of the program is time-intensive and
26 requires a more highly skilled and qualified worker. It is anticipated this work will take
27 several years to complete since the entire system is being checked.
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14. Further answering paragraph 9, the fourth and fifth sentences of paragraph 9 state legal opinions or conclusions for which answers are inappropriate and are therefore denied.

15. Answering paragraph 10, PSE admits the first part of the first sentence and the fourth sentence that it was unable to provide documentation that a steel service line (service riser) with atmospheric corrosion had been surveyed once every three years for atmospheric corrosion. PSE has subsequently cut and capped the service riser in question and continues its process of identifying, cutting and capping similar service risers. Furthermore, PSE continues to strive for improvements in its atmospheric corrosion monitoring and remediation process and initiated a new policy in the 2003 Gas Operating Standards manual requiring inactive service risers without meters in mobile home or travel trailer parks to be cut and capped at the main.

16. Further answering paragraph 10, the second part of the first sentence, the second sentence and the fifth sentence of paragraph 10 state legal opinions or conclusions for which answers are inappropriate and are therefore denied.

17. Further answering paragraph 10, PSE neither admits nor denies the third sentence of paragraph 10, which does not contain any factual or legal allegations that requires an answer.

18. Answering paragraph 11, PSE denies the allegations in the first part of the first sentence of paragraph 11 and the second sentence of paragraph 11 that out of nineteen leak repairs made in areas where active corrosion was found, nine were not cathodically protected after the leak was repaired. After responding to the WUTC audit on April 2, 2004, PSE determined that two of the referenced leaks were the same physical location and repair. PSE added cathodic protection to six of the repaired sites by May 30, 2004. Also, PSE replaced

1 the main on one site with polyethylene, which does not require cathodic protection, by May
2 30, 2004. The final referenced leak repair is located in a heavily-traveled road, thereby
3 making further excavation difficult and disruptive to local travel flows. Instead of localized
4 installation of cathodic protection, PSE has scheduled this particular main for replacement in
5 calendar year 2005. Additionally, PSE has taken the following steps to further address
6 cathodic protection on leak repairs: (i) PSE created a checklist for its contractor to complete
7 when performing corrosion leak repair on unprotected bare steel pipelines; (ii) in
8 January 2004, PSE began reviewing all of its leak repair records and will continue such review
9 until PSE is satisfied that repair sites are cathodically protected; (iii) on March 15, 2004, PSE
10 distributed a written reminder to its contractor regarding documentation of anode installation;
11 and (iv) after receiving the written reminder from PSE, the contractor implemented a quality
12 control program specific to corrosion repairs.
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24 19. Further answering paragraph 11, the second part of the first sentence, the
25 second sentence and the fourth sentence of paragraph 11 state a legal opinion or conclusion
26 for which an answer is inappropriate and is therefore denied. PSE neither admits nor denies
27 the third sentence of paragraph 11, which does not contain any factual or legal allegations that
28 requires an answer.
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34 20. Answering paragraph 12, PSE admits the first part of the first sentence of
35 paragraph 12 that Commission Staff's review of PSE's records showed that sixteen valves
36 PSE had designated as emergency valves had not been checked and serviced in the required
37 interval of once each fifteen months, but at least once each calendar year. Inspections of the
38 referenced valves, all of which were in Pierce County, ranged from 10 days to 4 months past
39 the due date for each valve. PSE annually inspected a total of 661 sites in Pierce County at
40 the time of the 2003 audit.
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21. Further answering paragraph 12, the second part of the first sentence, the second sentence and the fourth sentence of paragraph 12 state a legal opinion or conclusion for which an answer is inappropriate and is therefore denied. Additionally, PSE denies that Section 2600.1200.4.1 of its Operating and Maintenance Manual applies to the facts alleged in paragraph 12; Section 2575.1200 is the applicable standard. PSE neither admits nor denies the third sentence of paragraph 12, which does not contain any factual or legal allegations that require an answer.

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22. Answering paragraph 13, PSE admits the first part of the first sentence that nine areas of steel wrapped pipeline did not have adequate levels of cathodic protection. PSE remediated the cathodic protection level at the nine referenced locales immediately after they were identified in Commission Staff's inspection. PSE denies the allegations contained in the second sentence as it misrepresents the review program previously implemented by PSE. As agreed by Staff and PSE in Docket Nos. UG-941394 and UG-011273, PSE has implemented two multi-year programs (critical bond and plat review) to identify isolated locations that require cathodic protection, and those programs are underway but not yet completed. PSE believes that the nine referenced locales would have been identified and remediated by one of these programs if they had not been identified by Staff.

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23. Further answering paragraph 13, the second part of the first sentence of paragraph 13, the third sentence and the fifth sentence of paragraph 13 state a legal opinion or conclusion for which an answer is inappropriate and is therefore denied. Additionally, PSE denies that Section 2600.1900.5.1.1 of its Operating and Maintenance Manual applies to the facts alleged in paragraph 13; Section 2600.1000 is the applicable standard. PSE neither admits nor denies the fourth sentence of paragraph 13, which does not contain any factual or legal allegations that requires an answer.

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24. Answering paragraph 14, PSE admits the first part of the first sentence of paragraph 14 that, in areas requiring cathodic protection remedial action, PSE exceeded the 90-day maximum time to complete remedial action on fourteen occasions. Prior to the Commission Staff's audit, PSE recognized the need for process improvements related to the timely completion of cathodic protection remediation work orders. PSE met with its contractor on multiple occasions in 2003 to identify process improvements to address this matter, and on October 1, 2003, process changes were implemented to eliminate the occurrences of overdue remediations.

25. Further answering paragraph 14, the second part of the first sentence of paragraph 14, the second sentence and the fourth sentence of paragraph 14 state a legal opinion or conclusion for which an answer is inappropriate and is therefore denied. PSE neither admits nor denies the third sentence of paragraph 14, which does not contain any factual or legal allegations that requires an answer.

26. Answering the first part of the first sentence of paragraph 15, PSE admits that it had six pipeline casings that were electrically shorted to the pipeline where leak surveys were not conducted at the required maximum 90-day timeframe. Five of the six locations were three to seven days overdue for a leak survey, and were caused by a single incident of miscommunication between PSE and its leak survey contractor. The sixth location was caused by a data entry error. PSE has limited the accessibility of this particular database to help ensure that such errors do not occur in the future.

27. Further answering paragraph 15, the second part of the first sentence of paragraph 15, the second sentence and the fourth sentence of paragraph 15 state a legal opinion or conclusion for which an answer is inappropriate and is therefore denied. PSE

1 neither admits nor denies the third sentence of paragraph 15, which does not contain any
2 factual or legal allegations that requires an answer.
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4 28. Answering paragraph 16, PSE denies that any of the combustible gas indicators
5 in use in the field were out of compliance with calibration requirements, as alleged in the first
6 part of the first sentence of paragraph 16. Since responding to the audit, PSE has found that
7 it is the practice of PSE's contractor to take the equipment to the shop for recalibration and
8 repair prior to the scheduled calibration date, and to replace the equipment with properly
9 calibrated equipment. The twelve combustible gas indicators cited in the audit and in
10 paragraph 16 of the Complaint were in the shop for repair and/or re-calibration at the time the
11 calibration lapsed and were not allowed to be utilized by personnel. PSE is working with its
12 contractor to develop a system to document when equipment is taken out of the field to be
13 calibrated.
14

15 29. Further answering paragraph 16, the second part of the first sentence of
16 paragraph 16, the second sentence and the fourth sentence of paragraph 16 state a legal
17 opinion or conclusion for which an answer is inappropriate and is therefore denied. PSE
18 neither admits nor denies the third sentence of paragraph 16, which does not contain any
19 factual or legal allegations that requires an answer.
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21 30. Answering paragraph 17, PSE admits the first part of the first sentence of
22 paragraph 17 that six leaks were not re-evaluated or repaired by the required dates. These
23 leaks had been found under PSE's internal review procedures and had been provided to Staff.
24

25 31. Further answering paragraph 17, the second part of the first sentence of
26 paragraph 17, the second sentence and the fourth sentence of paragraph 17 state a legal
27 opinion or conclusion for which an answer is inappropriate and is therefore denied. PSE
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1 neither admits nor denies the third sentence of paragraph 17, which does not contain any
2 factual or legal allegations that requires an answer.
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4 32. Paragraph 18 of the Complaint states a legal opinion or conclusion for which
5 an answer is inappropriate and is therefore denied.
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7 33. Answering paragraph 19 of the Complaint, PSE incorporates by reference its
8 answers to paragraphs 2-16 of the Complaint, as set forth above.
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10 34. Paragraphs 20 – 29 of the Complaint state legal opinions or conclusions or
11 describe procedural matters for the conduct of the hearing into this matter that do not require
12 an answer. Thus, PSE neither admits nor denies paragraphs 20 – 29 of the Complaint.
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14 Generally, PSE denies that the Commission should impose on PSE the penalties recommended
15 by Staff with respect to the allegations set forth in the Complaint. If the Commission
16 determines that penalties should be imposed, the amount of the penalty, if any, should be
17 much less than the amount recommended by Staff.
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28 **AFFIRMATIVE DEFENSES**

29 35. Imposition of the total potential penalties of \$4,500,000 alleged in the
30 Complaint or Staff's recommended imposition of penalties totaling \$1,320,000 would not be
31 appropriate in this case. "The assessment of penalties for violations of law is meant to be
32 corrective, not retributive. The purpose is to secure compliance by incenting reasonable and
33 appropriate conduct by the offending party." MCI Metro Access Transmission Serv., Inc. v.
34 U S WEST Comm., Inc., WUTC No. UT-971063, ¶ 154 (Feb. 10, 1999) ("MCI Metro"). In
35 determining whether sanctions are appropriate, the Commission considers whether:
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- 44 1) the offending conduct was associated with new requirements or issues
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- 2) the offending party should have known its conduct constituted a violation,
- 3) the offending conduct was knowing or intentional,
- 4) the offending conduct was gross or malicious,
- 5) repeated violations occurred,
- 6) the Commission previously had found violations,
- 7) the offending conduct improved, and whether
- 8) remedial steps were undertaken

MCI Metro at ¶ 158.

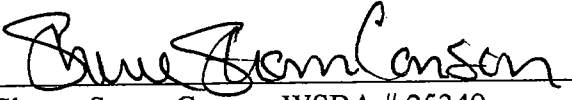
36. PSE is responsible for the construction and maintenance of an extensive gas pipeline system and has numerous programs and procedures in place to seek to ensure that its system is safe. PSE's conduct to ensure the safety of its gas system is reasonable and appropriate. Several of the incidents alleged in the Complaint had been found through PSE's own internal review program and were voluntarily shared with Staff during the audit. Several other incidents alleged in the Complaint would have been found through PSE's own ongoing, multi-year review programs, which were instituted with the approval of Staff to find just such problems and correct them. The violations alleged in the Complaint do not represent knowing or intentional conduct by PSE that was gross or malicious. The incidents do not reflect repeated violations with respect to particular sites where prior violations have been found, and PSE has improved its programs and procedures in response to prior Commission Staff audit findings. PSE either had, or did implement, programs to correct the type of incidents identified by Commission Staff. These programs are ongoing and will take several years to complete. Finally, PSE acted promptly to correct all of the alleged violations. Imposition of fines in the magnitude of \$1,320,000, as recommended by Staff, would serve a retributive and

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not corrective function and would not meet the Commission's standard for imposition of penalties.

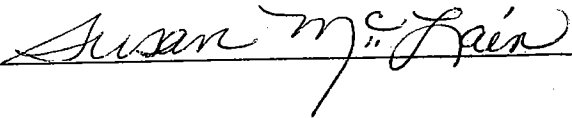
DATED: July 19, 2004.

PERKINS COIE LLP

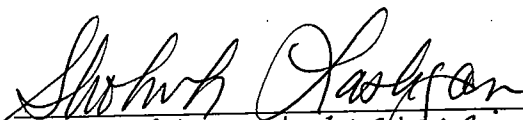
By 
Sheree Strom Carson, WSBA # 25349
Jason T. Kuzma, WSBA # 31830
Attorneys for Puget Sound Energy, Inc.

1 STATE OF WASHINGTON)
2) ss.
3 COUNTY OF KING)
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7 Susan McLain, being first duly sworn, deposes and says that she is the Senior Vice
8
9 President for Operations for Puget Sound Energy, Inc.; that she has read the foregoing
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11 Answer to Complaint and knows the contents thereof; that the facts set forth therein are true
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13 based on her own knowledge, except as to matters which are therein stated on information or
14
15 belief, and as to those matters, she believes them to be true.
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25 SUBSCRIBED and SWORN to before me this 19th day of JULY, 2004, by
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34 Print Name: SHOHREH LASHGARI
35 Notary Public in and for the State of Washington,
36 residing at 17809-3RD AVE NE, SEA-WA 98155
37 My commission expires: 4-28-08
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