

electrical hookup of the developed property. The time period during which Complainant might be eligible for additional refunds following development of additional lots will expire later this year, or early in 2013.²

- 3 The complaint asks that “the WAC 480-100-033 Line Extension Refund Policy deadline to be [sic] reconsidered due to extenuating circumstances.” Construing the complaint liberally, the Commission takes this to be a reference to PSE’s Schedule 85, which sets forth the Company’s line extension practices and policies, as required by WAC 480-100-033. The complaint refers to Complainant’s challenges in developing the property, which she attributes to the general state of the economy and the “failed housing market.”
- 4 PSE answered the complaint on May 14, 2012. PSE admits and denies various allegations in the complaint and states affirmative defenses. PSE specifically asserts as affirmative defenses that Harbhajan Mangat fails to state a claim upon which the Commission can grant relief, and that the Company’s acts and practices comply fully with Washington law, the Commission’s rules and PSE’s tariffs.
- 5 WAC 480-07-370 defines “Formal complaints” as “complaints filed in accordance with RCW 80.04.110 and 81.04.110, complaints filed under RCW 80.54.030, and commission complaints in proceedings designated by the commission as formal commission proceedings.” RCW 80.04.110 is the only statutory provision among those listed that is even arguably applicable to Harbhajan Mangat’s complaint.³ RCW 80.04.110 provides:

(1) Complaint may be made by the commission of its own motion or by any person ... by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public service corporation in violation, or claimed to be in violation, of any provision of law or of any order or rule of the commission: PROVIDED, That no complaint shall be entertained by the commission except upon its own motion, as to the reasonableness of the schedule of the rates or charges of any ... electrical company... unless the same be signed by the mayor, council

² It is not entirely clear by what date development would have to occur or any refund would have to be applied for, but it is clear that the date is fairly imminent.

³ RCW Chapter 81 concerns the Commission’s jurisdiction over transportation companies, not utilities such as PSE. RCW 80.54.030 concerns pole attachments to transmission facilities and is not relevant to the facts asserted in the complaint.

or commission of the city or town in which the company complained of is engaged in business, or not less than twenty-five consumers or purchasers of such gas, electricity, water or telecommunications service, or at least twenty-five percent of the consumers or purchasers of the company's service.

- 6 The complaint in this case does not include any assertion that PSE has acted, or failed to act “in violation . . . of any provision of law or of any order or rule of the commission.” The complaint does not assert that the Company has acted, or threatens to act, in any manner inconsistent with its tariff. Indeed, the exhibits included as part of the complaint show that PSE has complied, and is complying, fully with the requirements of its tariff Schedule 85-Line Extensions and Service Lines, which is the schedule to which the complaint is directed.
- 7 Due to the passage of time without further development of the subject property, it appears the Mangat’s opportunity to request additional refunds will pass fairly soon under the terms of Schedule 85. It is PSE’s adherence to the terms and conditions of Schedule 85 that may result in additional refunds not being available to the Mangats.⁴ To the extent the complaint can be made out to contest the “reasonableness” of PSE’s tariff Schedule 85, however, it is deficient as a matter of law because the Complainant does not meet any of the criteria set forth in RCW 80.04.110 that establish the jurisdictional threshold for the Commission to entertain such a complaint.
- 8 Thus, even taking the facts asserted in the complaint as true and considering them in the light most favorable to the Complainant for purposes of analysis,⁵ it nevertheless is clear as a matter of law that the complaint fails to state a claim upon which the Commission can grant relief. The Commission simply lacks jurisdiction to hear this matter as framed and presented by the complaint. It follows that the Commission, on its own motion, should dismiss the complaint.

⁴ It is worth noting that PSE is required to administer its tariff without undue discrimination or preference. This means it must treat similarly situated persons the same when enforcing the terms and conditions included in its various rate schedules, including Schedule 85. PSE is not free to simply make an exception for a customer whose individual circumstances may be adversely affected by the Company’s adherence to the requirements of its tariff.

⁵ In point of fact, several assertions of fact in the complaint are belied by the exhibits attached to it. The Commission emphasizes, however, that it takes the Complainant’s assertions as being true for purposes of its analysis here.

ORDER

9 The Commission Orders that the Complaint filed by Harbhajan Mangat on April 17, 2012, against Puget Sound Energy, Inc., is dismissed.

Dated at Olympia, Washington, and effective June 5, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS
Administrative Law Judge

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.