

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

WASHINGTON UTILITIES AND	)	DOCKETS UE-072300
TRANSPORTATION COMMISSION,	)	and UG-072301
	)	
Complainant,	)	ORDER 12
	)	
v.	)	
	)	FINAL ORDER APPROVING AND
PUGET SOUND ENERGY, INC.	)	ADOPTING SETTLEMENT
	)	STIPULATIONS; AUTHORIZING
Respondent.	)	AND REQUIRING COMPLIANCE
	)	FILING
	)	
.....	)	

1     ***Synopsis:** The Commission approves and adopts a set of five unopposed settlement stipulations filed by the parties to this general rate case that together resolve the question of what rates customers will pay on a prospective basis beginning November 1, 2008, for electric and natural gas service provided by Puget Sound Energy. In this Order, the Commission finds reasonable the parties’ agreed \$130,179,688 addition to the Company’s electric revenue requirement, a 7.09 percent increase over what is currently recovered in rates, and the parties’ agreed \$49,212,697 addition to the Company’s natural gas revenue requirement, a 4.60 percent increase over what is currently recovered in rates. The Commission will determine by separate order certain contested policy issues related to power cost recovery.*

**SUMMARY**

2     **PROCEEDINGS:** On December 3, 2007, Puget Sound Energy, Inc. (PSE or the Company), filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-60, Tariff G, Electric Service, and Tariff WN U-2, Gas Service. The tariff sheets bore a stated effective date of January 3, 2008. The proposed revisions would have resulted in a general rate increase of \$174.5 million, or 9.50 percent, for electric service and \$56.8 million, or 5.31 percent, for natural gas service.

3 The Commission suspended the filing on December 12, 2007, and set the dockets for hearing.

4 The Commission accepted for filing PSE's direct testimony, response testimony from Staff, Public Counsel and several intervenors, and rebuttal testimony from PSE, which the Company filed on July 3, 2008. Evidentiary hearings were scheduled to begin on September 2, 2008.

5 During an eleven-day period from August 12 through August 22, 2008, various parties filed a series of five unopposed settlement stipulations by which they collectively proposed to resolve all of the issues in this proceeding except certain policy issues raised in connection with the so-called PCORC (power cost only rate case) and PCA (power cost adjustment) mechanisms that the Commission approved in PSE's 2001/2002 general rate case.<sup>1</sup> The Commission suspended and revised the procedural schedule, setting September 3, 2008, as the date to convene a hearing to take evidence concerning the parties' proposed resolution of the rate issues and the contested issues concerning the PCORC and PCA.

6 **PARTY REPRESENTATIVES:** Sheree S. Carson and Jason Kuzma, Perkins Coie, Bellevue, Washington, represent PSE. Simon ffitch, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section of the Washington Office of Attorney General (Public Counsel). Robert D. Cedarbaum, Senior Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff or Staff).<sup>2</sup>

7 S. Bradley Van Cleve and Irion Sanger, Davison Van Cleve, Portland, Oregon, represent the Industrial Customers of Northwest Utilities (ICNU). Chad M. Stokes, Cable Huston Benedict Haagensen & Lloyd LLP, Portland, Oregon, represents

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<sup>1</sup> *WUTC v. Puget Sound Energy, Inc.*, Docket Nos. UE-011570 & UG-011571, Twelfth Supp. Order (2002). The contested issues focus on the PCORC. We mention the two mechanisms together because they are, as approved, related. Elimination of the PCORC, as proposed by ICNU and Public Counsel, has implications for the PCA.

<sup>2</sup> 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*.

Northwest Industrial Gas Users (NWIGU). Elaine L. Spencer, Graham & Dunn PC, Seattle, Washington, represents Seattle Steam Company (Seattle Steam). Michael L. Kurtz and Kurt J. Boehm, Boehm, Kurtz & Lowry, Cincinnati, Ohio, represent the Kroger Co., on behalf of its Fred Meyer Stores and Quality Food Centers divisions (Kroger). Norman Furuta and Scott Johansen, Department of the Navy, San Francisco, California, and San Diego, California, respectively, represent the Federal Executive Agencies (FEA). Ronald L. Roseman, Attorney, Seattle, Washington, represents the Energy Project. Damon Xenopoulos and Shaun Mohler, Brickfield Burchette Ritts & Stone, Washington, D.C., represent Nucor Steel Seattle, Inc. (Nucor).

- 8 **COMMISSION DETERMINATIONS:** The Commission finds on the basis of the evidence presented that PSE requires rate relief, and determines that the settlement stipulations collectively result in rates that are fair, just, reasonable and sufficient. The Commission accordingly approves and adopts the settlement stipulations in full resolution of the rate and revenue issues in this proceeding, and such other issues as the stipulations address by their terms.

## MEMORANDUM

### **I. Background and Procedural History**

- 9 PSE filed tariffs on December 3, 2008, designed to increase electric and natural gas rates by, respectively, \$174.8 million (9.5% on average) and \$56.8 million (5.3% on average). On April 14, 2008, the Company filed supplemental testimony updating certain costs and restating its revenue requirements as \$179.6 million (9.8% on average) for electric service and \$58.1 million (5.4% on average) for natural gas service. The Company's initial request was based on:

- A test-year ending September 2007.
- An overall rate of return of 8.60 percent.
- A rate of return on common equity of 10.8 percent.
- A capital structure with 45 percent common equity.
- An electric rate base of \$3.305 billion.<sup>3</sup>

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<sup>3</sup> Revised to \$3.290 billion on April 14, 2008.

- Total electric operating revenues of \$1.889 billion.<sup>4</sup>
- A natural gas rate base of \$1.349 billion.
- Total natural gas operating revenues of \$1.068 billion.<sup>5</sup>

10 Staff, in response testimony filed by ten witnesses,<sup>6</sup> recommended adjustments to the Company's as-filed case that reduced the proposed increase in electric revenue requirement by approximately \$68.2 million, to \$106.6 million. Staff also recommended adjustments to the proposed increase in natural gas revenue requirement, proposing to reduce PSE's as-filed request by approximately \$14.6 million to \$43.5 million.<sup>7</sup> Staff based its adjustments in part on an overall return of 8.25 percent, including an equity return of 10.0 percent and equity capitalization of 45 percent.<sup>8</sup>

11 Public Counsel, through the testimony of six witnesses,<sup>9</sup> recommended adjustments that reduced PSE's proposed increase in electric revenue requirement by approximately \$175.4 million, to \$4.3 million. Public Counsel recommended adjustments that reduced the Company's proposed increase in natural gas revenue requirement by approximately \$51 million, to \$7.0 million. These proposals were based in part on an overall return of 7.86 percent, including an equity return of 9.25 percent and equity capitalization of 43 percent. Public Counsel's largest proposed adjustment, however, was a reduction to federal income tax expense including a reduction in the rate from 35 percent to 30.67 percent and an immediate flow-through of the tax benefits arising from the Company's 2006 and 2007 storm damage. Public Counsel's adjustments to federal income tax accounted for more than 40 percent of its recommended reduction to the Company's as-filed electric revenue deficiency. Public Counsel also recommended changes to the Company's cost-of-service study, rate spread and rate design, and proposed eliminating the PCORC mechanism.

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<sup>4</sup> JHS-11 at 11-D (revised April 14, 2008).

<sup>5</sup> KRK-9 at 9-D (revised April 14, 2008).

<sup>6</sup> Mr. Weinman presented Staff's overall revenue requirements cases for electric and natural gas, supported by testimony from others. Staff's witnesses in addition to Mr. Weinman were: Mr. Buckley, Ms. Huang, Mr. Kermode, Mr. Kilpatrick, Mr. Kouchi, Mr. Martin, Mr. Parcell, Mr. Parvinen and Mr. Schooley.

<sup>7</sup> *Id.* at 3:14-15.

<sup>8</sup> Exhibit WHW-1T at 3:11-12.

<sup>9</sup> Mr. Majoros presented Public Counsel's overall revenue requirements cases for electric and natural gas. Public Counsel's other witnesses were: Ms. Alexander, Mr. Hill, Mr. King, Ms. Lee Smith and Mr. Watkins.

- 12 ICNU's two witnesses, Mr. Gorman and Mr. Schoenbeck, did not recommend adjustments to the electric revenue requirement, but "reserved the right to address revenue requirements matters in its brief."<sup>10</sup> Mr. Gorman recommended an equity return of 10.12 percent with equity capitalization of 45 percent, resulting in a proposed 8.15 percent overall rate of return. Mr. Schoenbeck proposed changes to the Company's electric cost-of-service study and rate spread, and recommended elimination of the PCORC mechanism. Mr. Schoenbeck also testified for NWIGU, proposing changes to the Company's as-filed cost of service, rate spread and rate design for natural gas.
- 13 FEA's witness, Mr. Ralph Smith, recommended two adjustments related to storm damage and wire zone vegetation management that reduced the electric revenue requirement by approximately \$11.3 million (using PSE's conversion factor of .62134) based on a \$7.0 million reduction in annual expense.
- 14 Kroger's witness, Mr. Higgins, recommended one tax adjustment that reduced the electric revenue requirement by approximately \$2.5 million. Kroger also recommended changes to the Company's electric cost-of-service study and rate spread. Mr. Higgins also testified for Nucor, recommending changes to PSE's electric cost-of-service, rate spread and rate design.
- 15 Seattle Steam, through Mr. Gent, recommended changes to the Company's gas cost-of-service and rate spread. Seattle Steam did not recommend through testimony any changes to PSE's proposed revenue requirement.
- 16 On rebuttal, the Company revised its request for increased electric revenue down to \$165.2 million (an average rate increase of 8.99 percent) and revised its request for increased natural gas revenue down to \$55.5 million (an average rate increase of 5.20 percent). These revised figures were the net product of the Company's accepting several adjustments proposed by the parties and its own adjustments updating its April 2008 supplemental testimony.

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<sup>10</sup> Exhibit DWS-1T at 2:1-2.

- 17 PSE asserted in its rebuttal case that the level of revenue increases recommended by either Staff or Public Counsel would aggravate its alleged persistent under-earning by 140 and 300 basis points, respectively. According to PSE, this “could well result in a further diminution of PSE’s credit standing.”<sup>11</sup> More generally, the Company asserted that, while Staff’s proposed adjustments are “responsible reactions . . . that can be accepted as proposed [or] provide some room with which to work productively,” the Public Counsel’s proposals are “punitive in effect and unsettling in approach.”
- 18 The parties settled all issues after considering the often conflicting testimony of their respective witnesses except for certain policy issues concerning the PCORC and PCA mechanisms.<sup>12</sup> They memorialized their agreements in a series of five settlement stipulations filed separately during the final two weeks prior to the previously scheduled evidentiary hearing. Each settlement stipulation was supported by its own joint testimony sponsored by the appropriate subject matter witnesses, as follows:
- Multi-Party Settlement of Electric Rate Spread and Electric Rate Design
    - Joint Testimony by Kevin C. Higgins, David W. Hoff, Donald Schoenbeck, Thomas E. Schooley, And Glenn A. Watkins<sup>13</sup>
  - Multi-Party Settlement of Natural Gas Rate Spread and Natural Gas Rate Design
    - Joint Testimony by Kevin C. Higgins, Donald Schoenbeck, Thomas E. Schooley, Glenn A. Watkins, Stanley Gent, And Janet K. Phelps<sup>14</sup>
  - Multi-Party Settlement of Emergency Response and Storm Preparedness
    - Joint Testimony by Susan McLain, Greg J. Zeller And Douglas E. Kilpatrick<sup>15</sup>

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<sup>11</sup> Exhibit EMM-13T at 13:4-14:6.

<sup>12</sup> *See, supra*, fn. 2.

<sup>13</sup> Exhibit B-1.

<sup>14</sup> Exhibit B-2.

<sup>15</sup> Exhibit B-3.

- Multi-Party Settlement of Service Quality, Billing and Metering Performance, and Low- Income Bill Assistance
  - Joint Testimony of Susan McLain, Booga K. Gilbertson, Karl R. Karzmar, Steven V. King and Barbara R. Alexander<sup>16</sup>
- All-Party Settlement of Electric and Natural Gas Revenue Requirements
  - Joint Testimony by John H. Story, Karl R. Karzmar, Michael P. Parvinen, Kevin C. Higgins and Michael J. Majoros, Jr.<sup>17</sup>

19 The settlement stipulations are unopposed. The parties request that we approve and adopt the settlement terms as the Commission's resolution of the issues in this general rate case, except for the contested issues concerning the PCORC and PCA mechanisms, which they separately briefed for decision.

## II. Settlement Stipulations

20 We summarize here and adopt the five settlement stipulations by which the parties propose to resolve most issues in this proceeding. The settlement stipulations are attached to and made a part of this Order by this reference. To the extent of any perceived inconsistency between our summaries here and the settlement stipulations, the express terms of the settlement stipulations control.

### A. Multi-Party Settlement of Electric Rate Spread and Electric Rate Design

21 The parties propose the following rate spread for allocation of the final electric revenue requirement increase approved in this case.

- Schedule 449 (retail wheeling) will receive no increase in rates.
- Schedule 40 (campus) rates will be determined in accordance with the calculated rate methodology, as proposed by the Company in its direct case, in which Schedule 40 rates for power supply (generation and transmission) are set equal to Schedule 49 High Voltage charges (adjusted for power factor and losses). In addition, delivery-related charges are derived based on customer specific costs of PSE distribution facilities used to provide delivery services directly to the Schedule 40 customers.

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<sup>16</sup> Exhibit B-4.

<sup>17</sup> Exhibit B-5.

- The revenue requirement for all other rate schedules will be equal to Revenue Allocation Factors multiplied by the final Revenue Requirement excluding revenues attributable to Schedules 40 and 449, as approved by the Commission in this proceeding.
- The Revenue Allocation Factors are calculated according to the following principles:
  - Schedules 7, 24, 31, 35, 43, 46, 49, 50-59 and Firm Resale receive a uniform percentage increase; and
  - Schedules 25, 26 and 29 receive a percentage increase equal to 50 percent of the uniform increase assigned to the other rates schedules above.

22 No increase is assigned to Schedule 449 under the parties' proposal because "assigning no increase to this class was a reasonable and equitable outcome given the cost-of-service evidence in this proceeding."<sup>18</sup> The parties testify that costs should be assigned to Schedule 40 based on a "formula rate" that charges energy at the Schedule 49 rate (adjusted for power factor and losses) and delivery-related charges based on customer-specific costs of PSE's distribution facilities used to provide delivery services directly to the Schedule 40 customers.<sup>19</sup>

23 The parties assert that the revenue allocation factors should only assign 50 percent of the uniform percentage increase to schedules 25, 26 and 29 because these schedules currently produce revenue at greater than parity and allocating a rate increase less than uniform will move these schedules closer to cost basis.<sup>20</sup> The smaller than average increase moves these rates approximately 4 percent closer to parity, according to Mr. Schoenbeck.<sup>21</sup>

24 With regard to Electric Rate Design, the settling parties agree to the Company's initial proposal on all matters except the relative amounts to be recovered via basic charges and commodity (kWh) charges. For residential service, the parties propose \$7.00/month (single phase) and \$17.25 (three-phase) basic charges where the company originally proposed \$9.00/month (single-phase) and \$22.25/month (three-

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<sup>18</sup> Exhibit JT-3T at 4:18-20.

<sup>19</sup> Exhibit JT-3T at 4:8-14.

<sup>20</sup> Exhibit JT-3T at 5:4-9.



phase). Currently, the basic charge is \$6.02 and \$14.85 for single- and three-phase, respectively. According to the parties: “The proposed rate design shows a good measure of movement towards recovering fixed costs through the fixed price.”<sup>22</sup>

25 For non-residential service, the parties propose basic charges “approximately one-half of the amounts proposed by PSE” in its as-filed case for each of the classes. The parties’ proposed basic charges for non-residential schedules are contained in an attachment to the Electric Rate Design settlement.<sup>23</sup>

### **B. Multi-Party Settlement of Natural Gas Rate Spread and Natural Gas Rate Design**

26 The record contains four natural gas cost-of-service studies that produce widely disparate results for the costs to serve several of the large-user classes. Staff’s statement concerning the settlement, that it “supports these compromises as a fair and reasonable end result,” is echoed by all the settling parties.<sup>24</sup> According to Staff, “equitable outcomes are achieved by no schedule receiving a decrease while others receive increases, and the acceptance of some parties to receive an increase even though rate decreases were indicated by their own cost studies.”

27 The parties propose the following rate spread for allocation of the increase in the final natural gas revenue requirement approved in this case.

- Schedule 23(Residential): 98.46 percent of system average margin increase.<sup>25</sup>
- Schedules 31 and 61(Commercial and Industrial Sales): 142.35 percent of system average margin increase.<sup>26</sup>

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<sup>21</sup> TR. 493:13-14.

<sup>22</sup> JT Testimony JT 3T at 9:6-8.

<sup>23</sup> Exhibit B-1 Attachment at 32-42.

<sup>24</sup> Exhibit JT-4T at 9:22-12:15.

<sup>25</sup> As used in the settlement, "system average margin increase" means the percentage increase in revenue from all classes, not including the cost of gas, which is ultimately determined by the Commission.

<sup>26</sup> The Settlement Stipulation also identifies Schedules 36 and 51 in this set. Those schedules, however, are to be eliminated according to other settlement terms. Ms. Phelps testified at hearing that the reference to Schedules 36 and 51 in this portion of the settlement was an oversight, which we here correct. TR. 488:22-489:2. No costs will be allocated to these schedules.

- Schedule 41(Large Volume Sales): 12.50 percent of system average margin increase.
- Schedule 85(Interruptible): 12.50 percent of system average margin increase.
- Schedule 86(Limited Interruptible): 0.00 percent of system average margin increase.
- Schedule 87(Non-Exclusive Interruptible): 50.00 percent of system average margin increase.
- Special Contracts: 50.00 percent of system average margin increase. The increase to special contracts is an imputation and represents the assignment of an actual revenue responsibility to this class. The actual changes in any special contracts are determined by their terms.
- Compressed Natural Gas: 0 percent of system average margin increase.
- Rentals: 100.00 percent of system average margin increase.
- Residual: Any residual increase needed to meet the full revenue requirement increase ordered by the Commission will be allocated to all schedules except Rentals based on the initial increase.

28 Much of the detail in the settlement terms for natural gas rate design focuses on industrial and large volume interruptible service Schedules 85 and 87 and distribution transportation service Schedule 57 (Distribution System Transportation Service). Schedule 57 will be eliminated once the General Rate Case is completed. The parties agree to add a transportation option to Schedules 31, 41, 85, 86 and 87.<sup>27</sup> Each Schedule 57 customer will be placed on the particular transportation schedule that is most economically advantageous to its historic usage with the same service characteristics unless the customer makes a different election.

29 The parties propose the following specific rate design for Schedules 85 and 87:

- Demand charge: The percentage of margin increase resulting to Schedule 87 will be applied to increase the demand charge by the same percentage for Schedules 87 and 85.
- Basic charge: The same percentage of margin increase resulting to Schedule 87 will be applied to increase the basic charge for Schedules 87 and 85.

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<sup>27</sup> See Exhibit JKP-1T at 45:16-17.

- Procurement charge: The procurement charge for Schedules 85 and 87 sales services will remain the same as current, \$0.0065 and \$0.0050, respectively.
- Gas balancing service: The gas balancing service charge for transportation service will be set at \$0.00070 as proposed by PSE.<sup>28</sup>
- Volumetric charge: The remaining revenue requirements for Schedules 85 and 87 will be recovered by increasing the volumetric charges for the respective rate schedules. Within each rate schedule, the same percentage increase will be applied to each volumetric rate block.

30 The procurement charge for Schedule 86 sales will remain at its current level of \$0.00650 per therm. The balancing charge for new transportation Schedule 86T will be \$0.00070 per therm, consistent with Schedules 85T and 87T. Demand charges for Schedules 41 and 86 and their related transportation schedules will be equal to the demand charges for Schedules 85 and 87.

31 Neither transportation Schedules 85T, 86T and 87T, nor sales Schedules 85, 86 and 87 will have an exclusive fuel requirement, a back-up fuel requirement, or a monthly minimum charge, but these schedules will have an annual minimum charge. Minimum annual charges will be calculated consistent with tariff volume requirements and annual contract volumes as applicable.

32 The settling parties agree that PSE will conduct a collaborative on natural gas cost of service, rate spread and rate design before PSE's next general rate case. PSE will hire an independent outside expert on natural gas cost of service for that collaborative and will provide that expert with all filings made in this case on the topic of natural gas cost of service, rate design and rate spread. PSE will seek advice from the collaborative participants with respect to selection of the outside expert.

### **C. Multi-Party Settlement of Emergency Response and Storm Preparedness**

33 Staff and Public Counsel raised concerns in their prefiled testimonies about PSE's storm response and preparedness and its response to the recommendations in the KEMA report.<sup>29</sup> Both Staff and Public Counsel recommended certain cost disallowances. Staff has settled these issues with the Company on the following

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<sup>28</sup> Exhibit JKP-13 at 35 and 43.

terms and Public Counsel, while not joining in the settlement, has agreed not to oppose it:

- The Company agrees to file with the Commission an annual report addressing PSE's progress in considering and/or implementing the recommendations in the KEMA Report. The report will be filed on or about September 1 of each year and will continue until PSE either implements or communicates its intention not to implement each KEMA recommendation. For any KEMA recommendation that PSE decides not to implement, the annual report will explain PSE's rationale for not doing so.
- The report will also address PSE's:
  - Evaluation work done by the Company or on its behalf to determine the overall cost-effectiveness and benefits of implementing an outage management system (OMS) with an associated enterprise-wide geographic information system (GIS). The report must include a detailed description of the cost/benefit analyses PSE is doing or is having done, what quantitative and/or qualitative results would convince PSE to move forward with the OMS/GIS, and what timeline it proposes for implementation assuming the internal hurdle is met.
  - Assignment of damage assessors and other resources to the emergency event, including training and processes.
  - Expectations and metrics for all parties in storm roles.
  - Communication of restoration information to customers no later than 72 hours after initial storm impact.

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<sup>29</sup> Following the Hanukkah Eve Storm in December 2006, the Company employed KEMA to evaluate PSE's storm restoration and customer communications efforts. KEMA documented its evaluation in the KEMA Report that the Company filed with the Commission on September 20, 2007. Exhibit GJZ-8. PSE then responded to the KEMA Report in its own After Action Report, which it filed with the Commission on November 30, 2007. Exhibit GJZ-9.

- Communication with the Commission during a storm event through an initial report within 24 hours after initial storm impact and through regular status reports thereafter from PSE's Emergency Operations Center.
- Actions with respect to local area coordination planning.
- Emergency response process for its Bothell Emergency Center.
- Actions to address recommendations from the Company's 2006 internal storm debrief sessions.
- Involvement in legislative and regulatory solutions to vegetation management and infrastructure rights-of-way.

34 Commission Staff agrees in this case not to recommend any disallowances, penalties or other enforcement action related to the Company's response to the 2006 Hanukkah Eve storm. This, however, does not preclude Staff in future proceedings from recommending such sanctions related either to the Company's storm response or its progress in considering or implementing the recommendations in the KEMA Report.

#### **D. Multi-Party Settlement of Service Quality, Billing and Metering Performance, and Low- Income Bill Assistance**

35 The Company, Staff, the Energy Project and Public Counsel propose in this settlement stipulation to resolve the contested issues concerning:

- PSE's existing Service Quality Index ("SQI") program.
- Meter and billing performance.
- PSE's low-income bill assistance program.

#### ***SQI Settlement Terms***

36 Some of the more significant changes to the current SQI program reflected in the settlement concern the following:

- Maximum annual penalties and return of penalty amounts to customers.
- Service guarantees.
- SQI No. 7, Gas Safety Response Time.
- Reporting of outside contractor penalties

37 The parties propose to increase the maximum annual penalty payout from \$10 million to \$15 million or \$1.5 million per metric and to calculate the penalty dollars associated with each of the ten SQI metrics subject to possible penalties using the same methodology as currently applicable. If PSE fails to meet an SQI performance requirement in two consecutive years, beginning in 2009, the penalty amount will be doubled. The parties propose that when total annual penalty dollars are less than the equivalent of \$12 per customer, the annual penalty will be allocated to PSE's low income bill assistance program, the Home Energy Lifeline Program ("HELP"). If the total annual penalty amount exceeds \$12 per customer, the Company will place an SQI credit on each customer's bill, rather than allocating the penalty dollars to HELP.

38 The parties propose that starting with the 2009 SQI performance year the Company will add a new customer service guarantee in which PSE will refund a customer \$50 when that customer experiences a 120 consecutive-hour power outage. The refund will be issued via a credit on the customer's bill and will be available to the customer, whether or not the outage event is excluded from the calculation of System Average Interruption Duration Index or System Average Interruption Frequency Index, subject to the certain conditions and limitations described in the Settlement Stipulation. The total cumulative annual payment is limited to \$1.5 million, or 30,000 customers, and PSE will provide customer payments to eligible customers who request such payment on a first-come, first-served basis. At hearing, Ms. McLain testified that it is extremely unlikely this cap will be reached in any given year.<sup>30</sup>

39 In addition to SQI No. 7 concerning Gas Safety Response Time, the parties propose that starting with the 2009 SQI performance year, the Company will report annually to the Commission on the percentage of responses to gas emergencies that are met within 60 minutes. For the time being, at least, this additional reporting metric will

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<sup>30</sup> TR. 463:21-22.

not be subject to SQI penalties. With the SQI filing for the 2010 SQI performance year the Company will submit a report stating its position regarding whether the current SQI metric for Gas Response Time should be changed to a performance standard requiring PSE to respond to a minimum of 95 percent of gas emergencies within 60 minutes.

40 The parties propose that, starting with the 2009 SQI performance year, the Company will report in its annual SQI filing with the Commission new customer construction-related penalties paid by its two predominant service provider contractors.

41 The parties also propose changes detailed in Section IV of the Partial Settlement to the following aspects of the SQI program:

- Reorganization of SQI Report Card.
- Reporting of How Customer Complaint Information is Used in Circuit Evaluation.
- SQI No. 10, Missed Appointments.
- SQI No. 5, Customer Access Center Answering Performance.
- Reporting of Call Abandonment and Busy Calls.
- SQI No. 2, Commission Complaint Ratio.
- SQI No. 1, Overall Customer Satisfaction.

***Meter and Billing Performance Settlement Terms***

42 Staff and Public Counsel raised concerns in their response cases regarding the Company's metering and billing practices. Staff, in particular, recommended disallowances both to electric and natural gas revenue requirements and to cash working capital reflecting Staff's concern regarding unbilled revenue. The parties have reached agreement regarding these issues on terms that establish an electric and natural gas customer billing and meter performance plan, which sets forth standards to measure potential problems in PSE's metering system that should result in improvements of PSE's ability to issue accurate and timely bills to its customers.

43 As of June 30, 2008, the Company had identified potential problems with 17,276 meters. PSE commits to resolving 75 percent of this legacy population by December 31, 2008 and 100 percent by June 30, 2009.

44 Looking forward, the parties propose that PSE will establish the following meter and billing standards for natural gas and electric meters:

- Natural Gas: PSE will resolve identified potential gas meter and billing problems for each monthly vintage within four months of identification; 75 percent will be resolved within two months of identification. Potential metering and billing problems identified within the same month will be of the same vintage. (*e.g.*, potential problems identified on the 5th of the month or the 20th of the month will have the same monthly vintage.)
- Electric: PSE will resolve identified potential electric meter and billing problems for each monthly vintage within two months of identification; 50 percent within one month of identification. Potential metering and billing problems identified within the same month will be of the same vintage. (*e.g.*, potential problems identified on the 5th of the month or the 20th of the month will have the same monthly vintage.)

45 The parties propose that PSE will phase-in these standards with the following conditions:

- The Company will establish the ability to track and report monthly vintages of potential meter and billing problems. PSE will establish and submit to Staff a plan to implement tracking and reporting improvements, if needed, by October 31, 2008.
- PSE will identify and commence a hiring process for appropriate qualified personnel by December 31, 2008.
- PSE will apply the above ongoing meter and billing standards starting January 1, 2009. The Company will validate the reporting and identification of potential new problems and initiate remediation plans (if necessary) within three months of applying the ongoing standard (i.e., by March 31, 2009).



- PSE will resolve potential gas and electric meter and billing problems identified between July 1, 2008 and December 31, 2008 by June 30, 2009.

46 The parties also recommend that the Company's test year natural gas revenues be increased by \$1,228,338 and electric revenues increased by \$107,016. These amounts implement Staff's proposed adjustment to disallow recovery of discounts provided to resolve back-billing situations.

47 Under the terms of the settlement, the Company will report to the Commission quarterly on its performance under the meter and billing standards, with aging data for natural gas and electric accounts. Reporting periods will be March 31, June 30, September 30, and December 31. The first report will be for the quarter ending September 30, 2008 and will be submitted by October 31, 2008 in a format agreeable to the parties.

48 The parties acknowledge that the metering and performance plan standards are based on limited historical and industry data, especially in light of the Company's full deployment of AMR (Automated Meter Reading) technology. They propose that, should unanticipated or exceptional circumstances arise that cannot be mitigated absent unreasonable impacts on customers (for example, unreasonable costs that may affect all customers), the Company will promptly disclose those circumstances in writing to all other parties. Within 30 days of such disclosure, the parties will present for Commission approval their agreed revisions to the existing meter and billing performance plan that reasonably accomplish the intent of the existing plan. Absent such agreement, each party will present its own meter and billing performance plan revisions for a decision according to a procedure to be determined by the Commission.

#### ***Low Income Assistance Settlement Terms***

49 PSE, the Energy Project, and Public Counsel sponsored various proposals in their pre-filed cases regarding enhancements to the Company's Low Income Bill Assistance Program (HELP). The settling parties now agree to propose changes to HELP including increasing the aggregate HELP funding cap, including benefits and administrative costs, to \$15 million per year from the current \$10.25 million per year.

The parties recommend that the \$15 million be distributed 75 percent to qualifying electric customers and 25 percent to qualifying natural gas customers. Funds not expended in one year can be carried forward to the next year.

50 The Settlement Stipulation also provides that program accounting rules should be changed to clarify that the funding cap includes both benefits and administrative costs, as it does now. Finally, amounts to be included in rates in this proceeding will include a gross-up over and above the program cap sufficient to cover the Company’s revenue sensitive items.

**E. Settlement of Electric and Natural Gas Revenue Requirements**

51 This Settlement, signed by all parties, addresses all issues not covered in the other four agreements, except policy disagreements among the parties concerning the PCORC. The Settlement Re: Electric and Natural Gas Revenue Requirements explicitly incorporates the other four settlement agreements. We accordingly refer to it here as the “overall settlement.” The Company, Staff, Public Counsel, ICNU, NWIGU, Seattle Steam, the Energy Project, Kroger, FEA, and NUCOR agree to an 8.25% overall rate of return, and a net of tax cost of capital of 7.00%, calculated as follows:

	<b>CAPITAL STRUCTURE</b>	<b>COST OF CAPITAL</b>	<b>WEIGHTED RETURN</b>
DEBT <sup>31</sup>	53.97%	6.64%	3.58%
PREFERRED STOCK	0.03%	8.61%	0.00%
EQUITY	46.00%	10.15%	4.67%
<b>TOTAL</b>	<b>100.00%</b>		<b>8.25%</b>
AFTER TAX DEBT (LINE 1 * 65%)	53.97%	4.32%	2.33%
PREFERRED	0.03%	8.61%	0.00%
EQUITY	46.00%	10.15%	4.67%
<b>TOTAL AFTER TAX COST OF CAPITAL</b>	<b>100.00%</b>		<b>7.00%</b>

<sup>31</sup> The “cost of capital” for debt is a weighted cost of capital reflecting both long-term and short-term debt. Mr. Story testified: “This is the standard way we normally presented the cost of capital, and in Don Gaines’ testimony there’s a breakout of the short-term debt and the long-term debt and the different prices for both.” TR. 498:1-5.

- 52 Applying this overall return to an adjusted rate base of \$3,303,573,534 results in a total net operating income of \$272,544,813 and the proposed addition of \$130,179,688 to the Company's electric revenue requirement, a 7.09 percent increase over what is currently recovered in rates.<sup>32</sup> This represents a compromise by all parties that offered revenue requirements testimony, falling somewhat below the mid-point between Staff's and the Company's litigation positions.
- 53 On the natural gas side, a return of 8.25 percent applied to an adjusted rate base of \$1,347,267,694 produces total net operating income of \$111,149,585. The parties, applying the agreed conversion factor propose additional revenue requirement of \$49,212,697, a 4.60 percent increase over what is currently recovered in rates.<sup>33</sup> This, too, represents a compromise, falling almost exactly at the mid-point between Staff's and the Company's litigation positions.
- 54 The Settlement, being results oriented, does not provide us with any insights concerning specific proposed expenses the Company agreed to remove from its original request. We know from the prefiled testimony in our record, however, that PSE agreed to various adjustments raised by Staff and other parties, thus refining the Company's litigation position and removing some points of contention from the case.
- 55 Other adjustments proposed through the prefiled testimony, by contrast, remained contested through the rebuttal stage. Mr. Majoros, for example, proposed to remove from rates all amounts related to PSE's corporate airplane, its lease of six parking spaces at SeaTac Airport, and expenses related to company personnel attending professional athletic events.<sup>34</sup> PSE's witnesses Mr. Karzmar and Mr. Story, in their respective rebuttal testimonies, disputed Mr. Majoros's contentions regarding these expenses.<sup>35</sup>

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<sup>32</sup> This revenue requirement includes the effect of the adjustment to electric revenues recommended in the Settlement Re: Service Quality, Meter and Billing Performance, and Low Income Bill Assistance, discussed above.

<sup>33</sup> *Id.*

<sup>34</sup> Exhibit MJM-1TC at 43:14 – 45:5 and 46:13 – 47:4.

<sup>35</sup> Exhibit KRK-11T at 29-32; Exhibit JHS-14T at 28:16-29:12.

56 While the amounts at issue are relatively small in the context of the overall case,<sup>36</sup> we take seriously Public Counsel’s arguments that expenses of this sort are not necessary to PSE’s provision of safe, reliable electric service, do not benefit ratepayers, and should be borne by the Company’s shareholders. In considering the parties’ proposed settlement we make no determination concerning these specific contentions.<sup>37</sup> We recognize, too, that the Company’s testimony in support of these expenses might prove persuasive to one degree or another if it seeks to recover similar costs in a future case. We take this opportunity to emphasize, however, that in what appears to be a prolonged period of rising rates, we will require in any litigated case a definitive showing of customer benefits if expenses such as these are to be included for recovery in rates.

57 Another significant feature of the overall settlement is the parties’ agreement to accept the results of an updated depreciation study commissioned by PSE, with one adjustment, for purposes of resolving this case. The electric depreciation rates have been adjusted from the Company’s rebuttal filing to reflect Staff’s and Public Counsel’s proposed Colstrip depreciable life of 60 years.<sup>38</sup> The parties propose the depreciation rates for electric, natural gas and common plant shown in Attachment 1 to the overall settlement and request that we approve these depreciation rates effective November 1, 2008, to coincide with their proposed effective date for revised rates resulting from this proceeding.

<sup>36</sup> Public Counsel’s proposed adjustments would result in the following adjustments to test year expenses:

		NOI	Rate Base	Revenue Requirement
Aircraft and Hanger	Electric	\$236,459	\$509,837	(\$296,330)
	Gas	\$126,487	\$272,721	(\$158,364)
Airport Parking	Electric	\$9,730	0	(\$14,682)
	Gas	\$5,205	0	(\$7,846)
Athletic Events	Electric	\$8,062	0	(\$12,165)
	Gas	\$4,313	0	(\$6,502)

<sup>37</sup> We note favorably, however, Mr. Story’s statement that while the Company regards the costs of having employees attend athletic events with officers and managers as “appropriate operating expenses,” “the large majority” of the costs of the Company’s box at Safeco Field are charged below the line to shareholders and the Company is amenable to charging all of these costs below the line if directed to do so by Commission order.

<sup>38</sup> Exhibit WHW-1T at 7-10 (Testimony of William H, Weinman) and Exhibit CWK-1T at 8-12 (Testimony of Charles W. King).

58 The parties also agree with FEA's recommendation to amortize the December 13, 2006 "Hanukkah Eve" wind storm over 10 years to lessen the impact of these extraordinary costs on ratepayers.<sup>39</sup> The parties further propose, in this connection, to continue the Catastrophic Storm Loss Deferral Mechanism, as set forth in Mr. Story's testimony.<sup>40</sup> A new \$8 million threshold level is proposed via the settlement stipulation for Institute of Electrical and Electronics Engineers related storm deferrals beginning with calendar year 2009.

59 Consistent with testimony offered by Company and Staff witnesses, the parties agree that the following new resources and purchased power agreements ("PPAs"), as set forth in the Company's direct and rebuttal testimony,<sup>41</sup> were prudently acquired, and that the costs associated with these resources and PPAs are reasonable and should be approved by the Commission for rate recovery:

- Whitehorn Units 2 and 3, a pair of simple cycle combustion turbines with a total capacity of 150 MW.
- Sumas natural gas fired combined cycle combustion turbine and an interest in the natural gas pipeline that serves the facility. This unit has a total capacity of approximately 125 MW.
- Addition of 7.2 MW of wind capacity at the PSE-owned Hopkins Ridge Wind Facility ("the Hopkins Ridge Infill").
- A two-year extension to the full requirements PPA with Powerex to PSE's Point Roberts load.
- A 20-year power purchase with PPM Energy for 50 MW of the 221-MW Klondike III wind project.
- An approximate four-year PPA with Lehman Commodity Services Group for 50 MW of replacement energy due to the Sumas PPA default.

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<sup>39</sup> Exhibit RCS-1T at 3-11 (Testimony of Ralph C. Smith).

<sup>40</sup> Exhibit JHS-1CT at 45-47.

<sup>41</sup> Exhibit KJH-1HCT at 23-24 and Exhibit KJH-9CT at 23-24 (Testimony of Kimberly J. Harris); *See also* Exhibit RG-1HCT at 31-97 and Exhibit RG-55CT at 2-6 (Testimony of Roger Garratt) for full descriptions of the new resources and PPAs. Mr Mills testified for the Company with respect to the Transalta exchange agreement. Exhibits DEM-1T at 35-37 and DEM-12T at 19-20. Mr. Kilpatrick testified for Staff concerning the prudence of certain resources in Exhibit DEK-1 TC at 5-14.

- An approximate four-year PPA with Sempra Energy Trading Company for the balance of the energy replacement necessitated by the Sumas PPA default.
- A four-year winter on-peak power purchase for 150 MW.
- A three and one-half year Locational Exchange Agreement with TransAlta Energy Marketing (US), Inc.

60 The parties propose adoption of the Power Cost Rate shown in confidential Attachment 4 for purposes of updating the PCA.<sup>42</sup> The overall agreement does not preclude any party from contesting any element on which that Power Cost Rate is calculated in any future proceeding. PSE agrees to study the efficacy of the PCA sharing bands and, if warranted, propose modifications to the bands in its next general rate case.<sup>43</sup> This review is to be completed by December 31, 2008 and will be shared with all interested parties including Staff, Public Counsel and ICNU.

61 Turning to policy questions, the Company agrees to withdraw its request for a technical conference on the subject of the possible use of a future test year for purposes of setting rates.<sup>44</sup> As mentioned elsewhere, the parties overall settlement expressly reserves for adjudication in this docket the contested issues concerning whether the PCORC should be retained and, if so, what form it should take.

62 The parties recommend an effective date of November 1, 2008, for new rates in these dockets. Finally, PSE agrees that it will not file another general rate case prior to April 1, 2009.

### III. Discussion and Decisions

63 WAC 480-07-750(1) states in part: “The Commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and

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<sup>42</sup> This exhibit, first created as part of the original settlement establishing the PCA, has always been afforded confidential treatment due to the commercially sensitive nature of the data it includes.

<sup>43</sup> This review was recommended by Staff to address the potential asymmetry in costs and risks inherent in the existing sharing band structure. The Company agreed to this study in its rebuttal case.

<sup>44</sup> That request was made at Exhibit EMM-1CT at 30 (Testimony of Eric M. Markell).

when the result is consistent with the public interest in light of all the information available to the Commission.”

64 Thus, we consider the individual components of the five unopposed stipulations filed by the parties in this proceeding under a three-part inquiry. We ask:

- (1) Whether any aspect of the proposal is contrary to law.
- (2) Whether any aspect of the proposal offends public policy.
- (3) Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

The Commission must determine one of three possible results:

- (1) Approve the proposed settlements without condition.
- (2) Approve the proposed settlements subject to condition(s).
- (3) Reject the proposed settlements.

65 In general, and as discussed below, we find the settlement terms proposed by the parties to be consistent with law and policy, and to resolve reasonably the issues they address. The parties made significant compromises relative to their respective litigation positions to arrive at results that are reasonable and acceptably within the range of possible outcomes supported by the substantial evidence in the record.

66 While we acknowledge customer comments in the record are predominantly opposed to any increase in rates, our decisions must be made in accordance with law, policy and the factual record before us. Our mission is essentially one of determining an appropriate balance between the needs of the public to have safe and reliable electric and natural gas services at reasonable rates and the financial ability of the utility to provide such services. Thus, the end results of our orders in proceedings such as this one must be to establish rates that are, in the words of our governing statutes, “fair, just, reasonable and sufficient”<sup>45</sup>—fair to customers and to the Company’s owners; just in the sense of being based solely on the record developed following principles of due process of law; reasonable in light of the range of possible outcomes supported by

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<sup>45</sup> RCW 80.28.010(1) and 80.28.020

the evidence and; sufficient to meet the needs of the Company to cover its expenses and attract necessary capital on reasonable terms.

67 In this context, we discuss the parties' testimony in greater detail and make our determinations concerning each of the proposed settlements.

*Electric Rate Spread and Electric Rate Design*

68 By way of background, rate spread allocates the revenue requirement to each of PSE's customer classes. In other words, rate spread determines how much of the Company's revenue will be recovered from each customer class. Revenue responsibility for each customer class must be informed by the cost to serve the class. However, factors in addition to cost weigh in the rate spread decision. These factors include equity, economic conditions in the service territory, gradualism in rate change, and stability of rates.

69 Rate design determines the rates that each individual customer actually pays and the manner in which those rates are collected from customers. As in the case of rate spread, a variety of interests need to be addressed. Rates must be designed to reflect correctly intra-class costs and to provide for revenue collection within customer classes that is fair and reasonable. In addition, rates must be designed to encourage good management practices and to give the Company incentives to pay close attention to expenses and the costs of capital improvements

70 PSE states in its testimony that a major interest the Company has with respect to allocation to rate classes is that the results are seen by customers as fair and reasonable. Recognizing the range of customer interests represented—residential and smaller commercial customers represented by Public Counsel, industrial customers represented by ICNU, large commercial customers represented by Kroger, and the full range of customers represented by Staff—PSE testifies that “acceptance of [the settlement's] recommendation[s] by a majority of the parties to this case is a very good indication that this interest has been served.”<sup>46</sup>

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<sup>46</sup> Exhibit JT-3 T at 8:20-9:2.



- 71 Regarding rate design, PSE states that one of its main goals is to match as close as possible revenues with costs. PSE is satisfied on the basis of its analyses that the proposed settlement makes significant progress in the reduction of rate disparities.
- 72 Staff, pointing to the challenges the parties faced given the differences of opinion among them concerning cost-of-service, revenue allocation, and rate design, testifies that the settlement, overall, represents a balanced compromise and recommends our approval.<sup>47</sup> Public Counsel, in a similar vein, states that the diverse interests of the various parties and stakeholders in the proceeding are particularly evident in the area of class revenue responsibility. Public Counsel says “the settlement represents compromises made by all interests and provides for an allocation of any overall authorized increase that is fair and reasonable to PSE and all jurisdictional ratepayers including residential and small business customers.”<sup>48</sup>
- 73 Given the level of detail in the settlement concerning industrial rate spread and rate design and its testimony, it is clear that rate spread and rate design are critical elements for ICNU. ICNU testifies:
- As the record in this proceeding presents a wide variety of positions with regard to cost-of-service and rate design, ICNU firmly believed working with the all parties to achieve a settlement in these areas was extremely important. The Multiparty Settlement is endorsed by virtually all parties therefore it has a very broad range of support. For ICNU, it presents a reasonable distribution of revenue responsibility. For all these reasons, this settlement is in the public interest and fully supported by ICNU.<sup>49</sup>
- 74 Kroger testifies that “the rate spread approach in the settlement is equitable because it appropriately balances considerations of cost causation and gradualism, producing a result that is in the public interest.”<sup>50</sup> Kroger states further that “the rate design in the Multiparty Settlement reasonably aligns rate components with customer-related,

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<sup>47</sup> *Id.* at 9:5-11.

<sup>48</sup> *Id.* at 10:3-8.

<sup>49</sup> *Id.* at 9:14-20.

<sup>50</sup> *Id.* at 10:11-16.

demand-related, and energy-related costs for the rate schedules under which Kroger takes service.”<sup>51</sup> Thus, Kroger fully supports adoption of the Multiparty Settlement.

75 In terms of both rate spread and rate design, the parties paid close attention to the factors that are central to the determination of cost allocation and a variety of means of collecting those costs from customers based on principles of cost incurrence, aligning cost assignment and recovery with the requirements the various customer classes impose on the system. It is clear from the settlement terms and the testimony that the parties also were guided by principles of equity, gradualism and stability of rates. We find the settlement terms reasonably resolve the issues of electric rate spread and rate design, are lawful, are consistent with policy and should be approved.

#### *Natural Gas Rate Spread and Rate Design*

76 The parties that presented testimony on natural gas rate spread and rate design—PSE, Staff, Public Counsel, The Energy Project, Seattle Steam Company, Nucor and the NWIGU—expressed a significant diversity of viewpoints concerning how costs should be allocated among and collected from the various customer classes. Four cost-of-service models presented by individual witnesses support the various revenue allocation and rate design proposals. The various cost-of-service studies indicate a substantial difference of opinion on how customers use PSE’s gas distribution system. According to Staff, however, while the results of certain models offered nearly opposite opinions of fair revenue allocations, the few areas of agreement led to compromises by the parties.

77 In this context, we must consider the parties’ agreement to conduct the collaborative proposed in the settlement stipulation as a significant feature supporting its approval. The collaborative will provide a useful forum for addressing the conflicting views on cost-of-service analysis presented in this proceeding. As Staff states in its testimony in support of the settlement, “a collaborative effort to reach a common understanding of PSE’s natural gas system may reduce the need for contentious litigation in future rate cases.”<sup>52</sup> We agree that this is a laudable goal.

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<sup>51</sup> *Id.*

<sup>52</sup> Exhibit JT-4 T at 9:9-11.

78 Seattle Steam also offers testimony strongly supporting the collaborative as a key feature of the settlement. Seattle Steam states that the collaborative “provides the best forum for resolving those issues in a manner that fully considers all parties positions and interests.”<sup>53</sup> Seattle Steam states its belief that the best long-term resolution of the contested interests will most likely be achieved by allowing the parties to work together to resolve them rather than forcing the Commission to resolve the divergent positions regarding natural gas cost of service, rate spread and rate design that have been expressed in this proceeding.

79 Staff also supports the proposed settlement because:

- The proposed increases to the basic charges and demand charges provide movement toward fixed cost recovery through fixed charges.
- The acceptance of the new transportation schedules and the elimination of Schedules 36 and 51 allow PSE to treat its customers more fairly by providing consistent prices for services provided.
- The proposed rate spread represents a compromise among divergent interests while moving certain classes closer to parity.
- The rate design for the industrial schedules maintains proportionate increases to the rate components, which promotes fairness to the customers transitioning to the new transportation schedules from Schedule 57.

80 Staff states that it supports these compromises as a fair and reasonable end result: “Equitable outcomes are achieved by no schedule receiving a decrease while others receive increases, and the acceptance of some parties to receive an increase even though rate decreases were indicated by their own cost studies.”<sup>54</sup>

81 NWIGU, representing the interests of a range of PSE’s industrial natural gas customers, is one of the parties that presented a cost study in its response testimony. The study proposed results significantly at odds with what the Company proposed. NWIGU testifies to its firm belief that it was “absolutely necessary” to work with all parties to achieve a settlement in this proceeding given the diverse positions of the

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<sup>53</sup> *Id.* at 11:22-12:1.

<sup>54</sup> *Id.* at 9:25-10:4.

parties.<sup>55</sup> NWIGU states that while the proposed settlement has a very broad range of support, “for NWIGU, it presents a fair distribution of revenue responsibility, a major step in the restructuring of large user tariffs with regard to prices, terms and conditions, and it calls for a collaborative to hopefully lead to more efficient proceedings in the future.”<sup>56</sup> NWIGU testifies that for all these reasons, the proposed settlement is in the public interest.

82 Public Counsel testifies that the settlement of these contentious issues represents compromises made by all interests and provides for an allocation of the authorized increase in revenue “that is fair and reasonable to the Company and all jurisdictional ratepayers including residential and small business customers.”<sup>57</sup> “Similarly,” Public Counsel states, “the industrial rate design, which provides substantially the same percentage increase for firm service and non-firm service, represents a reasonable compromise in light of the rate spread agreement.”<sup>58</sup>

83 In support of their agreement on natural gas rate design for large-volume, industrial sales and transportation schedules, the parties testify jointly:

The parties consider the industrial rate design and rate spread to be part of a comprehensive package. Compromises were reached with respect to rate spread with the understanding that the large customer rate design would be on essentially an equal percentage approach as described above. Under this approach, both firm and non-firm service would experience about the same percentage increase within each large customer rate schedule. In addition, rate shock is minimized during this critical time when many [large industrial] customers will be transferred to a different schedule.<sup>59</sup>

84 We agree with the parties that their decision to compromise strongly divergent views and conflicting evidence concerning natural gas rate spread and rate design to resolve this case, and to initiate a collaborative to try and help resolve these contentious issues for the future is a result that is in the public interest. We accordingly find the

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<sup>55</sup> *Id.* at 10:14-17.

<sup>56</sup> *Id.* at 10:17-21.

<sup>57</sup> *Id.* at 11:5-8.

<sup>58</sup> *Id.* at 11:13-15.

<sup>59</sup> Exhibit JT-4T at 8:3:9.

terms of the natural gas rate spread and rate design settlement reasonably within the range of results supported by the diverse cost-of-service studies, lawful, consistent with policy and, therefore it should be approved.

*Emergency Response and Storm Preparedness*

85 We remain keenly interested in PSE's ongoing efforts to improve its ability to respond to emergencies, including events with system-wide consequences such as the Hanukkah Eve storm that caused widespread and, for some customers, protracted outages in December 2006. Staff and the Company recognized this in their testimony supporting this settlement stipulation, as follows:

The Multiparty Settlement highlights the importance to the Commission, Company and its customers of emergency response and storm preparedness, particularly with regard to recommendations made by KEMA.

The Multiparty Settlement sets forth a means of specifically addressing each recommendation of the KEMA Report while allowing PSE sufficient time to review and analyze such recommendations. Additionally, it encourages transparency on the Company's decision-making processes through more detailed reporting that allows the Commission to monitor this aspect of PSE's service to customers.<sup>60</sup>

86 In particular, as previously outlined, PSE will report annually, on or about the first of September, the Company's progress in considering and/or implementing the KEMA recommendations. PSE filed its first report on September 2, 2008, preceding our approval here by several weeks. PSE will continue to file these reports until it either implements or affirmatively decides not to implement each KEMA recommendation. If PSE decides not to implement a KEMA recommendation, the report will explain the rationale for that decision.

87 These reports will benefit PSE by providing a continuing focus on emergency response and storm preparedness activities along with ongoing feedback on these issues.<sup>61</sup> The terms of this settlement stipulation provide for the Commission's

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<sup>60</sup> Exhibit JT-5T at 5:3:11.

<sup>61</sup> Exhibit JT-5 T at 5:16-24.

continuing, active supervision of PSE's progress in developing and implementing improvements to its emergency response and storm preparedness activities.

88 Staff agrees in this case not to recommend any disallowances, penalties or other enforcement action related to the Company's response to the 2006 Hanukkah Eve storm. However, by expressly acknowledging the Commission's power to take such steps in future proceedings either because of PSE's response to a future storm event or its progress in considering or implementing the KEMA recommendations, the settlement stipulation is an incentive for the Company to improve its ability to cope with emergencies, including extraordinary storm events.

89 For these reasons, we approve the parties' agreement and find it is in the public interest.

***Service Quality, Billing and Metering Performance, and Low- Income Bill Assistance***

90 In support of their settlement, the parties testify succinctly with respect to service quality, metering performance and low-income issues, as follows:

Taken together, the recommended SQI provisions are in the public interest because they more accurately reflect service metrics that customers may value, they provide increased incentive to ensure PSE's continued performance to comply with the performance standards, and they provide for improved communication between the Commission, Public Counsel and PSE regarding the Company's service quality performance. Further, the Partial Settlement provides a means for parties to analyze and review certain SQI metrics over time by requiring some additional reporting requirements and the analysis of those results prior to making additional changes to the SQI program.<sup>62</sup>

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The Meter and Billing Performance Plan is in the public interest because it will identify and correct metering problems that have resulted in retroactive customer bills and it establishes standards to address these problems on an ongoing basis. Further, the Partial

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<sup>62</sup> ExhibitJT-6T at 5:6-14.

Settlement includes reporting requirements that allow for a more transparent process so the Commission can more effectively monitor PSE's performance in addressing meter issues and retroactive billing. The Partial Settlement also recognizes the inconvenience to customers caused by retroactive billing and provides an adjustment of \$1,335,354 to PSE's proforma revenues to hold ratepayers harmless for discounts given by PSE during the test year.<sup>63</sup>

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The agreement to increase the low-income energy bill assistance cap accepts generally individual testimony recommending that PSE increase its low-income energy bill assistance. This Partial Settlement provision recognizes those groups that are especially susceptible to rate increases and provides assistance in a manner that is fair to all qualifying customers. The proposed increase in funding will reduce the adverse impact of the rate increase proposed in this proceeding and extend benefits to a greater number of eligible customers, improving the programs' penetration rate.<sup>64</sup>

- 91 PSE supports the agreement because it gives increased certainty to the Company insofar as customer performance expectations and measurements, reporting requirements and low-income funding are concerned. Staff testifies that “strengthening PSE’s SQI program will refine PSE’s service expectations, improve Commission oversight of PSE’s customer service performance, and enhance customer service through a new service guarantee related to extended outages.”<sup>65</sup> In addition, Staff states that the proposed Meter and Billing Performance plan will bring PSE’s results in line with those of neighboring investor-owned gas and electric utilities by establishing meaningful and measurable standards for proper and timely customer billing within specific time tables while providing for Commission oversight via PSE’s quarterly reporting of its success in meeting the new standards. Finally, Staff testifies the settlement mitigates the impacts of rate increases on PSE’s low-income customers by increasing the cap on funds provided to those most in need.

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<sup>63</sup> *Id.* at 7:1-9.

<sup>64</sup> *Id.* at 8:1-8.

<sup>65</sup> *Id.* at 9:10 – 10:5.

- 92 Public Counsel testifies that its most important concerns are addressed by the settlement terms providing for increased penalties for the Company's failure to meet SQI standards. According to Public Counsel, additional reporting items relating to Gas Response Time and Customer Call Center Performance will promote future discussions of important issues. Public Counsel testifies that increased funding for PSE's HELP program for low-income customers is particularly significant considering the pending rate increases and increased costs for other essentials that strain low-income households.
- 93 The proposed revisions to PSE's existing SQI program and the meter and billing performance plan provide important incentives to the Company to improve service to its customers in important ways. Improved service, including providing customers with accurate and timely bills inarguably is in the public interest so long as the costs are justified, and sufficient information is provided to the Commission to monitor progress. The proposed enhancements to the Company's low-income bill assistance program are timely given the onset of the winter heating season. While we would welcome a higher level of shareholder funding of such programs, the costs proposed in this proceeding are reasonable considering the importance of programs that assist low-income customers. In sum, we find the settlement stipulation is in the public interest and approve it.

***Electric and Natural Gas Revenue Requirements***

- 94 PSE's testimony supporting the electric and natural gas revenue requirements settlement calls out the compromises achieved on several specific issues as particularly significant to the Company. Specifically, PSE testifies that the results reached on cost of capital, depreciation and storm damage costs reflect fair and reasonable compromises.
- 95 Staff also focuses on the cost of capital testifying that the reduction in the authorized return on equity from 10.4 percent to 10.15 percent is a matter of "particular importance."<sup>66</sup> Public Counsel also describes this as "an important component of the settlement." Although the settlement is a compromise, and we are not asked to make

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<sup>66</sup> Exhibit JT-7 T at 12:12-14.



a finding on the question, Public Counsel testifies that this reduction is “consistent with the current investor expectations in the market,” as testified to by Mr. Hill.

96 At hearing, counsel for ICNU explained the reduced cost of capital was an important element underlying its support for the agreement.<sup>67</sup> Counsel for NWIGU made a similar statement.<sup>68</sup>

97 Staff and Public Counsel state that PSE’s agreement to not advocate adjustment of power supply fuel costs at the conclusion of this case is another important feature of the settlement. Staff states this will allow volatility in the current gas markets to flow within the parameters of the Power Cost Adjustment mechanism. Public Counsel, on the other hand, testifies that it has “a general concern about the practice of updating costs during rate cases, both on procedural grounds, and because of the unclear relationship of such updates to the operation of the PCA.”<sup>69</sup> PSE acknowledges this feature of the compromise as important to resolving this case, but states the Company “continues to support such updates in the future to allow for a more accurate projection of rate year gas prices.”<sup>70</sup> Although it is useful to have these statements of perspective, we again are not asked to, and do not, make any determination of the principles resolved here via compromise.

98 Public Counsel, ICNU and NWIGU, all state the Company’s agreement to not file another rate case before April 1, 2009, is a feature of the settlement they support and believe is in the public interest.

99 FEA’s counsel cites a key reason for its support of the settlement as being the achievement of one of his client’s primary recommendations, amortization of the costs of the Hanukkah Eve wind storm of 2006 over a ten year period rather than the Company's proposed six year period.

100 The Company, in reference to the parties’ agreements concerning the prudence of various resource acquisitions, states it “is pleased that the other parties to the filing have found the work that the Company has been doing in adding new resources to its

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<sup>67</sup> TR. at 495:11-18 (Mr. Van Cleve).

<sup>68</sup> *Id.* at 24-496:3 (Mr. Stokes).

<sup>69</sup> Exhibit JT-7 T at 13:23-14:2.

<sup>70</sup> *Id.* at 11:24-12:1.

portfolio and strengthening its infrastructure is prudent and beneficial for the customers.”<sup>71</sup>

101 The parties’ diverse reasons for supporting the revenue requirements settlement show that the compromises achieved, taken as a whole, produce results that are reasonable, yielding rates that fall within the range supported by the significant, detailed revenue requirements evidence in the record. In the words of the U.S. Supreme Court’s venerable decision in *Hope Natural Gas* :

We held in *Federal Power Commission v. Natural Gas Pipeline Co.*, *supra*, that the Commission was not bound to the use of any single formula or combination of formulae in determining rates. Its ratemaking function, moreover, involves the making of "pragmatic adjustments." And when the Commission's order is challenged in the courts, the question is whether that order, "viewed in its entirety," meets the requirements of the Act. Under the statutory standard of "just and reasonable," it is the result reached, not the method employed, which is controlling.<sup>72</sup>

We find the revenue requirements settlement serves the public interest, resulting in rates that are fair, just, reasonable and sufficient. We therefore approve it.

### **FINDINGS OF FACT**

102 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 Commission now makes and enters the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:

103 (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 electrical and gas companies.

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<sup>71</sup> *Id.* at 11:18-21.

<sup>72</sup> *FPC v. Hope Nat. Gas Co.*, 320 U.S. 591, 602 (1944) (internal citations omitted).

- 104 (2) Puget Sound Energy, Inc., (PSE) is a “public service company,” an “electrical company” and a “gas 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.
- 105 (3) The parties propose to resolve the issues in this proceeding via Commission approval and adoption of a series of settlement stipulations, as follows:
- Multi-Party Settlement Re: Electric Rate Spread and Electric Rate Design, filed on August 12, 2008.
  - Partial Settlement Re: Natural Gas Rate Spread and Natural Gas Rate Design, filed on August 18, 2008.
  - Multi-Party Settlement Re: Emergency Response and Storm Preparedness, filed on August 19, 2008.
  - Partial Settlement Re: Service Quality, Billing and Metering Performance, and Low- Income Bill Assistance, filed on August 20, 2008.
  - Partial Settlement Re: Electric and Natural Gas Revenue Requirements, filed on August 22, 2008.
- 106 (4) The existing rates for electric service and natural gas service provided in Washington by PSE, are insufficient to yield reasonable compensation for the services rendered. PSE requires prospective relief with respect to the rates it charges for electric and natural gas services provided in Washington.
- 107 (5) The rates, terms, and conditions of service that result from adoption of the settlement stipulations that are attached to this Order as Appendices A – E and incorporated into the body of this Order as if set forth in full result in rates that are fair, just, reasonable, and sufficient.
- 108 (6) The rates, terms, and conditions of service that result from adoption of the settlement stipulations are neither unduly preferential nor discriminatory.

- 109 (7) Commission approval and adoption of the settlement stipulations discussed in the body of this Order is in the public interest.

**CONCLUSIONS OF LAW**

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

- 111 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings.
- 112 (2) The rates proposed by tariff revisions filed by PSE on December 3, 2007, and suspended by prior Commission order, were not shown to be fair, just or reasonable and should be rejected.
- 113 (3) PSE's existing rates for electric service and natural gas service provided in Washington are insufficient to yield reasonable compensation for the service rendered.
- 114 (4) PSE requires relief with respect to the rates it charges for electric service and natural gas service provided in Washington.
- 115 (5) The Commission determines that the rates resulting from adoption of the settlement stipulations filed by the parties to this proceeding are fair, just, reasonable, and sufficient rates that are to be observed and in force under PSE's tariffs prospectively from an effective date of November 1, 2008, for electric and natural gas service the Company provides to customers in Washington.
- 116 (6) PSE should have the opportunity to earn an overall rate of return of 8.25% based on the capital structure and costs of capital set forth in the body of this Order, including a return on equity of 10.15 percent on an equity share of 46.00 percent.

- 117 (7) PSE should be authorized and required to make a compliance filing to recover its revenue deficiency of \$130,179,688 for electric service and \$49,212,697 for natural gas service, consistent with the terms of this Order.
- 118 (8) The costs of PSE's investments found on the record in this proceeding to have been prudently made and reasonable, as set forth in the body of this Order, should be allowed for recovery in rates.
- 119 (9) The Commission Secretary should be authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order.
- 120 (10) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order.

**ORDER**

THE COMMISSION ORDERS THAT:

- 121 (1) The proposed tariff revisions PSE filed on December 3, 2007, which were suspended by prior Commission order, are rejected.
- 122 (2) The settlement stipulations attached as Appendices A – E and incorporated into this Order by prior reference, are approved and adopted.
- 123 (3) PSE is authorized and required to file tariff sheets following the effective date of this Order that are necessary and sufficient to effectuate its terms. The required tariff sheets must be filed at least ten business days prior to their stated effective date, which shall be November 1, 2008.
- 124 (4) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Final Order.

125 (5) The Commission retains jurisdiction to effectuate the terms of this Final Order.

Dated at Olympia, Washington, and effective October 8, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

**NOTICE TO PARTIES: This is a Commission Final Order. 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 and WAC 480-07-870.**