

BEFORE THE WASHINGTON STATE UTILITIES & TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

v.

PUGET SOUND ENERGY, INC.

DOCKET NOS. UE-111048 AND UG-111049 (*consolidated*)

CROSS-ANSWERING TESTIMONY OF ANDREA C. CRANE (ACC-5T)

ON BEHALF OF

PUBLIC COUNSEL

AND THE ENERGY PROJECT

JANUARY 17, 2012

CROSS-ANSWERING TESTIMONY OF ANDREA C. CRANE (ACC-5T)
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I. INTRODUCTION

Q: Please state your name and business address.

A: My name is Andrea C. Crane and my business address is 90 Grove Street, Suite 211, Ridgefield, Connecticut 06877. (Mailing Address: PO Box 810, Georgetown, Connecticut 06829).

Q: Did you previously file testimony in this proceeding?

A: Yes, on December 7, 2011, I filed Direct Testimony on behalf of the Public Counsel Section of the Washington Attorney General’s Office (Public Counsel) and the Energy Project. My testimony addressed the request by Puget Sound Energy (PSE or Company) to implement a Conservation Savings Adjustment (CSA). I also addressed a few accounting issues.

Q: What is the purpose of your Cross-Answering Testimony?

A: The purpose of my Cross-Answering Testimony is to address the Direct Testimony of Mr. Ralph C. Cavanagh, on behalf of the Northwest Energy Coalition (NW Energy Coalition), who recommends that the Commission adopt a full decoupling mechanism for PSE. In addition, I address the recommendation made by Mr. Kenneth L. Elgin, on behalf of Commission Staff, that the Commission authorize PSE to use an expedited rate case mechanism in lieu of the Company’s proposed CSA.

II. NW ENERGY COALITION DECOUPLING PROPOSAL

Q: Does any party to this proceeding support the CSA as proposed by PSE?

A: No, no party to this proceeding supports the CSA. The majority of the parties in this case, including Staff, Public Counsel, The Energy Project, Industrial

1 Customers of Northwest Utilities, and Kroger oppose the implementation of the
2 Company's CSA. None of these parties has recommended that any decoupling
3 mechanism be adopted. The NW Energy Coalition also opposes the CSA, but has
4 proposed instead that the Commission approve a full decoupling mechanism for
5 PSE.

6 **Q: Did Commission Staff propose a full decoupling mechanism for the**
7 **Commission's consideration?**

8 A: No, they did not. As directed by the Commission's Bench Request issued on
9 October 11, 2011, Staff filed a response discussing "the critical elements a full
10 decoupling proposal should contain," and "how a full decoupling mechanism can
11 be consistent with the Decoupling Policy Statement."¹ However, Staff made it
12 clear in the response that its filing was made to comply with the directive in the
13 Bench Request and was not an endorsement of a full decoupling proposal. Staff
14 concluded that "[b]ased on the material in this response, the Commission likely
15 cannot make a final decision on a decoupling proposal in this case."² In response
16 to discovery, Staff additionally clarified that it "did not 'propose' full decoupling
17 in its response to the Commission's Bench Request," and refers to its testimony
18 recommending an attrition adjustment as a much simpler method of addressing
19 the objectives of decoupling."³

¹ Staff Response to Bench Request, p. 3.

² *Id.*

³ Commission Staff Response to Public Counsel Data Request No. 2.

1 **Q: Why does NW Energy Coalition oppose the CSA proposed by the Company?**

2 A: According to the testimony of Mr. Cavanagh,

3 PSE’s CSA would result in automatic penalties, in the form of
4 reduced fixed-cost recovery, for all cost-effective electricity
5 savings not directly associated with ‘the load reducing impacts of
6 Company-sponsored energy efficiency’[.] The CSA would also
7 create a powerful and perverse new incentive for the company to
8 promote programs that look good on paper but deliver little or no
9 savings in practice (because then the company would get a double
10 recovery)[.] Moreover, the CSA would leave unimpaired strong
11 utility incentives to promote increased electricity use, since...PSE
12 would keep any non-production cost recovery in excess of that
13 authorized by the Commission (except to the extent that the
14 resulting gains exceeded PSE’s proposed earnings limit). Paying
15 utility bonuses for both increases in its retail electricity sales and
16 its programmatic electricity savings is the metaphorical equivalent
17 of encouraging the CEO to drive with one foot on the brake and
18 the other on the accelerator. Finally, the CSA would yield an
19 automatic rate increase whenever it was applied, whereas rate
20 adjustments under full decoupling can be either positive or
21 negative[.]⁴

22
23 Instead, Mr. Cavanagh proposes a full decoupling approach, based on a per-
24 customer revenue mechanism.

25 **Q: Please provide a brief description of the mechanism proposed by Mr.**
26 **Cavanagh.**

27 A: Mr. Cavanagh’s testimony describes his proposed mechanism in detail.⁵ Pursuant
28 to the proposed mechanism, there would be an annual true-up of revenue-per-
29 customer, based on the average per-customer revenues established in this rate
30 case. Mr. Cavanagh proposed limiting annual increases resulting from his
31 decoupling proposal to three percent, but recommends that adjustments over that
32

⁴ Exhibit No. RCC-1T, p. 23, ll.13- p. 24, ll. 15.

⁵ Exhibit No. RCC-1T, p. 9, l. 6 – p.10, l. 8.

1 amount be carried over to subsequent years indefinitely until such time as the
2 adjustment can be made within the three percent cap. In calculating per-customer
3 revenues to utilize in quantifying the decoupling adjustment, revenues related to
4 power cost recovery would be excluded. Mr. Cavanagh proposes that the
5 Commission “adopt two per-customer fixed-cost revenue requirements, one
6 covering the residential class and the other representing a weighted average for all
7 other classes included in the mechanism.”⁶ Mr. Cavanagh’s proposal is limited to
8 electric decoupling. According to Mr. Cavanagh, “[t]he Commission’s Policy
9 Statement is less clear regarding a preference for full decoupling on the gas
10 side.”⁷ Mr. Cavanagh recommends that his proposed mechanism be reviewed
11 after five years.⁸

12 **Q: Do you support the proposed full decoupling mechanism recommended by**
13 **Mr. Cavanagh?**

14 A: No, I do not. While I understand that the Commission stated that it will consider
15 a full decoupling mechanism in an effort to encourage conservation efforts, the
16 mechanism as proposed by the NW Energy Coalition would go far beyond this
17 objective. Mr. Cavanagh’s proposed mechanism would make the Company
18 whole, from a revenue perspective, for fluctuations in revenues for any reason,
19 including weather variations. Moreover, Mr. Cavanagh’s proposal would ignore
20 off-setting changes in expenses, rate base, or cost of capital that could serve to
21 reduce the Company’s revenue requirement.

22

⁶ Exhibit No. RCC-1T, p. 9, ll. 16-19.

⁷ *Id.*, p. 5, ll. 15-16.

⁸ *Id.*, p. 21, ll. 1-4.

1 **Q: Please comment on Mr. Cavanagh’s testimony where he states that if PSE**
2 **loses one percent of its sales each year due to conservation, the five-year loss**
3 **in fixed cost recovery would be more than \$75 million after five years.**

4 A: Mr. Cavanagh’s testimony is based on the premise that these losses are
5 cumulative and that each year an additional \$5 million of sales would be lost,
6 along with all sales lost up to that date. However, he ignores that fact that over
7 the past several years, PSE has filed general rate cases virtually every year and
8 has stated its intent to continue to file cases with such frequency. Given that sales
9 levels are reset in each general rate case, the revenue losses from conservation
10 would be significantly less than the \$75 million estimated by Mr. Cavanagh.⁹

11 **Q: If the Commission adopts a full decoupling proposal, do you agree with Mr.**
12 **Cavanagh that adjustments should not be subject to an earnings test?**

13 A: No, I do not. On page 15 of his testimony Mr. Cavanagh states that “it is not
14 obvious why removing the linkage between retail sales and fixed-cost recovery
15 should hinge on the Company’s earnings.”¹⁰ I believe the link is very obvious. A
16 decoupling mechanism should not result in over-earnings for shareholders. By
17 design, a decoupling mechanism shifts risk from shareholders to ratepayers by
18 guaranteeing shareholders a pre-determined level of revenue. From a regulatory
19 perspective, however, the purpose of such mechanisms is to make a utility whole
20 for fluctuations in revenues, not to provide a mechanism to increase earnings over
21 those previously approved by the Commission. Thus, an earnings test is critical

⁹ The actual losses would depend on the timing of rate case filings relative to conservation savings.

¹⁰ Exhibit No. RCC-1T, p. 15, ll. 12-14.

1 for any decoupling mechanism. The existence of such an earnings test does not
2 correct all the problems inherent in a decoupling mechanism but it does provide
3 one key protection for ratepayers that is absent from Mr. Cavanagh's proposal.

4 Similarly, I disagree with Mr. Cavanagh's conclusion that a decoupling
5 mechanism should not result in a return on equity adjustment. Mr. Cavanagh's
6 proposed decoupling mechanism will eliminate the Company's revenue risk,
7 including risks from weather variations, economic fundamentals, or conservation.
8 Instead of being given an opportunity to earn a level of authorized revenues, PSE
9 will have a guaranteed revenue stream. This reduction in risk should be reflected
10 as an appropriate return on equity adjustment.

11 **Q: Does Mr. Cavanagh's proposal adequately address the impact on low-income**
12 **customers?**

13 A: No, it does not. Mr. Cavanagh recommends that increases in program budgets for
14 low-income energy efficiency programs are "at least roughly proportional to
15 increases in funding for energy efficiency programs for other residential
16 customers[.]"¹¹ It does not follow, however, that conservation programs provide
17 benefits to low income customers that are comparable to the benefits being
18 provided to other ratepayers. Mr. Cavanagh's proposal does not attempt to
19 evaluate the relative benefits of conservation programs to low-income customers,
20 as required by the Commission's Decoupling Policy Statement. Mr. Cavanagh
21 simply assumes that comparable spending equals comparable benefits, which is
22 not necessarily the case. Low-income customers may respond differently to

¹¹ Exhibit No. RCC-1T, p 18, ll. 2-4.

1 conservation programs than other residential customers.

2 **Q: Please comment on Mr. Cavanagh’s statement that his proposal “does not**
3 **establish a ‘fixed bill’ that would make customers indifferent to the amount**
4 **of electricity that they use.”¹²**

5 A: Again, I disagree with Mr. Cavanagh. He is correct that with a fixed-variable rate
6 design, ratepayers would receive a fixed bill each month regardless of usage,
7 while under his proposal that is not the case. But on an annual basis, his proposal
8 does mirror the fixed-variable rate design, in that it makes ratepayers responsible
9 for a fixed amount of revenue, regardless of usage. Therefore, while there may be
10 a timing difference between a fixed-variable rate design and Mr. Cavanagh’s
11 decoupling proposal, the end result is the same—a fixed annual cost regardless of
12 usage.

13 **Q: Please comment on Mr. Cavanagh’s statement that his proposal “is simply a**
14 **mechanism that allows the Company to receive no more and no less than the**
15 **fixed-cost revenue requirement per customer that the Commission has**
16 **reviewed and approved.”¹³**

17 A: Mr. Cavanagh’s statement highlights one of the major problems with his proposal,
18 the fact that it is not tied to conservation efforts. Instead, Mr. Cavanagh’s
19 proposal would ensure that PSE receives a fixed amount of revenue regardless of
20 the Company’s conservation efforts. Thus, while his proposal may remove an
21 alleged disincentive that the Company has to conserve, it does not provide any
22

¹² Exhibit No. RCC-1T, p. 22, ll. 10-11.

¹³ Exhibit No. RCC-1T, p. 22, ll. 15-17.

1 incentive to promote conservation or to increase its conservation efforts.

2 **Q: Please comment on Mr. Cavanagh's discussion that many other states have**
3 **adopted full decoupling.¹⁴**

4 A: The Commission should view this discussion cautiously. In response to a data
5 request from PSE, Mr. Cavanagh identified the states that he alleges have adopted
6 decoupling or where decoupling is pending.¹⁵ In that response, identifies New
7 Jersey as a state with gas decoupling. I was involved in the proceedings in New
8 Jersey when the mechanism was established, and am familiar with it. In New
9 Jersey, the Conservation Incentive Program (CIP) is used by two of the four gas
10 utilities, New Jersey Natural Gas and South Jersey Gas Company. The CIP ties
11 recovery of lost margins from reduced sales to reductions in fixed supply costs.
12 Specifically, as part of the CIP, expense savings due to reduced pipeline capacity
13 costs are examined to ensure that recovery of any lost margins does not exceed
14 those cost savings.¹⁶ Mr. Cavanagh's proposal in this case differs from the CIP
15 because he is not recommending that recovery be tied to any expense reductions.

16 Mr. Cavanagh also identifies Delaware as a state where electric
17 decoupling is pending but fails to clarify that decoupling by a date certain was
18 initially mandated in Delaware by legislation.¹⁷ The legislation was subsequently

19

¹⁴ Exhibit No. RCC-1T, p. 21, ll. 6-18.

¹⁵ NWECC Response to PSE Data Request No. 10.

¹⁶ *In the Matter of the Petition of South Jersey Gas Company for Authority to Implement a Conservation and Usage Adjustment; In the Matter of the Petition of New Jersey Natural Gas Company for the Implementation of a Conservation and Usage Adjustment*, State of New Jersey Board of Public Utilities, Docket Nos. GR05121019 and GR0512020, Decision and Order Approving Stipulation, (October 12, 2006). The CIP mechanism includes an earnings test, and also provided that the Companies' shareholders would pay for enhanced conservation programs. Decision and Order, pp. 3-4.

¹⁷ NWECC Response to PSE Data Request No. 10.

1 revised to remove the mandated effective date once legislators realized that
2 decoupling would sever the relationship between usage and revenues and would
3 result in rate increases for low-usage customers. It is my understanding that
4 workshops are currently underway to review decoupling proposals in light of the
5 revised legislation.

6 **Q: What do you recommend?**

7 A: I recommend that the Commission reject Mr. Cavanagh's full decoupling
8 proposal. His proposal would compensate PSE for revenue fluctuations
9 regardless of the underlying cause, would transfer risk from shareholders to
10 ratepayers without adequate compensation, and would provide no incentive to
11 increase conservation efforts.

12 **III. EXPEDITED RATE CASE MECHANISM**

13 **Q: Please provide a brief background of the circumstances that resulted in the**
14 **expedited rate case mechanism proposed by Mr. Elgin in his testimony.**

15 A: It appears that Staff's proposed expedited rate case mechanism is prompted in
16 significant part by challenges posed by frequent rate cases, as well as possible
17 regulatory lag issues. While Mr. Elgin disputes PSE's claims regarding attrition,
18 he proposes an expedited rate case mechanism to address regulatory lag issues
19 associated with ongoing infrastructure costs.¹⁸

20 **Q: Does Public Counsel agree that the frequency and complexity of rate cases is**
21 **posing challenges?**

¹⁸ Exhibit No. KLE-1T, pp. 73-84.

1 A: Yes. Public Counsel acknowledges the burden and challenges imposed on Staff
2 and intervenors due to the frequency of general rate case filings by PSE and other
3 utilities. Moreover, as Mr. Schooley discusses in his testimony for Staff, “[t]he
4 complexities of PSE’s rate cases are particularly perplexing.”¹⁹ I recognize
5 Staff’s proposal for an expedited proceeding is being proffered in this context, out
6 of a desire to try to create a more streamlined approach. While I do not
7 necessarily agree that PSE has demonstrated that it suffers from regulatory lag,
8 Staff’s recommendation for an expedited proceeding deserves consideration by
9 the Commission, although it may need to be further refined prior to being
10 adopted.

11 **Q: How did Mr. Elgin address the attrition and regulatory lag issues related to**
12 **his recommended expedited rate proceeding?**

13 A: As defined by Mr. Elgin:

14 The term [attrition] is used to refer [to] the erosion of a company’s
15 rate of return over time when the historical test period relationship
16 in revenues, expenses and rate base accepted by the Commission in
17 a rate case does not hold during a future rate year. This erosion
18 deprives the utility an opportunity to earn a fair rate of return.
19 However, there are circumstances where a change in the test year
20 relationships of revenues, expenses and rate base provides the
21 utility an opportunity to earn more than a fair rate of return. This
22 would be positive attrition.²⁰

23
24 Mr. Elgin explains that PSE identified three remedies the Company seeks
25 in this proceeding in order to address attrition: an increased ROE, a higher equity
26 ratio, and the proposed CSA.²¹ Staff concluded, however, that PSE had not

¹⁹ Exhibit No. TES-1T, p. 9, line 5.

²⁰ Exhibit No. KLE-1T, p. 64, ll. 2-8.

²¹ *Id.*, p. 63, ll. 14-19.

1 presented sufficient evidence to support a claim that attrition required a departure
2 from the Commission’s traditional ratemaking practices. Specifically, Mr. Elgin
3 states that “PSE should have presented an attrition study and specified the attrition
4 adjustment, consistent with Commission precedent and policy. Since PSE failed
5 to do so, or explain why the Commission’s established practice is no longer
6 appropriate, its claim of attrition is unsubstantiated and should be rejected by the
7 Commission.”²² I agree with Mr. Elgin’s conclusion and recommendation in this
8 regard.

9 Despite this recommendation, Mr. Elgin states:

10 The Company has presented testimony regarding ongoing costs
11 associated with infrastructure additions, replacements and
12 maintenance. This testimony warrants a proper response, but one
13 that is consistent with Commission practice and long-standing rate
14 making principles embodied in an historical rate base matched
15 with test period revenues and expenses that are normalized and
16 include accepted adjustments to the test period.²³

17 Accordingly, Mr. Elgin proposes that the Commission establish a
18 mechanism for an expedited rate case process using an updated test year.
19

20 **Q: Please describe the mechanism proposed by Mr. Elgin.**

21 A: Mr. Elgin proposed the use of an expedited rate case mechanism that would allow
22 the Company to obtain rate relief annually based on an expedited process.
23 Following a full general rate case, such as the case presently being litigated, the
24 Company could file an annual update based on an updated test year. This
25 expedited filing would reflect actual revenues, expenses, and rate base for the

²² *Id.*, p. 80, ll. 9-13.

²³ *Id.*, p. 80, l. 19 – p. 81, l. 2. Mr. Elgin cites to the testimony of Ms. McLain, on behalf of PSE (Exhibit No. SML-1T).

1 updated test year, with limited restating adjustments. The Company would be
2 required to use the rate of return authorized in the last general rate case, except for
3 updating its cost of debt. Revenues would be based on actual results, adjusted for
4 weather normalization and unbilled revenues. Expenses would be adjusted only
5 to eliminate costs that have traditionally been disallowed in rates, such as
6 charitable contributions and club dues, and to reflect other restating adjustments.²⁴

7 Mr. Elgin also stated that the process he recommends “includes
8 normalizing test period load.”²⁵ This adjustment would capture any loss of load
9 that occurred during the updated test year due to the Company’s conservation
10 efforts.

11 Given the fact that the filing would only include a limited number of
12 adjustments, Mr. Elgin anticipates an expedited period for review of the filing,
13 and a Commission Order prior to the start of the next heating season. For
14 example, at the end of the current case, the Company could file an expedited case,
15 requesting new rates by the beginning of the fourth quarter 2012. In subsequent
16 years, the Company could file an expedited case as soon as its test year
17 information was available and the filing prepared, e.g. by March 1, allowing a
18 period of approximately six months for the Commission to issue an Order. Mr.
19 Elgin recommends that the Company be permitted to utilize this process for a

²⁴ *Id.*, p. 81. Restating adjustments are described in WAC 480-07-510(3)(e)(ii):
‘Restating actual adjustments’ adjust the booked operating results for any defects or infirmities in actual recorded results that can distort test period earnings. Restating actual adjustments are also used to adjust from an as-recorded basis to a basis that is acceptable for rate making. Example of restating actual adjustments are adjustments to remove prior period amounts, to eliminate below-the-line items that were recorded as operating expenses in error, to adjust from book estimates to actual amounts, and to eliminate or to normalize extraordinary items recorded during the test period.

²⁵ *Id.*, p. 81, l. 15.

1 maximum of only two consecutive years following a full general rate case
2 proceeding.²⁶

3 **Q: Do you have concerns about the expedited process outlined in Mr. Elgin's**
4 **testimony?**

5 A: Yes. As acknowledged by Mr. Elgin, PSE has not demonstrated that attrition
6 necessitates a change to the traditional ratemaking process. Attrition is not a new
7 phenomenon, but has existed since rate regulation began. If the Commission
8 decides that some mechanism to address rate case frequency or regulatory lag
9 should be adopted, then Staff's proposal would certainly be preferable to the CSA
10 proposed by PSE. Staff's proposal attempts to maintain the integrity of the
11 ratemaking process by retaining the link between revenues, expenses, and rate
12 base. However, there are several aspects of Staff's proposal that I believe require
13 further development.

14 **Q: What aspects of Staff's proposal are of particular concern and need further**
15 **development?**

16 A: I am concerned about the type of adjustments that would be permitted pursuant to
17 the expedited process, the plausibility of maintaining a narrow scope of issues that
18 could be addressed in an expedited proceeding, and whether such an expedited
19 rate proceeding is appropriate for other utilities at this time.

20 **Q: Has Staff identified the types of adjustments that would be permissible for**
21 **the Company to make under the expedited rate case process?**

22 A: Mr. Elgin has provided some guidance by stating that adjustments would be

²⁶ *Id.*, p. 82, ll. 3-4.

1 limited to restating adjustments. While he has provided some examples of the
2 types of restating adjustments that would apply, he has not identified a
3 comprehensive list of such adjustments. Moreover, he indicated that under his
4 proposal, PSE would be permitted to make a weather normalization adjustment
5 and to normalize test period load. However, his proposal omits details such as
6 how the weather normalization adjustment should be made and what time frame
7 should be used to determine normal weather. Nor does his testimony address how
8 test period load should be normalized. Thus, it appears that there are several
9 issues that need to be resolved prior to the adoption of the expedited rate case
10 mechanism. If the expedited rate case mechanism is adopted, it is important for
11 the Commission to identify the parameters of the expedited rate case process in
12 the order in this case, so as to provide the baseline data necessary to implement
13 the expedited process.

14 **Q: Do you see potential problems regarding the scope of issues that could be**
15 **raised in the expedited process?**

16 A: Yes. The basic concept of the mechanism is to allow streamlining of the process
17 through narrowing of issues. Mr. Elgin makes an effort to define what a
18 streamlined “clean case” filing would look like. However, it is my understanding
19 that the proposed expedited process would not preclude other parties from raising
20 other accounting or cost of capital issues. The process would need to be flexible
21 enough to accommodate this. For example, although the Company would be
22 required to utilize the return approved in its last general rate case, updated only to
23 reflect the actual cost of debt, other parties may have a basis to present evidence

1 that the previously-authorized return is excessive. If a party legitimately
2 identifies a broader issue with a newly filed case, there would likely not be time
3 for the issue to be adequately evaluated in the context of an expedited procedural
4 schedule, and the Commission would need to establish a more standard schedule
5 for the case.

6 A related problem is the practical ability for parties to know at an early
7 stage whether unique issues exist. Once an expedited filing was made, the parties
8 would need to review it quickly and to determine which, if any, additional issues
9 should be addressed by the Commission. The Commission would then have to
10 decide, at the prehearing conference, whether to proceed with the expedited
11 process or to expand the process to a standard rate case to take additional
12 testimony on the disputed issues. In some cases, a party may not know if there
13 are other issues that should be raised until after they have had the opportunity to
14 conduct discovery, after a procedural schedule has already been established by the
15 Commission. Parties could lose their ability to raise additional issues, and to
16 exercise their due process rights to present evidence on those issues. The
17 Commission should make clear that, in the event significant new issues arise that
18 make an expedited approach inappropriate, it will retain the discretion to conduct
19 a full review on a standard rate case schedule, on its own motion, or at the request
20 of a party.

21 **Q: Mr. Elgin states at page 82 of his testimony that a ‘future benefit’ of the**
22 **proposed expedited proceeding is “standardized filings for all utilities.” Do**
23 **you have a concern about applying the expedited rate case procedure to**

1 **other companies?**

2 A: Yes, I do. There may be unique circumstances that would prevent a “one size fits
3 all” approach to the application of the expedited rate case process to other
4 utilities. In addition, it may be preferable to evaluate the experience under such a
5 mechanism with PSE, prior to making a decision that this is a desirable and
6 appropriate approach industry-wide.

7 **Q: Does this complete your testimony?**

8 A: Yes, it does.