

Agenda Date: July 10, 2002
Item Number: Other 1

Docket: UG-001116
Company Name: Puget Sound Energy, Inc.

Staff: Doug Kilpatrick, Pipeline Safety Director
Kim West, Senior Pipeline Safety Engineer

Recommendation:

Issue a Complaint against Puget Sound Energy, Inc., and accept the proposed Settlement Agreement to resolve the Complaint.

Discussion:

The proposed Complaint and Settlement Agreement in this matter comes from a pipeline safety program inspection of Puget Sound Energy's anti-drug and alcohol misuse prevention plan.

This inspection was prompted by allegations that following the merger between Puget Sound Power and Light, Inc., and Washington Natural Gas, Inc., to form Puget Sound Energy, Inc. (Puget), the resulting company's anti-drug and alcohol misuse prevention program for covered employees did not fully meet the requirements of 49 CFR Part 199. Covered employees, in this case mean persons who perform operations, maintenance, or emergency-response functions on a pipeline facility regulated by 49 CFR Part 192 (the federal natural gas pipeline safety code.)

In July 2000, Staff conducted Puget's drug and alcohol program inspection as part of this agency's regulatory jurisdiction for pipeline safety. As a result of the inspection, Staff determined that Puget Sound Energy's anti-drug and alcohol misuse prevention program was not in compliance with eight subsections of 49 CFR Part 199 for a period of time. The apparent violations were related to random testing minimums, supervisor training, and other program requirements. The Commission has adopted these requirements in WAC 480-93-010.

Under 49 CFR, Part 199.11(c), the annual percentage rate for random drug testing is required to be at least 25 percent of covered staff. Staff established that after the merger, the number of random drug tests dropped off considerably below the minimum requirements. In 1997, 78 of 767 covered employees were randomly selected for drug testing, resulting in an annualized testing rate of 10 percent. In 1998, 3 of 811 covered employees were randomly selected for drug testing, resulting in an annualized testing rate of 0.4 percent. In 1999 and 2000, there were 722 and 762 covered employees respectively. However, no random drug tests were conducted during this two-year period.

Staff also established that Puget did not adequately train supervisory personnel to recognize the possible symptoms of drug misuse in order to substantiate and concur in the decision to test an employee based on reasonable cause. Staff found the last documented supervisory

training occurred before December 1996 and no documented drug misuse training had occurred for the years 1997, 1998, 1999, and up to July 12, 2000.

Staff notified Puget of its findings and invited the Company to enter into discussions to resolve these issues. Following notification of Staff's inspection findings, Puget issued a new substance abuse plan in March 2001, and random drug testing was resumed on May 16, 2001. These actions appear to bring Puget into compliance with the federal code requirements. Staff and Puget shared information and discussed a possible resolution of the series of violations during the previous period. These discussions resulted in the proposed Settlement Agreement presented today.

Briefly, in the Settlement Agreement Puget has agreed to pay a penalty of \$50,000 for its violations of WAC 480-93-010 with respect to 49 CFR Part 199. In addition, Puget will spend an additional amount totaling approximately \$56,000 to implement an anti-drug and alcohol abuse awareness training program for all of its employees. This additional training would consist of a 30-minute mandatory training session for all employees covering Puget's "Substance Abuse Plan for Covered Employees" and Puget's "Substance Abuse Plan for Non-Covered Employees." This commitment is in addition to ongoing compliance with the requirements of WAC 480-93-010 and 49 CFR Part 199.

Recommendation:

Staff recommends the Commission issue a Complaint against Puget Sound Energy, Inc., for violations of WAC 480-93-010, and accept the proposed Settlement Agreement to resolve the Complaint.