

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

DOCKET NO. PG-041624

REVISED NARRATIVE
SUPPORTING SETTLEMENT

I. PRELIMINARY MATTERS

1 Pursuant to WAC 480-07-740(2) (a), the Commission Staff (“Staff”), Puget Sound Energy Company (PSE), and the City of Bellevue (collectively, the “Parties”) present this Revised Narrative Supporting Settlement (“Narrative”). The “Narrative Supporting Settlement” previously filed on August 25, 2005 is hereby withdrawn.

2 This Narrative relates to the Revised Settlement Agreement (“Agreement”) filed by the Parties. The settlement is unanimous: the signatories are PSE, Staff and the City of Bellevue, who are the only parties to this docket.

3 This Narrative summarizes many aspects of the Agreement. It is not intended to modify any terms of the Agreement.

4 At this time, the Parties do not intend to file supporting documentation in addition to
this Narrative, and the documents already in the Commission files in this matter. The
Parties are willing to provide additional supporting documents if the Commission deems that
necessary or appropriate.

5 The Agreement is the product of settlement discussions between PSE, Staff, and the
City of Bellevue. The first phase of those discussions took place on August 22 and 23,
2005, as scheduled on the Commission's Case Schedule order. Those discussions were
conducted under the auspices of the Commission's Administrative Law Division. Chief
Administrative Law Judge C. Robert Wallis was the mediator. The second phase of
settlement discussions took place after the Commission's September 9, 2005, prehearing
conference.

II. SCOPE OF THE UNDERLYING DISPUTE

6 On September 2, 2004, a house owned and occupied by Mrs. Frances Schmitz
exploded, leading to the death of Mrs. Schmitz. On September 10, 2004, the Commission
issued a complaint in this docket.

7 The Complaint alleges violations of cathodic protection rules contained in 49 C.F.R.
§ 192.463(a) and violations of RCW 80.28.210, alleging PSE did not maintain its system in
a safe and efficient manner. *Complaint, ¶¶ 18-22 and 31.* The Complaint states the
Commission should consider whatever improvements or other changes are appropriate, and
the Complaint seeks monetary penalties. *Complaint, ¶¶ 30-34 and 37.*

8 On September 15, 2004, the Commission entered Order No. 1, which was an
emergency order. In that order, the Commission implemented an action plan that had been

agreed to between Staff and PSE, and supported by the City of Bellevue, in order to address issues in the area of explosion, while the investigation was undertaken. *Order No. 1, ¶ 16.*

9 The investigation ensued, and Staff and PSE have now filed their direct testimony and exhibits. The City of Bellevue elected not to file direct testimony and exhibits.

10 **III. SCOPE OF THE SETTLEMENT AND ITS PRINCIPAL ASPECTS**

10 The Agreement settles all issues in this docket as to all parties. *Agreement ¶ 1, 11, and 31,* though the Commission retains jurisdiction to implement and enforce the Agreement. *Agreement ¶ 16, 27.*

11 The principal aspect of the settlement, based on the results of Staff and Company investigations, and the result of settlement, is:

12 PSE agrees to implement a program under which it will a) inventory its service lines that consist of steel pipe installed more than 5 years before the installation of impressed current cathodic protection; b) systematically assess the condition of that pipe in collaboration with Staff based on existing data; and c) take appropriate action based on the results of that assessment. *Agreement ¶¶ 14-17.*

13 PSE will report its progress to the Commission on a regular basis. *Agreement ¶ 15, 17.*

14 Other aspects of the Agreement are that PSE has cured each of the violations at issue in the Complaint. *Agreement ¶13.* PSE agrees it did not meet the standard for cathodic protection in 49 C.F.R. § 192.463(a) and Appendix D to 49 C.F.R. Part 192. *Agreement ¶ 26.* PSE agrees to pay a penalty of \$90,000. Staff requested a penalty of \$125,000 in its prefiled testimony. The agreed-upon penalty amount reflects several mitigating factors, including the fact that the cathodic protection deficiency was not related to the explosion,

that PSE promptly remediated the deficiency, and that PSE thoroughly cooperated in investigating the incident. *Id.*

15 The Agreement resolves all issues in these dockets, and the Agreement is the entire agreement between the parties. *Agreement* ¶¶ 1, 11, 31, 34. The Parties will support the Agreement before the Commission, pursuant to the process the Commission deems appropriate. *WAC 480-09-740*. The Parties also stipulate that the evidence filed by Staff and PSE be admitted into evidence. *Agreement* ¶ 25.

IV. **THE PROPOSED SETTLEMENT IS IN THE PARTIES' AND PUBLIC INTERESTS**

A. **Statement by Staff**

16 Commission Staff believes the Agreement is fair and just, and in the public interest, when the Agreement is viewed as a whole.

17 First, among the main concerns of Commission Staff in this case was the fact that a person died and her home was destroyed. Staff's focus, apart from seeking the causes of the explosion itself, was the integrity of the pipe in the Spiritridge neighborhood where the explosion occurred. Staff strived to determine whether there was any possibility of this type of incident occurring again and what actions could be taken to avoid a similar incident in the future. Accordingly, Staff evaluated the integrity of the pipe in the Spiritridge neighborhood where the explosion occurred. Based on the investigation results, the primary recommendation of Staff in this case was for PSE to implement a program under which it would inventory, prioritize, assess and remediate as appropriate, the coated steel service lines in its territory that were installed more than 5 years before impressed current cathodic protection was implemented. *See, e.g., Exhibit No. ___ (AER-2), Recommendation No. 1.* The settlement accomplishes that. *Agreement* ¶¶ 14-17. Dr. Bell, the consulting expert

retained by the Commission in this docket, has reviewed the program and believes it is appropriate.

18 Second, PSE has agreed to implement Staff Recommendation Nos. 2-4 in Exhibit No. ____ (AER-2). *Agreement* ¶¶ 20-22. This includes changes to PSE's Operating Manual including requirements of: a) remediation without undue delay when a "zero" or "positive" cathodic protection reading is taken; b) standardized procedures for taking cathodic protection, instruction on the significance of such readings; c) training on these Operating Manual changes. It also includes PSE securing its rectifiers against unauthorized access.

19 Commission Staff has reviewed the Operating Manual changes made by PSE and agrees PSE has done what Staff recommended.

20 Third, the Agreement substantially satisfies Staff's Recommendation No. 5 in Exhibit No. ____ (AER-5), in which Staff recommended the Commission lift the continuing requirements contained in Order No. 1, but retain annual leak surveys in the portion of the Spiritridge neighborhood served by the Vasa Park rectifier. The Agreement calls for one additional leak survey of the steel pipe in that area, in the summer of 2006. *Agreement* ¶ 23. After that, the inventory and assessment program PSE agrees to implement will include the Spiritridge neighborhood, so it will be part of the future process by which PSE will be assessing the integrity of such systems. *Agreement* ¶ 24. Accordingly, the annual leak survey requirement is not necessary.

21 The Agreement calls for PSE to pay a penalty. *Agreement* ¶ 26. Staff's testimony recommended a \$125,000 penalty, based on 5 days in which PSE did not maintain adequate levels of cathodic protection, *i.e.*, a period when the Vasa Park rectifier was cross-wired. *See Exhibit No. ____ (AER-1T) pages 7-11.* PSE agrees the system in question did not satisfy

the standards for cathodic protection. *Agreement* ¶26. The \$90,000 penalty reflects several listed mitigating factors. *Id.* While Staff does not weigh each of these factors equally, on a net basis, they justify the level of penalty in the Agreement.

22 Accordingly, when viewed as a complete package, Staff believes the Agreement represents a proper resolution of the Complaint.

B. Statement by PSE

23 PSE believes that this Agreement will further enhance the safety and peace of mind of its gas customers and represents a proper and just resolution of the Complaint.

24 PSE's gas distribution system is safe, well maintained and operating in accordance with federal and state gas regulations and utility industry standards. Due to the unique factual circumstances, PSE could not predict the chain of events that led to the September 2, 2004, explosion and ultimately the tragic death of Mrs. Frances Schmitz. After the tragic explosion, PSE thoroughly investigated the incident, both independently and in conjunction with Staff and the City. PSE used its own internal experts and an outside consultant, a preeminent expert in corrosion control. Staff and PSE agree that those investigations conclude that the cross-wired rectifier did not cause the explosion. Rather, the leak was caused by corrosion that pre-existed the cross-wiring of the rectifier and pre-existed the application of cathodic protection to the service line, which was not required by regulations until 5 years after the service line was installed.

25 PSE has agreed to undertake certain risk assessment and mitigation steps outlined in the Agreement. PSE has agreed to inventory all service lines that were installed five year or more before the regulations required cathodic protection. Once that inventory is complete, PSE will use available corrosion, soil, and cathodic protection data to assess these areas and

determine if any trends or cause for concern is apparent. PSE will then determine further appropriate investigatory steps and will mitigate, if necessary. These steps are to be undertaken in conjunction with Staff and keeping the Commission periodically informed.

26 PSE has adopted the recommendations of Staff regarding securing rectifiers against unauthorized access, updating manuals regarding the appropriate response if certain reads come from rectifiers that could indicate a polarity reversal, and training staff. PSE has already implemented these steps in its efforts to ensure the public safety.

27 PSE has complied with all of the agreed action items as stated in Commission Order No. 1. Specifically, throughout this process, PSE has kept the neighborhood of Spiritridge informed about its investigation and remediation process. PSE has now distributed final communications to the neighborhood regarding the results of its investigations. As an additional step, PSE replaced all of the wrapped-steel service and main lines in the Spiritridge neighborhood that were affected by the cross-wired Rectifier. This replacement was undertaken in the early stages of the investigation when questions remained about the impact of the cross-wired rectifier, and was done after PSE notified Staff. PSE therefore believes it is appropriate that it is now be relieved from this order, except that it has agreed to undertake one more leak survey in the summer of 2006 for that portion of the Spiritridge neighborhood that still has wrapped-steel pipe.

28 The safety of its customers is and will always be PSE's highest priority. PSE believes that this Agreement sets forth appropriate and efficient steps to ensure that the public's level of safety is enhanced.

C. Statement by City of Bellevue

29 The City of Bellevue believes this Agreement adequately and fairly addresses its major concern, which is the ongoing safety of its residents.

30 The tragic explosion that occurred on September 2, 2004 in the Spiritridge neighborhood left the City of Bellevue with concerns regarding the integrity of all the pipe in the Spiritridge neighborhood, as well as the operation of PSE's gas distribution system. It also left the City of Bellevue with concerns about the integrity of other coated service lines in the City of Bellevue which had been installed more than 5 years prior to the implementation of cathodic protection. The terms of this settlement address all of these concerns.

31 The City of Bellevue has been very pleased with the level of responsiveness and cooperation exhibited by PSE throughout this process. PSE acted promptly to replace many of the service lines in the Spiritridge neighborhood and has agreed, through this settlement, to implement a number of operational changes which are intended to insure that adequate cathodic protection is continually supplied to all coated steel services lines in Bellevue. PSE also has agreed to inventory its remaining services lines in Bellevue which were installed five years or more before the requirement of cathodic protection and to undertake a risk assessment of those lines. This settlement provides that the City of Bellevue will be kept informed of the results of that risk assessment and of any mitigation steps proposed by PSE or Commission staff. The terms of this agreement will allow the City of Bellevue to ensure that the ongoing safety of its citizens is fully addressed and enhanced.

V. SUMMARY OF LEGAL POINTS THAT BEAR ON THE PROPOSED SETTLEMENT

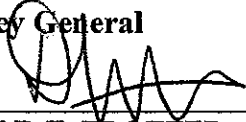
32 The Parties do not believe there is anything significant to discuss under this topic listed in WAC 480-07-740(2) (a).

VI. CONCLUSIONS

The Parties respectfully request the Commission approve the Revised Settlement Agreement between PSE, Commission Staff and the City of Bellevue in this docket.

DATED this 22nd day of September, 2005.

ROB McKENNA
Attorney General



DONALD T. TROTTER
Senior Counsel
Counsel for Washington Utilities and
Transportation Commission Staff

CITY OF BELLEVUE
LORI RIORDAN
City Attorney

see attached

Assistant City Attorney
Cheryl A. Zakrzewski
Counsel for City of Bellevue

PERKINS COIE LLP

see attached

James F. Williams
Amanda J. Beane
Counsel for Puget Sound Energy, Inc.

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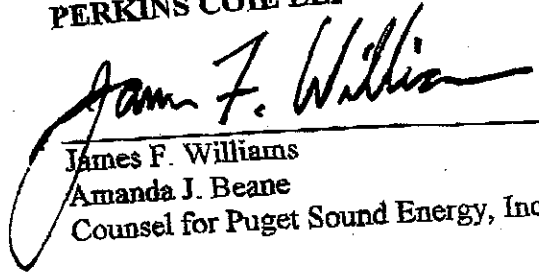
ROB MCKENNA
Attorney General

DONALD T. TROTTER
Senior Counsel
Counsel for Washington Utilities and
Transportation Commission Staff

CITY OF BELLEVUE
LORI RIORDAN
City Attorney

Assistant City Attorney
Cheryl A. Zakrzewski
Counsel for City of Bellevue

PERKINS COIE LLP



James F. Williams
Amanda J. Beane
Counsel for Puget Sound Energy, Inc.

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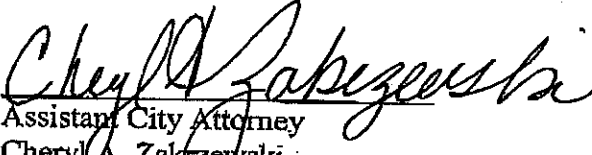
ROB McKENNA
Attorney General

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Senior Counsel
Counsel for Washington Utilities and
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Counsel for Puget Sound Energy, Inc.

CITY OF BELLEVUE
LORI RIORDAN
City Attorney


Assistant City Attorney
Cheryl A. Zakrzewski
Counsel for City of Bellevue