

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

DOCKET NO. PG-041624

REVISED SETTLEMENT  
AGREEMENT

**I. NATURE OF THE AGREEMENT**

- 1 This Revised Settlement Agreement (“Agreement”) is entered into between the Staff of the Washington Utilities and Transportation Commission, Complainant (“Staff”), Respondent Puget Sound Energy, Inc. (“PSE”), and intervenor City of Bellevue, for the purpose of resolving all issues raised in the Complaint in these dockets. The Parties withdraw the previously filed Settlement Agreement and Narrative Supporting Settlement, each dated August 25, 2005.
- 2 The Agreement is expressly subject to approval by the Washington Utilities and Transportation Commission (“Commission”), and it is not effective before such approval.

## II. EFFECTIVE DATE

3 The Agreement is subject to approval by the Commission. The Agreement has no effect  
until it is approved by the Commission. The effective date of the Agreement is the date of  
the Commission's order approving the Agreement.

## III. PARTIES

4 The parties to this Agreement are Staff, PSE, and the City of Bellevue (collectively,  
"Parties").

## IV. BACKGROUND

5 PSE is a public service company subject to Commission regulation under Title 80 RCW.  
As pertinent to this Agreement, PSE operates as a "gas company" as that term is defined in  
RCW 80.04.010. PSE owns and operates a natural gas distribution system in Western  
Washington. PSE serves residential, commercial and industrial customers with natural gas,  
under tariffs subject to Commission regulation. PSE is subject to Commission safety rules  
applicable to natural gas pipelines. *E.g.*, RCW 80.28.210.

6 Docket No. PG-041624 arose as a result of a fatal explosion that occurred in Bellevue,  
Washington at the residence of a PSE natural gas service customer, Mrs. Frances Schmitz.  
Of initial particular interest was the fact that the service line at Mrs. Schmitz's home  
received cathodic protection from a rectifier that PSE discovered was cross-wired the day  
after the explosion occurred. The Commission issued a Complaint on September 13, 2004  
and promptly conducted an emergency adjudicative proceeding. As a result of the  
emergency adjudicative proceeding, the Commission approved an action plan developed  
and agreed to by Commission Staff and PSE. That action plan is set forth in Order No. 1 in  
this docket, issued September 17, 2004. Thereafter, an exhaustive investigation was

undertaken by WUTC Staff, PSE, and the City of Bellevue. Ultimately, all experts retained by the Parties concluded that the explosion was the result of longstanding corrosion and that several factors may have contributed to this corrosion and that the cross-wired rectifier had little or no bearing on the leak or the subsequent explosion that tragically took the life of Mrs. Schmitz.

7 Among other things, the Complaint alleged that PSE violated RCW 80.28.210 and 49  
C.F.R. § 192.463(a), which the Commission has adopted by reference in *e.g.*, WAC 480-  
93-010.

8 Prehearing conferences in these dockets were held on October 21, 2004, March 15, 2005  
and June 6, 2005. The only parties to these dockets are PSE, the Commission Staff and  
intervenor City of Bellevue.

9 Since the Commission issued the Complaint, investigation of this matter has proceeded.  
Staff has filed its direct testimony and PSE has filed its direct testimony. The City of  
Bellevue elected not to file direct testimony. According to the Commission's Case  
Schedule for this docket, August 22 and 23, 2005, were dates for the Parties to hold a  
settlement conference, to give the Parties an opportunity to discuss ways to resolve the  
remaining issues presented in these dockets, without a hearing.

10 The Parties share the goal that PSE's pipeline facilities be operated in compliance with  
Commission laws and rules related to the safe operation of those facilities.

## V. AGREEMENT

11 The Parties have reached agreement on the issues raised in the Complaint and by the  
Commissioners and present their agreement for adoption by the Commission. The Parties

voluntarily enter this Agreement without hearing or adjudication of any issues of fact or law to resolve the matters in dispute between them in what each Party believes is an appropriate manner, in light of the circumstances and the risks associated with litigation.

### **Results of the Investigations**

12 On the morning of September 2, 2004, PSE personnel were responding to a reported odor of gas in the Spiritridge subdivision of Bellevue, Washington. While a PSE employee was meeting with the concerned neighbors and investigating the source of the odor, an explosion and fire occurred at the home of Mrs. Frances Schmitz, 16645 S.E. 26<sup>th</sup> Place, Bellevue, Washington. After a lengthy, thorough, and collaborative investigation between PSE, Commission Staff, and the City of Bellevue, it was determined that the explosion occurred because gas from a leak on Mrs. Schmitz's service line migrated into the residence and was ignited. As experts for both Staff and PSE would testify, the leak on the service line occurred as a result of severe external corrosion. Cathodic protection systems were first required by regulations to wrapped-steel pipe (such as the service line to Mrs. Schmitz's residence) in 1971, eight years after Mrs. Schmitz's service line was installed. The predominant cathodic protection current source servicing Mrs. Schmitz's house is the rectifier located near Vasa Park in Bellevue, Washington (also known as the Vasa Park Rectifier). On September 3, 2004, PSE discovered that the Vasa Park Rectifier was cross-wired. PSE promptly corrected the wiring on this same day. PSE and Staff agree, however, that corrosion causing the leak pre-existed the cross-wiring of the Vasa Park Rectifier, and the temporary reversal of the Vasa Park Rectifier did not cause the explosion.

### **Alleged Violations Cured**

13 PSE has cured the specific violations alleged in the Complaint.

## Risk Assessment and Mitigation

- 14 PSE will gather pipeline data for the services of similar vintage construction as Mrs. Schmitz (i.e., no cathodic protection for more than 5 years). The data PSE will gather includes corrosion leak history (LMS), cathodic protection history, Exposed Pipe Condition Reports (EPCR) information, USGS soils information, and information from field personnel interviews with individuals who have had the opportunity to work on existing buried pipe, including Quality Assurance, Corrosion Control, and Construction.
- 15 PSE Corrosion personnel will then evaluate the data gathered and described in the preceding paragraph in order to identify issues or trends of concern related to services. This effort will be undertaken in a collaborative effort in conjunction with Commission Staff. Commission Staff will be apprised of these results and PSE will communicate protocols undertaken at each stage. The City of Bellevue will also be provided this information to the extent it applies to services located within the City of Bellevue. Services that are identified as needing further evaluation will undergo further investigation, including as appropriate:
- a. Determination as to the significance of the information, as it relates to the possible condition of the subject services;
  - b. Recommendation as to follow up activities such as additional testing, examination of the services, or replacement of the services;
  - c. Appropriateness of additional measures such as DCVG and CIS assessments, and additional or more frequent leak surveys;
  - d. For any problematic areas that may be identified in services that warrant replacement, PSE will then undertake an investigation of adjoining sections of the main to determine if a main replacement is warranted; and

e. PSE estimates the program will cost at least \$250,000.00.

16 If the Commission Staff and PSE disagree as to the appropriate steps to be taken after an  
assessment is made, they commit to discuss the nature of the disagreement and to work  
cooperatively to resolve it. If the matter cannot be resolved in this way, either Staff or PSE  
(or both) may bring the matter to the Commission for decision in a petition to enforce this  
Agreement.

17 Once protocols are developed to assess which services need further evaluation, PSE and  
Staff will present a status report to the Commission regarding PSE's collection of data,  
analysis of the data, development of protocols, and further investigative steps.

18 PSE will maintain system-wide leak surveys in accordance with applicable regulations,  
except as modified herein.

19 Additionally, PSE will continue with its bare steel and cast iron replacement program, and  
PSE and the WUTC will communicate to the public regarding this replacement program.  
That program is being undertaken separately from this Agreement and is not affected by this  
Agreement.

#### **Changes to Policies Regarding Rectifiers**

20 PSE has complied with WUTC Staff Recommendation Number 2, set forth in Exhibit No.  
\_\_\_ (AER-2) of Staff witness Alan E. Rathbun.

21 PSE has complied with WUTC Staff Recommendation Number 3, set forth in Exhibit No.  
\_\_\_ (AER-2) of Staff witness Alan E. Rathbun, though the training of PSE personnel is  
ongoing.

22 PSE has complied with WUTC Staff Recommendation Number 4, set forth in Exhibit No.  
\_\_\_ (AER-2) of Staff witness Alan E. Rathbun.

### **Return to Normal Operation Procedures**

23 PSE is relieved from the requirements of Commission Order No. 1 in this docket, except that PSE will conduct at least one more leak survey in the area of the Spiritridge neighborhood (some time between June 20, 2006 and September 20, 2006) for all remaining steel pipe served by the Vasa Park Rectifier. PSE has communicated to its customers served by the Vasa Park Rectifier the results of its investigations into the explosion, and has complied in all other respects with the agreed action items under paragraph 16 of Order No. 1.

24 Following the leak survey referred to in the preceding paragraph, PSE's future leak surveys in the Spiritridge neighborhood will be evaluated consistent with the protocols developed herein. WUTC Staff and PSE assert there is no information that would indicate PSE's distribution system is currently unsafe.

### **Other Matters**

25 The Parties stipulate that the Commission will admit into evidence the testimony and exhibits filed on behalf of Commission Staff on July 21, 2005, and on behalf of PSE on August 12, 2005.

26 The standard for cathodic protection prescribed by 49 C.F.R. § 192.463(a) and Appendix D to 49 C.F.R. Part 192 was not met during the limited time the rectifier was cross-wired, but PSE promptly remediated that condition upon discovery, and within 90 days, as required under applicable regulations. According to the testimony filed in this case, Commission Staff calculated a \$125,000 maximum penalty for PSE's failure to meet the standards for cathodic protection prescribed by 49 C.F.R. § 192.463(a) and Appendix D to 49 C.F.R. Part 192. PSE will stipulate to a penalty of \$90,000. The \$90,000 amount reflects several mitigating factors, including: 1) PSE took prompt action to correct the cross-wired rectifier;

2) how the rectifier became cross-wired remains unknown; 3) the Parties' experts investigating this matter all concluded that the cross-wired rectifier had little or no bearing on the leak or the explosion; 4) PSE's good faith compliance with Commission Order No. 1 in this docket; 5) PSE's cooperation in the investigation; and 6) PSE's cooperation in working with the Staff and City in instituting the other operational changes and programs outlined in this Agreement. PSE shall make such payment within 10 working days from the date the Commission approves this Agreement.

27 This docket will be closed but the WUTC will retain jurisdiction of this matter.

28 Staff and PSE will coordinate efforts going forward to ensure disclosure of analysis and issues to assure the process is productive and efficient.

29 PSE will undertake the aforementioned action items upon approval of this Agreement by the WUTC in a good faith and expedited manner. PSE currently estimates a completion date of September 1, 2006. PSE will provide interim, quarterly updates to the WUTC Staff, Commissioners, and the City of Bellevue.

30 The Parties understand the standards and conditions enumerated herein are compatible with existing Commission rules. Should the standards or conditions enumerated herein be superseded by stricter language in future rules, the stricter standards will apply.

## **VI. GENERAL PROVISIONS**

### **Nature of the Agreement**

31 The Parties agree that this Agreement is an appropriate resolution of all contested issues between them in this proceeding, given the unique facts and circumstances surrounding this matter and the risks of litigation. The Parties understand that this Agreement is subject to



Commission approval and it is not effective unless and until it is approved by the Commission.

32 Nothing in this Agreement is intended to limit or bar any other entity from pursuing legal claims, or to limit or bar PSE's ability to assert defenses to such claims.

33 The Parties recognize that this Agreement represents a compromise of the Parties' positions. As such, conduct, statements, and documents disclosed during negotiations of this Agreement shall not be admissible as evidence in this or any other proceeding, except in any proceeding to enforce the terms of this Agreement or any Commission Order fully adopting those terms. This Agreement shall not be construed against any Party because it was a drafter of this Agreement.

#### **Integrated Terms of Settlement**

34 The Parties have negotiated this Agreement as an integrated document to be filed with the Commission only upon execution. Once the Agreement is executed, the Parties agree to support the Agreement in its entirety. The Agreement supersedes any prior oral and/or written agreements on issues addressed herein, if any.

#### **Manner of Execution**

35 This Agreement is considered executed when all Parties sign the Agreement. A designated and authorized representative may sign the Agreement on a Party's behalf. The Parties may execute this Agreement in counterparts. Parties may also authorize a party to sign on its behalf. If the Agreement is executed in counterparts, all counterparts shall constitute one agreement. An Agreement signed in counterpart and sent by facsimile or email is as effective as an original document. A faxed or emailed signature page containing the signature of a Party is acceptable as an original signature page signed by that Party. Each

Party shall indicate the date of its signature on the Agreement. The date of execution of the Agreement will be the latest date indicated on the signatures.

### **Procedure**

36 Once this Agreement is executed, the Parties agree to cooperate in promptly filing this Agreement with the Commission for approval. The Parties agree to support approval of this Agreement in proceedings before the Commission, through testimony and/or briefing. However, if there is a Commission order, rule or policy statement issued after the date this Agreement is executed but before it is approved, and that order, rule or policy statement, changes the posture of the Agreement in any Party's view, comments may be made to the Commission as to how the Agreement should be viewed in light of that order, rule or policy statement. The Parties have agreed to request from the Commission a suspension of the existing remaining procedural schedule in these dockets. The Parties understand that the Commission will decide the appropriate procedures for presentation and consideration of the Agreement.

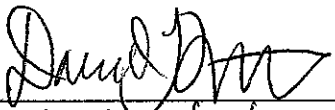
37 In the event that the Commission rejects all or any portion of this Agreement, each Party reserves the right to withdraw from this Agreement by written notice to the other Parties and the Commission. Written notice must be served within 10 business days of the date of the Commission order rejecting all or any portion of this Agreement. In such event, no Party will be bound or prejudiced by the terms of this Agreement. The Parties will jointly request a prehearing conference for purposes of establishing a procedural schedule to complete the case.

**No Precedent**

38 No Party shall be deemed to have agreed that this Agreement is precedent for resolving any issues in any other existing or future proceeding, other than a proceeding for enforcement of this Agreement.

For Commission Staff:

ROB McKENNA  
Attorney General  
Donald T. Trotter  
Assistant Attorney General

  
\_\_\_\_\_  
Date signed: 9/22/08

For Puget Sound Energy, Inc.:

Susan McLain  
Senior Vice President of Operations

*see attached*  
\_\_\_\_\_  
Date signed:

For City of Bellevue:

LORI RIORDAN  
City Attorney  
Cheryl A. Zakrzewski  
Assistant City Attorney

*see attached*  
\_\_\_\_\_  
Date signed:

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For Commission Staff:

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Attorney General  
Donald T. Trotter  
Assistant Attorney General

\_\_\_\_\_  
Date signed:

For Puget Sound Energy, Inc.:

*Susan McLain*  
Susan McLain  
Senior Vice President of Operations

09-22-05  
\_\_\_\_\_  
Date signed:

For City of Bellevue:

LORI RIORDAN  
City Attorney  
Cheryl A. Zakrzewski  
Assistant City Attorney

\_\_\_\_\_  
Date signed:

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For Commission Staff:

ROB McKENNA  
Attorney General  
Donald T. Trotter  
Assistant Attorney General

For Puget Sound Energy, Inc.:

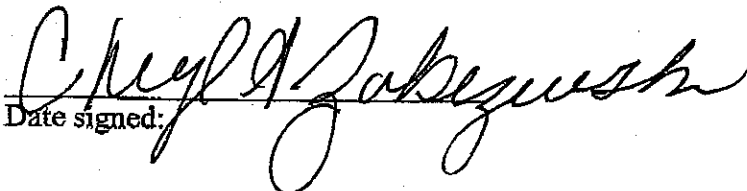
Susan McLain  
Senior Vice President of Operations

\_\_\_\_\_  
Date signed:

\_\_\_\_\_  
Date signed:

For City of Bellevue:

LORI RIORDAN  
City Attorney  
Cheryl A. Zakrzewski  
Assistant City Attorney

  
\_\_\_\_\_  
Date signed: