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June 12, 2007

**VIA HAND DELIVERY**

Ms. Carole J. Washburn  
Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Drive SW  
Olympia, WA 98504

**Re: Washington Utilities and Transportation Commission  
Docket No. PG-060215**

Dear Ms. Washburn:

Enclosed for filing are the original and twelve (12) copies of Answer of Puget Sound Energy, Inc. and Certificate of Service in the above-captioned docket. Please return a conformed copy to the undersigned in the self-addressed, stamped envelope included for your convenience.

Very truly yours,

Sheree Strom Carson

SSC:cgm

Enclosures

cc: Donald T. Trotter

07772-0985/LEGAL13314580.1

ANCHORAGE · BEIJING · BELLEVUE · BOISE · CHICAGO · DENVER · HONG KONG · LOS ANGELES  
MENLO PARK · OLYMPIA · PHOENIX · PORTLAND · SAN FRANCISCO · SEATTLE · WASHINGTON, D.C.

Perkins Coie LLP and Affiliates

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BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

DOCKET NO. PG-060215

ANSWER OF  
PUGET SOUND ENERGY, INC.

**INTRODUCTION**

1. Puget Sound Energy, Inc.'s ("PSE" or the "Company") address for purposes of this proceeding is:

Duane Henderson  
Director, Engineering and Operations Services  
Puget Sound Energy, Inc.  
PO Box 97034  
Bellevue, Washington 98009  
Phone: 425-462-3974  
Fax: 425-462-3840  
Email: Duane.Henderson@pse.com

1 PSE's representatives for purposes of this proceeding are:  
2

3 Sheree Strom Carson  
4 Donna Barnett  
5 Perkins Coie LLP  
6 10885 N.E. Fourth Street, Suite 700  
7 Bellevue, WA 98004-5579  
8 Phone: 425-635-1400  
9 Fax: 425-635-2400  
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12  
13 2. PSE recognizes the Commission's important responsibilities in auditing and  
14 enforcing pipeline safety with respect to the companies it regulates. PSE is committed to  
15 operational excellence, and the Company strives for full compliance with federal and state  
16 regulations—by its employees and by the independent contractors who work on its gas  
17 system. PSE's goal is to maintain a safe and reliable gas system, and PSE is constantly  
18 looking for ways to improve and enhance pipeline safety.  
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21 3. With these fundamental principles in mind, PSE answers the Complaint of the  
22 Washington Utilities and Transportation Commission (the "Commission") dated May 23,  
23 2007 (the "Complaint") as stated below.  
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33 **ANSWER**  
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35 4. Because paragraph 1 contains no legal or factual allegations, PSE neither  
36 admits nor denies this paragraph.  
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39 **I. INTRODUCTION**  
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41 5. Answering paragraph 2, PSE admits that Commission rules require gas  
42 pipeline operators to prepare and follow an operations and maintenance manual, which  
43 includes leak inspections; "prepare and maintain permanent gas leak records" and retain the  
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1 leak investigation record for the life of the pipeline." PSE neither admits nor denies the first  
2 sentence of paragraph 2, which describes the nature of the Complaint and does not contain  
3 any factual or legal allegations that require an answer.  
4

5  
6 6. Answering paragraph 3, PSE admits that Pilchuck Contractors, Inc.  
7 ("Pilchuck") is an independent contractor for PSE. Based on the investigation PSE has  
8 conducted into this matter after being notified by Staff of potential record keeping anomalies,  
9 PSE admits that Pilchuck on occasion may have failed to follow certain requirements of  
10 PSE's operation and maintenance manual relating to follow-up investigations of "phantom"  
11 leak inspections and record keeping regarding leak investigations. PSE was advised that  
12 Pilchuck has had disciplinary communications with its employees. Additionally, PSE  
13 worked with Pilchuck to provide additional training to employees regarding natural gas leak  
14 recording practices, and this has resulted in a significant improvement to the accuracy of the  
15 records, based on subsequent audits performed by PSE. PSE and Pilchuck have advised  
16 employees of the importance of accurate record keeping and that any falsification of records  
17 will result in termination of employment.  
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## 30 II. BACKGROUND INFORMATION

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32 7. Answering paragraph 4, PSE admits the facts alleged in the first two sentences  
33 of paragraph 4. The third sentence of paragraph 4 states a legal opinion or conclusion for  
34 which an answer is inappropriate and is therefore denied. The incidents alleged in this case  
35 involve alleged misconduct by Pilchuck employees who failed to follow PSE's standards and  
36 procedures.  
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42 8. Answering paragraph 5, PSE admits the allegations in paragraph 5.

43 9. Answering paragraph 6, PSE admits the allegations in paragraph 6.

44 10. Answering paragraph 7, PSE admits the allegations in paragraph 7.  
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1           11.     Answering paragraph 8, this paragraph restates provisions of administrative  
2 rules to which no answer is required. These rules speak for themselves.  
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4           12.     Answering paragraph 9, this paragraph restates provisions of administrative  
5 rules to which no answer is required. These rules speak for themselves.  
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8           13.     Answering paragraph 10, PSE admits that in the course of Commission Staff's  
9 investigation, Staff requested PSE to provide copies of certain leak inspection records, and  
10 that in some instances, PSE could not provide Staff with all of the requested original records  
11 in the timeframe requested. PSE has since located several original records that were not  
12 located at the time of the audit. Answering the third sentence of paragraph 10, PSE admits  
13 that it provided Staff with a computer generated summary report for each original leak report  
14 record.  
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17           14.     Answering paragraph 11, PSE neither admits nor denies paragraph 11, which  
18 describes an aspect of the structural format of the Complaint and does not contain any factual  
19 or legal allegations that require an answer.  
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22           15.     Answering paragraph 12, PSE admits that the Commission adopted rules in  
23 WAC 480-93 governing natural gas companies under authority of RCW 80.28.210. The  
24 remainder of paragraph paragraph 12 restates provisions of state law and administrative rules,  
25 to which no answer is required. These statutes and rules speak for themselves.  
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28           16.     Answering the first sentence of paragraph 13, PSE admits the allegation in the  
29 first sentence of paragraph 13. Answering the first half of the second sentence of  
30 paragraph 13, PSE denies the allegation that RCW 80.04.380 provides that each violation is  
31 \$1,000. Rather, RCW 80.04.380 states that a penalty shall *not exceed* \$1,000. Answering the  
32 second half of the second sentence of paragraph 13, PSE admits that every day of a  
33 continuing violation under RCW 80.04.380 is a separate offense.  
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1 17. Answering paragraph 14, PSE admits the allegations in paragraph 14.  
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4 **III. PARTIES**

5 18. Answering paragraph 15, PSE admits the allegations in paragraph 15.  
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7 19. Answering paragraph 16, PSE admits the allegations in paragraph 16.  
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9 **IV. JURISDICTION**

10 20. Answering paragraph 17, PSE admits the allegations in paragraph 17.  
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12 21. Answering paragraph 18, PSE admits that the Commission generally has  
13 jurisdiction over this matter pursuant to the provisions RCW 80.01, RCW 80.04, RCW 80.28  
14 and chapter 480-93 WAC. With respect to specific provision cited in the Complaint,  
15 paragraph 18 contains legal conclusions to which no answer is required.  
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20 22. Answering the first sentence of paragraph 19, PSE admits that in WAC 480-  
21 93-999(1), the Commission adopted by reference provisions of 49 Part 192 of the Code of  
22 Federal Regulations (CFR), with certain exceptions. Answering the second sentence of  
23 paragraph 19, the second sentence of paragraph 19 contains legal conclusions for which  
24 answers are inappropriate, and is therefore denied.  
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31 **V. CLAIMS AND CAUSES OF ACTION**

32 **A. First Cause of Action**

33 23. Answering paragraph 20 of the Complaint, PSE incorporates by reference its  
34 answers to paragraphs 2-19 of the Complaint, as set forth above.  
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38 24. Answering the first two sentences of paragraph 21, these sentences contain  
39 legal conclusions for which answers are inappropriate and they restate provisions of  
40 administrative rules to which no answer is required. These rules speak for themselves.  
41 Answering the third sentence of paragraph 21, PSE admits that it is required to prepare and  
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1 follow an operations and maintenance manual. Answering the remainder of paragraph 21,  
2 PSE admits that PSE's operation and maintenance manual requires a follow-up inspection  
3 within 30 days of the date a phantom leak repair code is indicated, and PSE further admits  
4 that its manual requires that follow-up inspection be performed by a person different than the  
5 person who initially classified the leak as "phantom".  
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11 25. Answering paragraph 22, paragraph 22 contains either legal opinions or  
12 conclusions for which answers are inappropriate, and are therefore denied, or paragraph 22  
13 contains no factual allegations for which an answer is required. To the extent an answer is  
14 required, PSE admits that its investigation has revealed that some Pilchuck employees may  
15 have failed to follow PSE's operations and maintenance manual as alleged in the first  
16 sentence of paragraph 22.  
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23 **B. Second Cause of Action**  
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25 26. Answering paragraph 23 of the Complaint, PSE incorporates by reference its  
26 answers to paragraphs 2-19 of the Complaint, as set forth above.  
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29 27. Answering paragraph 24, this paragraph contains legal conclusions for which  
30 answers are inappropriate and they restate provisions of administrative rules to which no  
31 answer is required. These rules speak for themselves.  
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34 28. Answering the first sentence of paragraph 25, PSE admits that its investigation  
35 of this matter has revealed that certain natural gas leak records completed by Pilchuck  
36 employees may not contain the correct date and time of follow-up investigation(s) or the  
37 name of the person doing the follow-up investigation. PSE neither admits nor denies the  
38 second sentence of paragraph 25, which does not contain any factual or legal allegations that  
39 requires an answer. Answering the remainder of paragraph 25, the remainder of paragraph 25  
40 contains legal conclusions for which answers are inappropriate, and is therefore denied. To  
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1 the extent an answer is required, PSE denies that 82 violations occurred, or that these were  
2 continuing violations.  
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5 29. Answering the first sentence of paragraph 26, PSE admits that certain gas leak  
6 records completed by some Pilchuck employees may contain inaccurate information, either  
7 because inaccurate information was intentionally recorded or accurate information was  
8 deleted or altered. PSE immediately responded to these apparent inaccuracies with an audit  
9 and an internal review. PSE has worked with Pilchuck to provide additional training to  
10 employees regarding natural gas leak recording practices, and this has resulted in a significant  
11 improvement to the accuracy of the records. PSE and Pilchuck have advised employees of  
12 the importance of accurate record keeping and that any falsification of records will result in  
13 termination of employment. Answering the second sentence of paragraph 26, PSE neither  
14 admits nor denies the second sentence of paragraph 26, which does not contain any factual or  
15 legal allegations that requires an answer.  
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27 **C. Third Cause of Action**  
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29 30. Answering paragraph 27, PSE incorporates by reference its answers to  
30 paragraphs 2-19 of the Complaint, as set forth above.  
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33 31. Answering paragraph 28, PSE admits the allegations in paragraph 28.  
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35 32. Answering the first sentence of paragraph 29, PSE admits that at the time of  
36 the investigation, it was not able to provide Commission Staff with all the records within the  
37 turn-around time required by Commission Staff and that for certain locations, PSE provided  
38 Commission Staff with a computer generated summary of natural gas leak records rather than  
39 copies of the original records. Since the audit, PSE has been able to locate the majority of the  
40 original natural gas leak records. PSE neither admits nor denies the second and third  
41 sentences of paragraph 29, which do not contain any factual or legal allegations that require  
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1 answers. Answering the last sentence of paragraph 29, the last sentence of paragraph 29  
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3 contains legal conclusions for which answers are inappropriate and are therefore denied. To  
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5 the extent an answer is required, PSE denies that 43 violations occurred or that they are  
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7 continuing violations.

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9 33. Answering paragraph 30 of the Complaint, PSE incorporates by reference its  
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11 answers to paragraphs 2-19 of the Complaint, as set forth above.

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13 34. Paragraphs 31-36 of the Complaint state legal opinions or conclusions or  
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15 describe procedural matters for the conduct of the hearing into this matter that do not require  
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17 an answer. Thus, PSE neither admits nor denies paragraphs 31-36 of the Complaint.  
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19 Generally, PSE denies that the Commission should impose on PSE the penalties  
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21 recommended in the Complaint. If the Commission determines that penalties should be  
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23 imposed, the amount of the penalty should be significantly reduced given PSE's good faith  
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25 response in attempting to achieve compliance immediately after being made aware of  
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27 potential discrepancies more than a year ago, initiating its own investigation, and supplying  
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29 over one thousand records. PSE has worked hard with Pilchuck and the WUTC to fully  
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31 remedy the practices.

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35 **DEFENSES AND AFFIRMATIVE DEFENSES**

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37 35. Imposition of the total potential penalties of \$5,225,000 alleged in the  
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39 Complaint or Staff's recommended imposition of penalties totaling \$2,000,000 would not be  
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41 appropriate in this case. "The assessment of penalties for violations of law is meant to be  
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43 corrective, not retributive. The purpose is to secure compliance by inciting reasonable and  
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45 appropriate conduct by the offending party." MCI Metro Access Transmission Serv., Inc. v.  
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1 U S WEST Comm., Inc., WUTC No. UT-971063, ¶ 154 (Feb. 10, 1999) ("MCI Metro"). In  
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3 determining the amount of the penalty, the Commission shall consider:

- 4  
5 1) the appropriateness of the penalty to the size of the business,  
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7 2) the gravity of the violation, and  
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9 3) the good faith of the natural gas company charged in attempting to  
10 achieve compliance after notification of the violation.  
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12 See RCW 80.28.212.

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14 36. PSE is responsible for the construction and maintenance of an extensive  
15 natural gas pipeline system and has numerous programs and procedures in place to seek to  
16 ensure that its system is safe. After learning of the alleged violations from Commission Staff,  
17 PSE immediately cooperated with Commission Staff's investigation and conducted its own  
18 investigation of the allegations. The violations alleged in the Complaint do not represent  
19 knowing or intentional conduct by PSE that was gross or malicious. PSE has implemented  
20 programs and additional quality assurance checks of its service providers to correct the type  
21 of incidents identified by Commission Staff. PSE acted promptly to correct all of the alleged  
22 violations. Imposition of fines in the magnitude of \$2,000,000, as recommended by Staff,  
23 would serve a retributive and not corrective function and would not meet the Commission's  
24 standard for imposition of penalties.  
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36 37. Some of the violations alleged are barred by the statute of limitations.

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38 38. The recommended penalties proposed are excessive under the terms of the  
39 applicable law, because they are not properly classified as "continuing violation."  
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42 39. The recommended penalties are excessive under the terms of the applicable  
43 law because they exceed the maximum civil penalty for a "related series of violations."  
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1 **CLAIM FOR RELIEF**

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3 40. Having answered the specific allegations in the Commission complaint, PSE  
4 requests that PSE and Commission Staff work together to develop specific measures to  
5 improve compliance with record keeping requirements, and that if a penalty is imposed, that  
6 the penalty be significantly reduced below the \$2,000,000 penalty recommended in this  
7 complaint, and that such penalty comply with the standards set forth in RCW 80.28.212 and  
8 be proportionate with penalties imposed in other similar cases.  
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16 DATED: June 12, 2007.  
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19

20 **PERKINS COIE LLP**

21  
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23  
24 By Sheree Strom Carson  
25

26  
27 Sheree Strom Carson, WSBA # 25349  
28 Donna Barnett, WSBA # 36794  
29 Attorneys for Respondent Puget Sound Energy, Inc.  
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STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

Susan McLain, being first duly sworn, deposes and says that she is the Senior Vice President for Operations for Puget Sound Energy, Inc.; that she has read the foregoing Answer to Complaint and knows the contents thereof; that the facts set forth therein are true based on her own knowledge, except as to matters which are therein stated on information or belief, and as to those matters, she believes them to be true.

Susan McLain

SUBSCRIBED and SWORN to before me this 12<sup>th</sup> day of June, 2007, by  
Carol Nelson



Carol A. Nelson  
Print Name: Carol A. Nelson  
Notary Public in and for the State of Washington,  
residing at 17408 NE 34 St, Redmond WA 98052  
My commission expires: 7-20-09

BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.


Docket No. PG-060215

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Answer of Puget Sound Energy, Inc. and Certificate of Service, in accordance with WAC 480-07-150(6)(b), to the following person(s) via hand delivery:

Donald T. Trotter, Senior Counsel  
Washington Utilities and  
Transportation Commission  
1400 S. Evergreen Park Dr. S.W.  
P.O. Box 40128  
Olympia, WA 98504-0128  
Phone: (360) 664-1188  
Fax: (360) 586-5522  
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Dated at Bellevue, Washington, this 12th day of June, 2007.

  
Cindy Main

Perkins Coie LLP  
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