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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
2 COMMISSION  
3 WASHINGTON UTILITIES AND )  
TRANSPORTATION COMMISSION, )  
4 )  
Complainant, )  
5 )  
vs. ) DOCKET NO. PG-041624  
6 ) Volume VII  
PUGET SOUND ENERGY, INC., ) Pages 99 - 135  
7 )  
Respondent. )  
8 -----  
9

10 A settlement conference in the abovematter  
11 was held on September 28, 2005, at 2:00 p.m., at 1300  
12 South Evergreen Park Drive Southwest, Olympia,  
13 Washington, before Administrative Law Judge THEODORA  
14 MACE, Chairman MARK SIDRAN, Commissioner PATRICK J.  
15 OSHIE, Commissioner PHILIP B. JONES.

16 The parties were present as follows:

17  
18 WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION, by DONALD T. TROTTER, Assistant Attorney  
19 General, 1400 South Evergreen Park Drive Southwest,  
Post Office Box 40128, Olympia, Washington 98504;  
20 telephone, (360) 664-1189.

21 PUGET SOUND ENERGY, INC., by JAMES F.  
WILLIAMS and AMANDA BEANE, Attorneys at Law, Perkins  
22 Coie, LLP, 1201 Third Avenue, Suite 4800, Seattle,  
Washington 98101; telephone, (206) 359-3543.

23 CITY OF BELLEVUE, by CHERYL A. ZAKRZEWSKI,  
Attorney at Law, City Attorney's Office, Post Office  
24 Box 90012, Bellevue, Washington 98009; telephone,  
(425) 452-6829.

25 Kathryn T. Wilson, CCR, Court Reporter

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INDEX OF EXHIBITS

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EXHIBIT:	MARKED:	OFFERED:	ADMITTED:
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All prefiled exhibits admitted on Page 109. See

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attached list.

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1 P R O C E E D I N G S

2 JUDGE MACE: Let's be on the record in  
3 Docket No. PG-041624. This is a complaint of the  
4 Washington Utilities and Transportation Commission  
5 against Puget Sound Energy. We are convened today,  
6 September 28th, 2005, at the offices of the Washington  
7 Utilities and Transportation Commission in Olympia,  
8 Washington for a hearing to review a settlement  
9 agreement filed by the parties to this case in revised  
10 form on September 22nd, 2005.

11 My name is Theodora Mace. I'm the  
12 administrative law judge assigned to this case. With  
13 me on the Bench are Commission Chairman Mark Sidran to  
14 my right, and Commissioners Patrick Oshie and Philip  
15 Jones.

16 At this point, I would like to take the oral  
17 appearances of the parties, and I'll begin with the  
18 Company.

19 MR. WILLIAMS: This is James Williams, and  
20 here with me is Amanda Beane on behalf of Puget Sound  
21 Energy.

22 JUDGE MACE: Ms. Zakrzewski?

23 MS. ZAKRZEWSKI: This is Cheryl Zakrzewski.  
24 I'm here on behalf of the City of Bellevue.

25 MR. TROTTER: Donald T. Trotter, assistant

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1 attorney general for Commission staff.

2 JUDGE MACE: Are there any appearances from  
3 the conference bridge? Let the record show I hear  
4 none.

5 This case was initiated by the Commission to  
6 investigate a natural gas explosion that occurred in  
7 the Spirit Ridge neighborhood of the City of Bellevue  
8 on September 2nd, 2004. As a result of this explosion  
9 at the residence of Mrs. Francis Schmitz, Mrs. Schmitz  
10 subsequently died.

11 The parties to the case, Commission staff,  
12 Puget Sound Energy and the City of Bellevue, have  
13 engaged in an intensive investigation of the explosion  
14 and its possible causes. Both the Commission staff and  
15 Puget Sound Energy filed direct testimony in the case,  
16 including the testimony of leading experts on corrosion  
17 and natural gas pipes and on the system of cathodic  
18 protection for those pipes. Ultimately, the parties  
19 reached a settlement, which in its revised form is what  
20 we have before us today.

21 At this point, I'm just going to go briefly  
22 through our agenda for the proceeding. I'm going to  
23 ask counsel to describe and present the settlement  
24 agreement and the narrative supporting the settlement  
25 agreement. After the settlement is presented, I'm

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1 going to swear the witnesses in, and I understand that  
2 there will be two witnesses, Mr. Secrist for Puget  
3 Sound Energy; is that right?

4 MR. WILLIAMS: That's correct. Mr. Secrist  
5 and Mr. Henderson.

6 JUDGE MACE: And Mr. Rathbun from Commission  
7 staff, and Mr. Rathbun will be appearing via conference  
8 bridge. I will ask the witnesses to make their  
9 statements about the settlement agreement, particularly  
10 addressing the public interest related to the  
11 settlement agreement, and then we will open it to the  
12 commissioners for questions with regard to the  
13 settlement agreement.

14 So that's the procedure that we are going to  
15 follow today, and I would like to begin at this point  
16 indicating to counsel that --

17 CHAIRMAN SIDRAN: Judge, excuse me. Sorry to  
18 interrupt you, but I would like to inquire as to  
19 whether there is anyone from the Schmitz family or  
20 anyone representing Mrs. Schmitz here or on the bridge  
21 line? Thank you.

22 JUDGE MACE: So to get back to the agenda,  
23 let me hear first from counsel about the settlement  
24 agreement, present the settlement agreement. I have  
25 marked the settlement agreement Exhibit No. 1 and the

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1 narrative in support as Exhibit No. 2. Mr. Trotter.

2 MR. TROTTER: I would be happy to introduce  
3 these two documents if there is no objection from other  
4 counsel. Hearing none, I will proceed.

5 Your Honor, I will give a brief overview of  
6 both documents. I believe Mr. Rathbun will be giving a  
7 statement in support of the settlement that will go  
8 into some of the details, but as the Commission is  
9 aware, on September 2nd of 2004, there was a tragic gas  
10 explosion in Bellevue, Washington. Mrs. Schmitz was  
11 killed as a result of that explosion. She died several  
12 days after the event of burns.

13 A very comprehensive investigation took  
14 place, but shortly after the explosion on September  
15 13th, the Commission issued a complaint. In that  
16 complaint, it alleged that the explosion was due to  
17 corrosion. It also alleged there was a cross-wired  
18 rectifier in the vicinity. It alleged several specific  
19 violations related to the cross-wired rectifier, and  
20 then it had some general allegations.

21 Shortly after that, the parties brought to  
22 the Commission in the context of an emergency  
23 adjudication an action plan to promptly assess the  
24 nature of the plant in the area and to take whatever  
25 steps were necessary to assure this type of incident

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1 would not be repeated. That included 30-day gas leak  
2 inspections and so on when the normal interval for a  
3 residential area is five years, so it was a very  
4 aggressive program, and as the testimony of Staff  
5 states, PSE complied with that order.

6           Before you now is a proposal to settle this  
7 case. As you know, the Staff and the Company have  
8 filed testimony. Staff has not filed any rebuttal  
9 testimony, but that is the stage where we are right  
10 now. You have the direct cases of both parties. The  
11 City of Bellevue did not file direct testimony.

12           The settlement, if accepted, would resolve  
13 all issues in the docket. It's in Exhibit No. 1. I'll  
14 provide some background information. The agreement  
15 does recite the basic findings of the results of the  
16 investigations of Staff, experts, and the experts for  
17 PSE. Alan Rathbun will give you some more information  
18 on that.

19           It does recite that the specific violations  
20 alleged in the Complaint have been cured, and those  
21 relate to the cross-wired rectifier and the violations  
22 of the Company's failure to maintain proper levels of  
23 cathodic protection as a result of that cross-wired  
24 configuration. Those violations have been cured, and  
25 by that, I mean the cross-wired rectifier has been

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1 wired correctly, and as you see in the Agreement, there  
2 have been some provisions for addressing similar-type  
3 problems in other parts of the system, potential  
4 problems. None have been found.

5           A key part of the Agreement starts in  
6 Paragraph 14, which is the risk assessment and  
7 mitigation program. Whereas you read in Staff's  
8 expert's testimony, there was concern that similar-type  
9 vintage systems in PSE's service territory may have  
10 similar problems. We don't know if they do. We don't  
11 know if they do not.

12           This program is designed, first of all, to  
13 gather information on the characteristics of various  
14 parts of the system and prioritize an assessment and  
15 mitigation plan if any problems are found in those  
16 parts of PSE's system that are ranked according to the  
17 need to look at it and examine whether similar problems  
18 might exist.

19           There is procedures for bringing issues to  
20 the Commission if they arise, but we don't believe any  
21 other company is doing this sort of assessment in the  
22 State of Washington. We think it's an important  
23 program and will have value for the Company and the  
24 Commission and the ratepayers.

25           Starting on Paragraph 20, the Commission



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1 staff through the testimony of Mr. Kuan-Shi Chu made  
2 some specific recommendations regarding securing  
3 rectifiers, changes to the Company's procedural manual  
4 on the way they take cathodic protection readings and  
5 certain protocols in those regards, and the Company has  
6 changed its policies accordingly in compliance with  
7 those recommendations, and that's what Paragraphs 20  
8 through 22 are all about.

9 Paragraphs 23 and 24 address what to do about  
10 the conditions in Order No. 1, because that order was  
11 not time limited, and one of the things that will be  
12 changed is the monthly leak surveys will cease. We  
13 will have one more leak survey between June 20th, 2006,  
14 and September 20th, 2006, and then that system will go  
15 on a different track. So we had to do something to  
16 determine what should happen to the conditions in Order  
17 No. 1, and Paragraphs 23 and 24 address that.

18 Regarding other matters in the Agreement, it  
19 calls for a \$90,000 cash penalty. According to the  
20 Agreement, it recites Staff's calculation of \$125,000  
21 maximum penalty for the specific violations. Staff  
22 testified to six mitigating factors that are listed in  
23 the Agreement, brought that to \$90,000 based on  
24 consideration of those factors. The remainder of the  
25 agreement, I think, is fairly standard in terms of

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1 procedures and integrative agreement and so on.

2           With regard to Exhibit 2, the revised  
3 narrative supporting settlement, by and large, that  
4 recites what the Agreement does, and hopefully, it's  
5 consistent with what I've told you today and with  
6 Exhibit 1, and then it contains the statements of each  
7 party in support of the narrative, and I think it  
8 pretty much speaks for itself, but if you wish to have  
9 some highlighting on that, perhaps Mr. Rathbun is the  
10 best one to provide that. I have nothing further to  
11 offer. I would be happy to respond to any questions.

12           JUDGE MACE: Mr. Williams?

13           MR. WILLIAMS: Just one point of  
14 clarification. I agree with everything that counsel  
15 has said, but from the Company's perspective, one thing  
16 we think is important to note is that we are confident  
17 that there are no other anomalous situations like the  
18 one that was created at the Schmitz house, but in an  
19 abundance of caution, we agree we should take a look at  
20 those other homes that are of a similar vintage.

21           JUDGE MACE: Ms. Zakrzewski, did you have  
22 anything to add?

23           MS. ZAKRZEWSKI: No.

24           JUDGE MACE: Do the parties offer the  
25 Settlement Agreement and the narrative in support into

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1 evidence?

2 MR. TROTTER: Yes, Your Honor.

3 JUDGE MACE: I'll admit those documents at  
4 this time as Exhibits No. 1 and 2. Under the terms of  
5 the settlement agreement, the parties also stipulate to  
6 the entry of all the prefiled exhibits. I have marked  
7 those and provided a copy of the exhibit list to the  
8 court reporter, to counsel, and also to the  
9 commissioners, and in view of the stipulation for entry  
10 of the exhibits into evidence, I will admit them at  
11 this time.

12 At this point, I'm ready to have the  
13 witnesses in the hearing room stand and raise their  
14 right hands, and Mr. Rathbun, are you on the conference  
15 bridge?

16 MR. RATHBUN: Yes, I am, Judge Mace.

17 JUDGE MACE: I'm going to administer the oath  
18 at this time, and I will ask you to say "I do" at the  
19 end.

20 (Witnesses sworn.)

21 JUDGE MACE: Mr. Secrist and Mr. Henderson  
22 from Puget Sound Energy, gentlemen, also the same  
23 advice for you. You need to have that button popped  
24 up. I understand, Mr. Rathbun, that you have a  
25 statement with regard to the Agreement. I would like

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1 to have Mr. Rathbun speak first, unless the parties  
2 have another agreement about that, and then have  
3 Mr. Secrist and Mr. Henderson address the settlement  
4 agreement if they desire to do so. Mr. Rathbun?

5 MR. RATHBUN: Good afternoon, Judge Mace,  
6 Chairman Sidran, Commissioners Oshie and Jones. Can  
7 you hear me okay?

8 JUDGE MACE: Yes. And Mr. Rathbun and  
9 Mr. Secrist and Mr. Henderson, we need to have you  
10 state your names, employers, and positions before you  
11 begin to speak. Go ahead, Mr. Rathbun.

12 MR. RATHBUN: Thank you. Again, my name is  
13 Alan Rathbun. I'm the pipeline safety director to the  
14 Washington Utilities and Transportation Commission. I  
15 thank you for the opportunity to testify this afternoon  
16 relative to the settlement that is before you.

17 I would like to very briefly give a summary  
18 of the events that's before you today and then describe  
19 in a little bit more detail some of the elements of  
20 that settlement and how we arrived at those.

21 On September 2nd, 2004, Staff reacted  
22 immediately to this tragic incident by sending two  
23 investigators to the scene and commencing an  
24 investigation. PSE on September 3rd, the following  
25 day, discovered that the rectifier was cross-wired and

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1 immediately did notify Staff.

2           Given the serious ultimate fatal injury, the  
3 extent of damage, and the unknown impact of the  
4 cross-wired rectifier, sought emergency action. The  
5 Commission initiated an emergency adjudicative  
6 proceeding. Staff and PSE submitted and agreed upon a  
7 nine-step action plan designed to, one, provide for  
8 public communication; two, conducting of a thorough and  
9 orderly investigation, and three, taking other  
10 operational precautions to assure the safety of the  
11 community during the investigation. The Commission  
12 entered this order on September 17th of 2004.

13           Staff's goal in this investigation was to,  
14 one, find the cause of the leak that led to this house  
15 explosion and loss of life, which at the time was  
16 assumed to be external corrosion, and to investigate  
17 the integrity of PSE's surrounding gas distribution  
18 system.

19           The Commission hired a recognized expert,  
20 Dr. Graham Bell. Two staff members along with this  
21 consultant did a thorough analysis of PSE's records,  
22 interviewed PSE personnel, and monitored PSE's  
23 investigation and analysis of the failed service pipe.  
24 Further, Staff participated in the community outreach  
25 efforts in the Spirit Ridge neighborhood and the City

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1 of Bellevue as a whole.

2           At the same time, PSE on its own initiative  
3 completed a replacement of all coated steel service  
4 pipes that they believe were potentially impacted by  
5 the cross-wired rectifier. This construction was  
6 consistently under the observation of Commission staff.

7           Based on the testimony and the experts and  
8 the exhibits in the record, it is clear that each of  
9 the experts retained by all parties agree that the  
10 cause of the service pipe failure was due to external  
11 corrosion that occurred over a period that long  
12 preceded the cross-wiring of the rectifier. Likely, a  
13 majority of this corrosion occurred during the period  
14 between the service's installation in 1963 and the  
15 application of an impressed current cathodic protection  
16 system in 1982.

17           Federal pipeline safety regulations did not  
18 require such cathodic protection systems until 1971,  
19 and this regulation in 1971 was not retroactive to  
20 systems constructed earlier. Other than the Company's  
21 failure to maintain adequate cathodic protection during  
22 the period of the cross-wired rectifier, Staff did not  
23 find any violation of Commission rule or federal  
24 regulation.

25           In addition, staff's expert could not find

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1 any causal connection between the probable rule  
2 violation and the leak that led to the explosion.  
3 Dr. Bell's testimony concludes the leak began many  
4 months to perhaps years prior to the cross-wiring.  
5 However, we did find some concerns that were not  
6 currently addressed by regulation, the resolution of  
7 which became the focus of our recommendations and were  
8 involved in our settlement negotiations.

9           Based on Staff's review of the evidence, our  
10 primary recommendation in this case was for PSE to  
11 assess its coated steel pipe with similar  
12 circumstances. Again, that pipe that was installed at  
13 least five years prior to application of the proper  
14 cathodic protection system through a comprehensive  
15 analysis of existing data. This analysis is aimed at  
16 those pipes at the greatest risk to public safety, the  
17 services that bring gas to residences and other  
18 inhabited structures.

19           Higher risk or problematic areas identified  
20 in this analysis will be subject to further  
21 investigation and possible replacement or other  
22 acceptable remediation. This sort of analysis and  
23 remediation is beyond any requirement of federal or  
24 state pipeline safety rules. Further, Staff  
25 recommended changes to PSE's operating standards and

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1 practices regarding the monitoring of cathodic  
2 protection and reaction to rare occurrences like the  
3 cross-wired rectifier. Also, none of these  
4 requirements are in existing state or federal rules.

5 We also recommended the maximum penalty that  
6 we believe we were allowed to assess under state law.  
7 The Agreement before you today addresses each of  
8 Staff's five recommendations included in my prefiled  
9 testimony. By adopting these recommendations, this  
10 agreement institutes what's learned from this tragic  
11 experience and holds the Company to a standard not  
12 currently covered by federal and state regulations.

13 The \$90,000 recommended penalty was based on  
14 Staff's calculation of the maximum possible penalty of  
15 \$125,000 with the six mitigating factors applied that  
16 Mr. Trotter spoke of. Thank you very much for your  
17 time, and I'm available to answer any questions you may  
18 have.

19 JUDGE MACE: Thank you, Mr. Rathbun. I'll  
20 first turn to the PSE witnesses and ask them for their  
21 statements and then open it to questions. Gentlemen,  
22 would you introduce yourselves and then proceed?

23 MR. HENDERSON: My name is Duane Henderson.  
24 I'm PSE's director of safety and operations services.

25 MR. SECRIST: My name is Steve Secrist,



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1 employee of Puget Sound Energy, assisting general  
2 counsel.

3 JUDGE MACE: Go ahead, Mr. Henderson.

4 MR. HENDERSON: Thank you, Judge Mace,  
5 Chairman, Commissioners. Briefly, I just want to echo  
6 the comments of Mr. Rathbun. I want to recognize the  
7 thoroughness with which the investigation, both by  
8 Staff, the outside experts, and the Company, went into  
9 reaching this settlement, and just in support of the  
10 statement that Mr. Rathbun has shared with us already.

11 JUDGE MACE: Mr. Secrist, anything further.

12 MR. SECRIST: Nothing further.

13 JUDGE MACE: I would like to open it up to  
14 questions. Chairman Sidran?

15 CHAIRMAN SIDRAN: Thank you. A couple of  
16 questions about the PSE system. I wonder, and I  
17 suppose perhaps, Mr. Henderson, this is addressed to  
18 you, can you give me some sense of how much comparable  
19 pipe, so to speak, is out there? In other words, we've  
20 heard from Mr. Rathbun the description of the nature of  
21 the pipe itself and the date of installation, which I  
22 think he said preceded 1971 when this regulation  
23 requiring cathodic protection came into effect. Can  
24 you give me some idea in terms of feet or in terms of  
25 the percentage of your system that you think falls in

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1 this category?

2 MR. HENDERSON: As part of this whole risk  
3 assessment, the first piece is to conduct an inventory  
4 to come up with a better number, but right now, we are  
5 looking at something in the neighborhood of 70- to  
6 100,000 services, and again, this is out of a total of  
7 680,000 service lines in our service territory.

8 CHAIRMAN SIDRAN: And Mr. Rathbun, perhaps  
9 this is for you. Have Staff examined the possible  
10 extension of what's being required here as part of this  
11 settlement in terms of examination of comparable pipe  
12 to other companies? Understanding that there is no  
13 rule or regulation, I take your point, but is Staff  
14 looking at that issue in whether there might be similar  
15 circumstances among other companies?

16 MR. RATHBUN: Chairman Sidran, yes, we did,  
17 and in my prefiled testimony, in fact, we did recognize  
18 that this sort of assessment, we recommend, should be  
19 considered for potential rule-making.

20 CHAIRMAN SIDRAN: Thank you.

21 JUDGE MACE: Commissioner Oshie?

22 COMMISSIONER OSHIE: Let's go back to the  
23 question that was raised by the Chair, a corollary to  
24 this, is how long a process is anticipated by both  
25 Staff and PSE to complete the actions that are

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1 contemplated in Paragraph 14, going to look at the 70-  
2 to 100,000 service lines of similar vintage, and there  
3 is a series of data points that you are going to be  
4 gathering. I'm assuming that some of that has already  
5 been done. This occurred roughly a year ago, and I  
6 would be surprised to find out you haven't done  
7 anything to this point, so you must already have  
8 started your part of the process. You are looking at  
9 your service lines.

10 So how long from this point is it going to  
11 take to complete the tasks that are called for in  
12 Paragraph 14, and I would like to hear from Staff's  
13 view of this as well as the Company's.

14 MR. HENDERSON: I'll offer up first.  
15 Throughout the negotiations, that very question came  
16 up, and we are anticipating that by this time next year  
17 that we will have the assessment complete, and built  
18 into the process are periodic checkpoints with Staff to  
19 apprise them of both the progress and the findings that  
20 we've had throughout that, but we believe the entire  
21 scope can be completed by this time next year.

22 JUDGE MACE: Mr. Rathbun, did you want to  
23 address that?

24 MR. RATHBUN: Yes, we concur. I believe we  
25 did put a date in the proposed agreement which called

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1 for a date of September for completion, and Staff is  
2 committed to providing the resources for collaboration  
3 through the entire process.

4 JUDGE MACE: I see in Paragraph 29 a date of  
5 September 1st, 2006. Is that the date that you are  
6 referring to?

7 MR. RATHBUN: Yes, Judge Mace, that is the  
8 date I'm referring to.

9 JUDGE MACE: Commissioner Oshie?

10 COMMISSIONER OSHIE: Not at this time, thank  
11 you.

12 JUDGE MACE: Commissioner Jones?

13 COMMISSIONER JONES: Just a follow-up on that  
14 question. Could you give us more details on the  
15 assessment? We all realize there is no perfect energy  
16 supply system in the word. There are always risks  
17 associated with it, so the assessment system and the  
18 prioritization of how you do this is very important.  
19 What system do you use? How do you prioritize, and how  
20 long will the assessment take before you get to  
21 decisions on remediation?

22 MR. HENDERSON: Maybe if I could describe  
23 just a little bit the process that we are undertaking  
24 right now. First of all, there is the inventory, and  
25 as they've described, the services of interest are

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1 those that have been in the ground for some period,  
2 five years prior to the application of cathodic  
3 protection. That is not easily determined based on any  
4 of our databases that we currently have, so there is a  
5 lot of manual searching through records just to  
6 understand not only when the service was installed,  
7 which is fairly easy to determine, but to figure out  
8 when cathodic protection was applied, so that will be  
9 step one in the inventory.

10           Once we've identified the population to  
11 consider, we will then be turning our attention to all  
12 of the current information that we collect through our  
13 normal routine, maintenance, and operation activities,  
14 and this includes leakage information in geographic  
15 areas and for specific services themselves. We will be  
16 looking at pipe condition reports. Every time a piece  
17 of pipe is exposed, we fill out pipe condition reports,  
18 so that's another data point.

19           We will be looking at soils reports and  
20 things like that. This is a data collection effort,  
21 and once we've collected that data, we will stack it up  
22 and see if there are any trends or areas of concern  
23 that start to come out, and this is where we will be  
24 working closely with Commission staff to see that we  
25 are all in agreement as to the criteria to surface

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1 those areas of concern.

2 COMMISSIONER JONES: Will all this work be  
3 done internally, or will you be using the same outside  
4 consultants?

5 MR. HENDERSON: It's anticipated we will  
6 perform all of this work internally.

7 COMMISSIONER JONES: You mentioned 70,000 to  
8 100,000 services will be the inventory. How many miles  
9 or kilometers of pipe is that?

10 MR. HENDERSON: 70,000, roughly 100 feet per  
11 service. I don't have a calculator here, but that's a  
12 rough order of the magnitude.

13 COMMISSIONER JONES: Mr. Rathbun, in this  
14 case, isn't it correct there was a 19-year interval  
15 between the installation of the service line to the  
16 Schmitz house and the application of cathodic  
17 protection?

18 MR. RATHBUN: Yes, that's correct,  
19 approximately 19 years.

20 COMMISSIONER JONES: Would that 19-year  
21 interval -- do you as staff have any idea about -- is  
22 that interval common? Is that what we are going to  
23 find out, or we just don't know at this point? Because  
24 I would think a 19-year interval is fairly significant.  
25 Do you have any idea what the interval would be on the

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1 70,000 to 100,000 services, or are we just going to  
2 wait to see what PSE comes up with in its inventory?

3 MR. RATHBUN: Again, we really don't have  
4 that information available right now. The information  
5 that we do have is from PSE's annual reports, which  
6 talked about, as I recall, about 167,000 coated steel  
7 services, the ones for which there likely may have been  
8 a cathodic protection, similar type of pipes.

9 What we don't have is that inventory which  
10 says how many of those were put in the ground when.  
11 The five-year interval that we are using to inventory  
12 is based on our expert's analysis of how long something  
13 should be in the ground without cathodic protection  
14 still allowing for the factors of safety in doing this  
15 sort of analysis.

16 It was not a consideration that anything in  
17 the ground without cathodic protection for more than  
18 five years necessarily caused a risk, but it was  
19 something that we used as a criteria, again, including  
20 safety factors. So I think that this sort of analysis,  
21 again, not required in regulation, is the leading edge,  
22 as far as distribution systems, that I'm aware of in  
23 the United States.

24 MR. HENDERSON: If I could, I want to  
25 reiterate a point that Mr. Williams made a little

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1 earlier. Throughout our operation, we are continually  
2 evaluating our system as it ages to look for trends.  
3 Not maybe to the depth that we are contemplating in  
4 this assessment, but there is nothing to indicate that  
5 services of this vintage are of a problem throughout  
6 our system. In fact, throughout the country, there is  
7 systems that are much older and still providing very  
8 serviceable use to the utility.

9           COMMISSIONER JONES: Just on that point,  
10 Mr. Rathbun, I have read Mr. Bell's testimony in some  
11 detail, and I think he does make several points that  
12 raise uncertainties in my mind. One of the points is  
13 that while the Company alleges that the circumstances  
14 in this case are unique, Mr. Bell made a pretty strong  
15 argument, did he not, that the circumstances in his  
16 view are not unique; that the relationship between  
17 cathodic protection and these sorts of perforations of  
18 pipe externally or internally could happen under a  
19 variety of circumstances, and wasn't one of his strong  
20 recommendations was to conduct a very thorough  
21 inventory of similar vintage pipe as quickly as  
22 possible? Am I misreading his analysis in the  
23 testimony?

24           MR. RATHBUN: Commissioner Jones, I would  
25 agree that you are reading his testimony specifically.



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1 I do believe that while in a majority of cases, the  
2 experts agreed, I think that there may have been some  
3 disagreement from PSE's expert in this particular  
4 regard.

5 COMMISSIONER JONES: A question on Spirit  
6 Ridge. Has all of the pipe under the control of the  
7 Vasa Park rectifier been replaced, mains and service  
8 lines and everything, or are there still some lines  
9 that haven't been replaced?

10 JUDGE MACE: Mr. Henderson, are you going to  
11 address that?

12 MR. HENDERSON: Yes. All of the lines that  
13 were connected to the rectifier while it was  
14 experiencing the cross-wiring impact have been  
15 replaced, mains and services. There is pipe outside of  
16 that area that at the time of the incident were  
17 disconnected from the rectifier for other maintenance  
18 reasons we did not include in the replacement effort.

19 COMMISSIONER JONES: And all of that pipe has  
20 been plastic pipe?

21 MR. HENDERSON: That's correct.

22 COMMISSIONER JONES: So it's not directly  
23 related to polarity reversal and all the issues  
24 associated with a rectifier, if you will.

25 MR. HENDERSON: That's correct.

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1                   COMMISSIONER JONES: Just one last question  
2 for Mr. Rathbun. Just one other thing that concerned  
3 me was Mr. Bell's testimony when he talked about leak  
4 surveys in the Spirit Ridge neighborhood, and perhaps  
5 you could address this as well, Mr. Henderson. It's  
6 dated something like 10 years prior to the explosion at  
7 the Schmitz residence, the Company had detected three  
8 leaks, and in the nine months from September through  
9 June, I think, September '04 through June '05, 23 leaks  
10 were detected; is that correct?

11                   MR. HENDERSON: I believe that's an accurate  
12 representation of what was found out there. I would  
13 like to point out that distribution systems do leak.  
14 They are built into the regulations, the fact that they  
15 do, and we are allowed an opportunity to find these, to  
16 grade these, and repair them at some frequency.

17                   One of the things we found with Spirit Ridge,  
18 we've never inspected a system as thoroughly as we did  
19 in Spirit Ridge. A leakage survey cycle of every 30  
20 days is bound to find things that have been long  
21 existing that on an annual basis or a five-year basis  
22 may not surface. So I think a lot of what we found  
23 there was simply due to the fact of the frequency of  
24 the surveys. The majority of the leaks that we did  
25 find were very low grade, very small leaks that may not

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1 be detectable on a day due to certain ground  
2 conditions, atmospheric conditions, whatnot.

3 COMMISSIONER JONES: In fairness, I should  
4 state for the record that Dr. Bell's recommendation --  
5 I think I'm stating this correctly -- was that when the  
6 inventory is taken and when a remediation program is  
7 instituted that leak surveys be conducted for pipe of  
8 similar vintage once per year. I don't know if that's  
9 the plan of the Company going forward or if that  
10 depends on the assessment and the inventory and the  
11 prioritization that you are going to enter into  
12 hereafter.

13 MR. HENDERSON: That's part of the mitigation  
14 side of this whole assessment is that once we've  
15 identified areas of concern, that may be one of the  
16 mitigation steps that we take is an increased leakage  
17 survey cycle or up to and including replacement of the  
18 services.

19 COMMISSIONER JONES: That's all I have for  
20 now.

21 MR. RATHBUN: May I add one more thing? Just  
22 to highlight that the one other element relative to  
23 Spirit Ridge that's in the Settlement that's before  
24 you, and that relates to the remainder of the Spirit  
25 Ridge area that is the nonreplaced pipe, in other

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1 words, the steel services and main that remains, that  
2 there is a requirement for one additional leak survey  
3 in September or June or September time frame of 2006,  
4 again, to provide that added protection, and then the  
5 rest of Spirit Ridge will be factored into the same  
6 analysis as everything else within PSE's operating  
7 system.

8 COMMISSIONER JONES: Mr. Rathbun, again, what  
9 is the current WAC requirement for leak surveys of this  
10 vintage?

11 MR. RATHBUN: Again, this is a five-year  
12 return interval.

13 COMMISSIONER JONES: Okay.

14 JUDGE MACE: Commissioner Oshie?

15 COMMISSIONER OSHIE: One of the questions  
16 that Commissioner Jones actually got involved in, I  
17 guess you could say, but Mr. Rathbun, why is it in the  
18 public interest in this situation to wait for at least  
19 a year until the completion of the surveys of the  
20 territories that are of similar vintage, is the term  
21 used in the Settlement Agreement, or am I just reading  
22 that strictly in the Agreement, or are there certain  
23 conditions that would cause Staff to require the  
24 Company to take action prior to the one-year period  
25 terminated?

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1           MR. RATHBUN: Commissioner Oshie, first of  
2 all, I think that we were asking for integration of all  
3 available data that PSE has, and that was really  
4 necessary to be able to make these decisions, but I  
5 would think that PSE would agree that if the  
6 circumstances presented itself, given trends in what we  
7 find, that remediation would be taken if something that  
8 was troubling a surface drain was indicated on  
9 analysis.

10           COMMISSIONER OSHIE: So the one year is just  
11 an estimate to complete the whole job, and if something  
12 comes up in the meantime, PSE will attend to it. Is  
13 that Staff's understanding?

14           MR. RATHBUN: That is Staff's understanding.

15           COMMISSIONER OSHIE: The status report that's  
16 called for in the Agreement, what are we to anticipate  
17 from that as Commission?

18           MR. RATHBUN: As I recall, the Agreement  
19 talks for basically quarterly updates. I think that  
20 one of the things we will do is develop a more detailed  
21 plan, and of particular interest, we'll be able to  
22 bring before the Commission protocol to be considered  
23 in the analysis, what we find. I view this as kind of  
24 a big analyses of all available data, and then trying  
25 to assess if we see any trends, in what circumstance or

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1 what sort of trends might trigger a more detailed  
2 analysis.

3 PSE did do some relatively detailed  
4 technological analysis in the Spirit Ridge neighborhood  
5 that was required under the action plan. Those are  
6 elements that are referenced in the Agreement that  
7 might be used if we find those sort of trends that  
8 trigger further analysis.

9 COMMISSIONER OSHIE: One more question for  
10 the Company. How is the Company going to prioritize  
11 the service territories in which you are going to be  
12 conducting this examination, or is there any plan for  
13 prioritization?

14 MR. HENDERSON: There really isn't a plan for  
15 prioritization other than the assessment is to identify  
16 where they are located, and based on that, and again,  
17 one of the data points will be a geographical look at  
18 the system in looking for concentrations of these areas  
19 that we may hone in on first to evaluate.

20 And again, as Alan said, this is kind of a  
21 continuous improvement-type process whereas more data  
22 is brought in, it may direct us in different ways, and  
23 we don't want to presuppose right now where that might  
24 be until we see what the data suggests.

25 CHAIRMAN SIDRAN: Thank you. A couple of

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1 questions I think to the Company; although Mr. Rathbun,  
2 you are free to respond as well if you wish.

3           It's clear from the record that at the  
4 Schmitz home, there were a couple of aspects that may  
5 or may not have been contributing factors. One was a  
6 plumbing drain from a sink of some kind in the basement  
7 that came out of the foundation wall, I believe, and  
8 drained near or above the service pipe, and second,  
9 either as a result of that drain or perhaps there was  
10 some other reason, there was a hole in the foundation  
11 wall, again in proximity to the service line.

12           So I assume without asking you to speculate  
13 about what, if any, contributing cause those two  
14 factors may have played here, would it be fair to say  
15 that water drainage above a gas service line  
16 contributes to the risk of corrosion, or is that  
17 inaccurate?

18           MR. HENDERSON: Well certainly, a moist  
19 condition such as you are suggesting provides an  
20 environment for corrosion to occur, but that's why we  
21 put the coatings on and why we have cathodic protection  
22 to mitigate that fact. So just the fact alone that you  
23 have wet conditions there does not necessarily  
24 presuppose that it was more likely to cause the  
25 corrosion on that service line.

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1           CHAIRMAN SIDRAN: The second question related  
2 to -- I assume that holes in foundation walls also  
3 create risks in the event of a leak, that the leak will  
4 migrate into the building.

5           MR. HENDERSON: That's correct. It provides  
6 a path of least resistance, if you will.

7           CHAIRMAN SIDRAN: Does the Company do  
8 anything by way of -- I know that you provide  
9 information to your customers. Do you do anything with  
10 respect to these two issues to try to educate consumers  
11 that placements of drainage downspouts, for example, or  
12 drains should generally try to avoid placement on top  
13 of their gas service lines and that holes in foundation  
14 walls in proximity to their service lines are risky and  
15 to be avoided?

16          MR. HENDERSON: We do not address some of  
17 those specific things. We rely on the local building  
18 codes and plumbing codes to address those particular  
19 situations. However, the third-party damage is a major  
20 risk to our system, and we work very closely with a  
21 number of agencies to get the word out about any kind  
22 of construction around our facilities to make sure that  
23 people are careful and in using the one-call system to  
24 make sure our facilities can be located and damage  
25 prevented that way.



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1           CHAIRMAN SIDRAN: I would encourage the  
2 Company to think about, given the particulars of this  
3 case, ways they might inform the public that corrosion  
4 is a risk and the Company does what it can to reduce  
5 that risk through coatings and through cathodic  
6 protection, but that homeowner's, for example, can also  
7 take measures to reduce risk by thinking about drainage  
8 and thinking about the integrity of their foundation  
9 walls.

10           The second question has to do with what  
11 similarities or distinctions you would draw between the  
12 corrosion cathodic protection issues in this case and  
13 those that arose in the prior complaint, which was  
14 PG-030080, which was a very large case involving  
15 multiple issues and alleged violations, which I note  
16 was filed June 26th of 2004, so it was pending at the  
17 time that this tragedy occurred, and I understand there  
18 are differences; that that case, if I understand it,  
19 involved steel pipe, uncoated pipe, compared to this  
20 pipe, but in that case, which involved a substantial,  
21 as I'm sure you recall, a substantial settlement and  
22 penalty in the range of, I believe, \$700,000 with part  
23 of that suspended, could you just explain to me how  
24 that case and the issues of corrosion and cathodic  
25 protection that were at issue there compares or

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1 contrasts with the issues that we are talking about  
2 this afternoon? Mr. Rathbun, go ahead.

3 (Pause in the proceedings.)

4 MR. RATHBUN: It was simply because of the  
5 silence, I guess, I didn't catch what was happening, so  
6 it was just unclear to me as to whom the question was  
7 directed to.

8 CHAIRMAN SIDRAN: The question was addressed  
9 to Mr. Henderson, and we paused for the reporter, and I  
10 believe he's about to answer, but you are welcome to  
11 respond as well, if you wish.

12 JUDGE MACE: Do you want to respond?

13 MR. RATHBUN: I'll let Mr. Henderson address  
14 it. I may have some follow-up.

15 JUDGE MACE: Go ahead, Mr. Henderson.

16 MR. HENDERSON: I think the situation around  
17 the previous settlement or complaint that was filed was  
18 more around some of our maintenance activities or  
19 inspection activities and the timing of that. It  
20 wasn't really related to actual corrosion or the  
21 condition of the system, and that's what prompted the  
22 agreement to the bare steel replacement as well as a  
23 lot of the penalty was associated with missing dates  
24 for actual inspections.

25 Whereas in this case, I think it's a

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1 condition that while the cross-wiring existed, our  
2 normal inspection procedures well within the  
3 requirements of the regulations had not surfaced it  
4 yet, and once it was identified, prompt action was  
5 taken and our activities were well within the  
6 regulation. So I think that is the distinction that I  
7 see there between the two cases.

8 CHAIRMAN SIDRAN: Mr. Rathbun, would you  
9 respond to that same question?

10 MR. RATHBUN: Chairman Sidran, I would tend  
11 to agree that the 03 case to which you referred and  
12 settlement was agreed to last year in large part dealt  
13 with -- of course, it was an audit of Pierce and King  
14 County -- it did find a lot of circumstances in which  
15 inspection activities, timing of events by PSE were  
16 found to be not according to regulation, but we also  
17 looked upon it a little bit further from a standpoint  
18 of formalizing some ongoing problematic changes for  
19 Puget Sound Energy. One was the bare steel replacement  
20 program, and also, a check the system line that they  
21 had already commenced about the isolated services,  
22 isolated facilities. Those elements were also added to  
23 that settlement, but I would agree with Mr. Henderson  
24 that in large part, a lot of the issues related to  
25 timing of their activities was out of compliance with

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1 state and federal regulations.

2 CHAIRMAN SIDRAN: Thank you.

3 JUDGE MACE: Do you or any of the  
4 commissioners have any further questions? All right,  
5 sir. Thank you. At this point, the witnesses are  
6 excused.

7 I want to ask again on the conference bridge,  
8 because I've heard what may be several people coming  
9 onto the bridge, is there anyone on the bridge who is  
10 from Mrs. Schmitz's family or anyone representing  
11 Mrs. Schmitz's team? Thank you. I hear no response.

12 Is there anyone else who wants to address the  
13 Settlement Agreement at this time; any counsel seek to  
14 address the settlement agreement? All right. Barring  
15 unforeseen events, the Commission will be deliberating  
16 and will be entering an order within a short period of  
17 time. I want to express appreciation to the parties  
18 for their cooperation in working out the Settlement and  
19 revised Settlement, and at this point, unless there is  
20 anything further...

21 CHAIRMAN SIDRAN: Yes. I would like to  
22 commend the parties and the Company, because I realize  
23 that this was -- first I want to commend the Company  
24 for responding constructively and promptly to this  
25 issue. I know that it was difficult. At the same

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1 time, I also want to express, I think, the Commission's  
2 sympathies to the Schmitz family. Although they are  
3 not literally represented here at the moment, it was a  
4 tragic loss of life.

5 I also want to commend the parties, including  
6 the Staff and counsel, for their constructive approach  
7 to the Settlement in arriving at what I think is a  
8 constructive resolution of this particular case, so  
9 thank you for your hard work.

10 JUDGE MACE: Thank you. The record is  
11 closed.

12 (Hearing concluded at 2:55 p.m.)

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