

SERVICE DATE

JUL 12 1989

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND	)	
TRANSPORTATION COMMISSION,	)	
	)	
Complainant,	)	DOCKET NO. U-89-2688-T
	)	
vs.	)	
	)	SECOND SUPPLEMENTAL
PUGET SOUND POWER & LIGHT	)	ORDER
COMPANY,	)	
	)	
Respondent.	)	
.....	)	

By Notice of Appeal dated June 7, 1989, Commission counsel seeks review of a preliminary ruling of the administrative law judge (ALJ) regarding the adequacy of customer notice provided by respondent pursuant to WAC 480-80-125. Public counsel has joined in the appeal. Respondent filed a reply. No other party has filed a reply.

**ISSUE PRESENTED:** On May 24, 1989, during the course of a clarification proceeding before Administrative Law Judge Alice Haenle, Commission counsel made a motion that the Commission find the respondent to be in violation of the First Supplemental Order and WAC 480-80-125. The basis of the motion was the alleged inadequacy of the Notice to Customers provided by the respondent pursuant to the cited order and rule. Commission counsel argued that Puget's notice indicates to customers that the tariff filing represents an increase of \$70.5 million (9%) when in fact the tariff filing would increase general rates by approximately \$145 million (22%). Puget responded that implicit in its filing was the update to the company's Energy Cost Adjustment Clause (ECAC) filings to eliminate approximately \$75 million from the surcharges presently being assessed. Therefore, Puget argued that the net rate impact of the filing was intended to be \$70.5 million as stated in the customer notice.

Public counsel joined in support of the motion. Intervenor WICFUR joined in opposition to the motion.

**ALJ RULING:** The ALJ concluded that the customer notice met the requirements of the commission rule, but pointed out that the failure of the company to file a tariff to reflect the elimination of \$75 million in ECAC surcharges constituted a defect of process. The ALJ suggested that the company could make its filing, its customer notice, and its intent consistent

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by filing the necessary ECAC tariff revision. In response to this suggestion, the company filed a tariff revision to reduce ECAC charges by approximately \$75 million effective January 1, 1990. This filing has been suspended by order of the Commission in Docket No. U-89-2955-T.

POSITIONS OF THE PARTIES ON APPEAL:

1. Commission Counsel

Commission counsel argues that the ALJ's solution fails to address the essence of the motion. In counsel's view, the customer notice should identify both the "magnitude" and the "nature" of the rate change. (Counsel Memorandum In Support at page 8) While acknowledging that part of the problem could have been cured by a voluntary filing of Schedule 95 (ECAC) revisions, counsel points out that the recent filing was not voluntary and reserved the right to challenge the "necessity for or appropriateness of the filing" (reference to Advice Letter regarding Docket No. U-89-2955-T.) Commission counsel goes on to argue that even with the revised filing, a new notice is required to show to customers how the net rate increase was calculated. A proposed supplemental notice to customers is attached to counsel's memorandum.

2. Public Counsel

Public counsel joins in the appeal, pointing out that his office is daily receiving irate calls from customers who attempt to recompute their electric bills based upon the information contained in the customer notice. Being unaware of the company's proposed ECAC adjustment, the customers arrive at a rate increase substantially in excess of 9%. Public counsel also points out that the ECAC is a "temporary" rate, while the \$145 million increase in the suspended filing would be "permanent". Public counsel argues that customers are entitled to know that this shift in rate levels is proposed. Public counsel offers a list of items to be contained in a supplemental customer notice.

3. Puget Power

The company points out that the form of notice which was used was submitted to the Commission consumer affairs section for review and approval. The consumer affairs section suggested minor changes in the notice which were incorporated. The company also points out that it would be difficult if not impossible to literally comply with the requirements of WAC 480-80-125 if the filing included a change to Schedule 95, the amount of which could not be readily determined. The company

could not calculate the extent of the rate change in the ECAC surcharge because the actual ECAC level would not be the present ECAC level, but would, instead, be the ECAC level approved in October. The company argues that its advice letter dated February 17, 1989, clearly expressed the intent to move Base Unit Costs of Energy (BUCE) from Schedule 95 into "general rates". Puget contends that the Commission staff's attempt to distinguish between "general rates" and "ECAC rates" is artificial and finds no support in the Commission's regulations. The company identifies several reasons why it believes that the Schedule 95 filing which the ALJ suggested (and which Puget filed) was inappropriate (Company's Response page 10).

COMMISSION DISCUSSION: The Commission is once again presented with a circumstance in which each of the contestants is arguably striving to reach the same goal (reasonable notice to customers), yet each perceives the method for achieving that goal differently. The administrative law judge attempted to pierce the technicalities and tactics to determine the essence of this filing. The ALJ properly determined that it was the apparent intent of Puget to ultimately reduce ECAC rates and increase other rates to achieve a net revenue increase of \$70.5 million. The ALJ suggested that a Schedule 95 filing be submitted to be consistent with the company's intent. Puget's misgivings regarding the propriety or legality of such a filing were not so great as to deter the company from filing a proposed ECAC revision. However, the company's reasons for not doing so earlier are understandable.

It must be recognized that the ECAC process is inherently exceptional. Its unique filing requirements and periodic adjustments do not correspond precisely to the Commission's usual tariff filing procedures. To attempt to provide the type of customer notice which Commission counsel and Public counsel advocate would be more likely to create further confusion. This is an example of the kind of customer confusion which any cost adjustment clause can generate. It was this kind of confusion which caused the Commission to modify the timing of the ECAC filings to coincide with other seasonal adjustments.

Given the difficulties which the company faced in making this filing and drafting a customer notice which met the need for reasonable information without undue complexity, the notice was a good effort. The notice could have been better, but the fact that the Commission's own staff reviewed and apparently approved the notice supports the company's position. No notice provides "perfect" information. If any party were to offer a supplemental notice which would clearly benefit the public, the Commission would consider it seriously.

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However, the suggestions for "improvement" presented by Commission counsel and Public counsel are inferior to the original notice and must be rejected.

By this rejection, the Commission is not suggesting that more public information is unnecessary. It would be valuable to disseminate through a variety of media a brief and understandable summary of the issues presented in this proceeding. Such information should explain not only the Puget position, but also the opposing views. Only with a complete explanation of the issues can the public reach an informed decision whether to take the time to participate in the public hearings tentatively scheduled for October 5 and 6. The Commission public affairs staff will be responsible for coordinating this effort.

Therefore, having fully reviewed and concurred in the decision of the administrative law judge, the Commission makes the following order.

O R D E R

IT IS HEREBY ORDERED That the motion to require further notice to customers and impose penalties for violation of WAC 480-80-125 is denied.

DATED at Olympia, Washington, and effective this 12th day of July, 1989.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



SHARON L. NELSON, Chairman



RICHARD D. CASAD, Commissioner



A. J. PARDINI, Commissioner