

[Service Date September 21, 2010]

September 21, 2010

**NOTICE OF JOINT MOTION TO MODIFY TWELFTH SUPPLEMENTAL ORDER  
AND  
NOTICE OF OPPORTUNITY TO RESPOND  
(Responses to Joint Motion due by Noon on Thursday, September 23, 2010)**

RE: *Washington Utilities and Transportation Commission, Complainant, v. Puget Sound Energy, Respondent*, Dockets UE-011570, UG-011571, and UE-100177.

TO ALL PARTIES:

On September 17, 2010, the Washington Utilities and Transportation Commission's (Commission) regulatory staff, Puget Sound Energy, Inc. (PSE), the Public Counsel Section of the Washington Attorney General's Office, the NW Energy Coalition, and the Industrial Customers of Northwest Utilities, filed a Joint Motion to Modify Twelfth Supplemental Order (Joint Motion) in Docket UE-011570. The parties seek revision of the Commission's order approving a settlement agreement, parts of which have been rendered moot, they argue, by the Energy Independence Act (EIA), codified at RCW 19.285 *et seq.*

On June 20, 2002, the Commission entered the 12<sup>th</sup> Supplemental Order, in consolidated Dockets UE-011570 and UG-011571,<sup>1</sup> which involved tariff revisions filed by PSE designed to raise PSE's rates for electric and natural gas services, respectively. The Commission, in its 12<sup>th</sup> Supplemental Order approved and adopted a settlement stipulation (2002 Settlement) which, in part, established a Conservation Resource Advisory Group, instituted electric and natural gas conservation targets, and established a penalty mechanism should PSE fail to meet the conservation targets.<sup>2</sup>

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<sup>1</sup> While Docket UG-011571 was consolidated with Docket UE-011570 and both dockets were the subject of the Commission's Twelfth Supplemental Order (12<sup>th</sup> Supplemental Order), the Joint Motion does not seek to modify the 2002 Settlement as it relates to natural gas.

<sup>2</sup> 2002 Settlement, Exhibit F.

In 2006, Initiative 937 was approved by Washington state voters. This new law, the EIA, requires energy utilities like PSE to “pursue all available conservation that is cost-effective, reliable, and feasible.”<sup>3</sup> Electric utilities, like PSE, were required to demonstrate compliance with the EIA by filing a report on January 31, 2010, identifying their respective ten-year achievable conservation potential and biennial conservation targets.<sup>4</sup> PSE filed its report in Docket UE-100177.

On June 4, 2010, the Commission entered an order, Order 04, in Docket UE-100177, which found that PSE’s report was insufficient, and directed PSE to re-file its report using figures derived from its Integrated Resource Plan. PSE filed a revised report on June 18, 2010. The Commission invited the parties to comment on whether the revised report complies with Order 04. Each of the commenters agreed that PSE’s revised report is consistent with the order but indicated that additional conditions should be imposed upon the company prior to approval of the revised report.

On September 3, 2010, the parties to Docket UE-100177 filed a settlement agreement (EIA Settlement) in which the parties requested that the Commission find that PSE’s revised report complies with the EIA and approve the revised report with conditions. These conditions include: (1) deleting portions of the 2002 Settlement and Order adopting the settlement, which are obsolete due to the passage of time; (2) replacing the original penalty mechanism to be employed should PSE not meet its electric conservation targets with the methodology mandated in RCW 19.285.060, and (3) replacing the conservation avoided cost calculation methodology previously established in the 2002 Settlement and Order adopting the settlement with the mandate that PSE rely on a calculation of avoided cost consistent with the Northwest Power and Conservation Council methodology and the EIA.<sup>5</sup>

The parties used the 2002 Settlement as a starting point to address the issues ultimately resolved in the EIA Settlement.<sup>6</sup> They point out that the EIA supersedes certain provisions

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<sup>3</sup> RCW 19.285.040(1).

<sup>4</sup> WAC 480-109-010(3).

<sup>5</sup> Joint Narrative in Support of EIA Settlement, ¶¶ 21-23.

<sup>6</sup> Joint Motion, ¶ 6.

within the 2002 Settlement.<sup>7</sup> As a result, the parties filed the Joint Motion in Dockets UE-011570 and UG-011571 on September 17, 2010. Specifically, the Joint Motion requests that the Commission revise ordering paragraph 2 of the 12<sup>th</sup> Supplemental Order to read (proposed additional language underlined):

THE COMMISSION ORDERS FURTHER That, except as provided below, the Settlement Stipulation filed by the parties on June 6, 2002, which is attached to this Order as Appendix A and incorporated by reference as if set forth in full in the body of this Order, is approved and adopted as a full and final resolution of this general rate proceeding, subject to the clarifications, modifications, and conditions stated in the body of this Order. Exhibit F to the Settlement Stipulation, “Settlement Terms for Conservation” shall no longer be effective in Docket UE-011570 and is vacated. In its place, the “Agreed Modifications to Electric Settlement Terms for Conservation in Docket No. UE-011570” filed by the parties on September 3, 2010, is approved, adopted, and incorporated by reference as if set forth in full in the body of this Order. The “Settlement Terms for Conservation” that the parties filed on June 6, 2002, as Exhibit F to the Settlement Stipulation shall continue in effect in Docket UG-011571.<sup>8</sup>

If any party to consolidated Dockets UE-011570 and UG-011571 wishes to respond to the Joint Motion filed by the parties in Docket UE-100177 to modify the 12<sup>th</sup> Supplemental Order, they should do so by **Noon on Thursday, September 23, 2010**. Please direct questions regarding this notice to Marguerite E. Friedlander, at 360-664-1285, or by e-mail at [mfriedla@utc.wa.gov](mailto:mfriedla@utc.wa.gov).

Sincerely,

MARGUERITE E. FRIEDLANDER  
Administrative Law Judge

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<sup>7</sup> *Id.*, ¶ 13.

<sup>8</sup> *Id.*, ¶ 1.