

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,)	DOCKET PG-041624
)	
Complainant,)	
)	ORDER 09
v.)	
)	
PUGET SOUND ENERGY, INC.,)	INITIAL ORDER APPROVING
)	SUBSTITUTE SECOND
Respondent.)	SETTLEMENT AGREEMENT
.....)	

SUMMARY

- 1 **Synopsis:** *This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective pursuant to the notice at the end of this Order. This Order proposes to approve the Substitute Second Settlement Agreement filed by the parties to this proceeding. The terms of the agreement will increase public safety by improving the integrity of service lines in PSE’s pipeline system.*
- 2 **Nature of Proceeding.** Docket PG-014624 is a complaint proceeding initiated by the Washington Utilities and Transportation Commission (Commission) against Puget Sound Energy, Inc. (PSE or the company). The complaint arises out of a natural gas explosion on September 2, 2004, at the house located at 16645 SE 26th Place, Bellevue, Washington, resulting in the death of Mrs. Frances Schmitz.
- 3 **Appearances.** James F. Williams, Perkins Coie LLP, and Steve Secrist, Deputy General Counsel for PSE, Bellevue, Washington, represent PSE. Cheryl A. Zakrzewski, Assistant City Attorney, Bellevue, Washington, represents the city of Bellevue. Donald T. Trotter, Assistant Attorney General, Olympia, Washington, represents Commission Staff.
- 4 **Background and Procedural History.** This proceeding arises out of a natural gas explosion that occurred in the city of Bellevue’s Spiritridge neighborhood, at the residence of Mrs. Frances Schmitz on September 2, 2004. The explosion resulted in Mrs.

Schmitz' death. The Commission immediately initiated an Emergency Adjudication to investigate the cause of the explosion.

5 The Complaint initiating the Emergency Adjudication alleged that a hole in Mrs. Schmitz' natural gas line to her house allowed natural gas to leak out of the service line into the house, and that the leak in the service line to her house was caused by corrosion. The Complaint further alleged that, at the time of the explosion, a Vasa Park rectifier¹ was incorrectly wired and may have caused a condition dangerous to the public.²

6 PSE corrected the wiring in the Vasa Park Rectifier on September 3, 2004. In addition, PSE communicated with Staff, the city of Bellevue and local residents about the progress of the investigation. PSE replaced all coated steel pipe³ affected by the Vasa Park rectifier with new polyethylene plastic pipe. In conjunction with Commission Staff, the company also participated in a comprehensive examination of the causes of the explosion.

7 On August 25 and September 22, 2006, respectively, the parties filed a settlement agreement and revised settlement agreement in this matter.⁴ On September 9 and 28, 2005, the Commission held hearings on the settlement agreements, considering prefiled evidence and testimony filed by Staff and PSE addressing the investigation and the cause of the explosion.

¹ In the Spiritridge neighborhood, and elsewhere on its system, PSE relies on an electric current to provide cathodic protection of its coated steel service and distribution pipe. Cathodic protection is a method of protecting metal pipe by preventing the material in the pipe from flowing away from the pipe, i.e. from corroding. The source of the electric current in the Spiritridge neighborhood was the Vasa Park rectifier.

² See Complaint, September 13, 2004, ¶¶ 10, 14, 15, and 19.

³ PSE's distribution system contains both "coated" and "bare" steel pipe (as well as plastic pipe). "Coated" pipe, also known as "wrapped" steel pipe, is provided with a substance that helps prevent corrosion. In the Spiritridge neighborhood, the service pipes were of the "coated" or "wrapped" variety.

⁴ The parties filed a Settlement Agreement and Narrative Supporting Settlement Agreement on August 25, 2005. The primary difference between the initial agreement and the one filed on September 22 is that under the initial agreement PSE would have paid no penalty but would have reimbursed the Commission and the city of Bellevue for the costs of investigation amounting to approximately \$100,000. The revised agreement calls for PSE to pay a penalty in the amount of \$90,000 but does not require reimbursement for costs. The revised agreement is otherwise substantially the same as the initial agreement.

- 8 In the Revised Settlement Agreement, the parties agreed, among other things, that PSE would pay a penalty of \$90,000, would gather data for service lines, similar to the one at the Schmitz' residence, that had been installed for five years or more prior to the installation of cathodic protection, to determine whether PSE needs to take further remedial actions, and would work with Commission Staff and report to the Commission on progress on risk assessment and maintain a program of system-wide leak surveys.⁵
- 9 On October 7, 2005, the Commission entered Order 07 approving the parties' Revised Settlement Agreement.⁶
- 10 On March 16, 2007, PSE filed with the Commission its Wrapped Steel Service Assessment Program Report (WSSAP Report). On May 4, 2007, the parties filed with the Commission a Second Settlement Agreement and Narrative Supporting Second Settlement Agreement, addressing commitments the parties had made in their Revised Settlement Agreement.
- 11 On June 5, 2007, the Commission held a hearing before Administrative Law Judge Ann E. Rendahl on the parties' Second Settlement Agreement and Narrative Supporting Second Settlement Agreement. Duane Henderson, the company's Director of Engineering and Operations Services, and Alan Rathbun, the Commission's Pipeline Safety Director, appeared as witnesses at the hearing.
- 12 The parties filed a Substitute Second Settlement Agreement with the Commission on June 5, 2007.⁷ A copy of the agreement is attached as Appendix A to this Order.

⁵ Exh. 1, Revised Settlement Agreement, ¶ 26.

⁶ On October 19, 2005 the Commission entered Order 08, clarifying and modifying Order 07 to reflect the exact language of the Complaint initiating this proceeding.

⁷ The Substitute Second Settlement Agreement changes an internal paragraph reference in paragraph 21 and deletes a reference in paragraph 34 to suspending the procedural schedule. Given these minor difference, this Order refers to the Agreement as the Second Settlement Agreement.

MEMORANDUM

A. The Second Settlement Agreement

13 The Second Settlement Agreement resolves issues arising from paragraphs 14 and 15 of the Revised Settlement Agreement previously approved by the Commission.⁸ These paragraphs address risk assessment and mitigation and provide:

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;

⁸ Exh. 3, Second Settlement Agreement, ¶ 1.

- 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.

14 The parties agree that PSE has gathered pipeline data in accordance with paragraph 14 of the Revised Settlement Agreement, and has collaborated with Staff and developed a mitigation plan, in accordance with paragraph 15 of the Revised Settlement Agreement to identify issues or trends of concern related to services.⁹ The parties entered into the Second Settlement Agreement to resolve disputes over whether the WSSAP Report, filed on March 16, 2007, complies with the Revised Settlement Agreement.¹⁰ The WSSAP Report identifies PSE's data gathering efforts and development of a risk assessment model, as well as the use of the model to develop the company's mitigation program.¹¹

15 PSE identifies in the Report and Second Settlement Agreement approximately 100,000 services¹² for consideration in the mitigation program and classifies them into four mitigation categories: (i) standard mitigation (lowest priority); (ii) increased leak survey; (iii) scheduled replacement; and (iv) priority replacement (highest priority). The following table presented in the Second Settlement Agreement, identifies the categories, the action required, and the number of services falling within the category:

Mitigation Category	Action	Approximate Number of Services
Priority Replacement	Service Replacement	516
Scheduled Replacement	Identify Replacement Projects and Twice Annual Leak Survey (until service is replaced)	8,470
Increased Leak Survey	Annual Leak Survey	23,100
Standard Mitigation	No Additional Action Required	69,281
	Total	101,367

⁹ *Id.*, ¶ 11.

¹⁰ See Exh. 4, Narrative Statement Supporting Second Settlement Agreement, ¶¶ 21-27.

¹¹ See Exh. 3, Second Settlement Agreement, ¶ 12; Exhibit A.

¹² A "service," as the term is used by the parties and in the Report, is a service line from a main pipeline to a residence or business used to deliver natural gas to customers.

- 16 The parties agree in the Second Settlement Agreement that PSE will replace all services in the two highest mitigation categories on or before December 31, 2010.¹³ In particular, PSE will replace services in the priority replacement category on or before December 31, 2007, and has already begun efforts to meet this commitment. If a service line “migrates” into the highest category, PSE will replace the line in the following calendar year.¹⁴ PSE will consider whether to replace additional services or mains when developing plans to replace services in the priority and scheduled replacement categories.¹⁵
- 17 Among other items concerning leaks and leak surveys, PSE commits to conduct leak surveys on service lines in the two highest categories twice each calendar year until the lines are replaced and service lines in the “increased leak survey” category, once each calendar year.¹⁶
- 18 PSE commits to conduct “no less than 1,000 cathodic protection electrical surveys of a random sample of services in the standard mitigation and annual leak survey mitigation categories on or before December 31, 2010,” to improve the reliability of WSSAP data.¹⁷ PSE also commits to investigate indications from the survey that meet the threshold criteria for anomalies in Exhibit A to the Settlement Agreement and are “viably accessible.”¹⁸ PSE agrees to allow Staff to observe field investigations conducted based on findings from the surveys.
- 19 Finally, PSE agrees to update the WSSAP model to assess the validity of the model and replacement priorities as it gains additional data on the condition of the pipeline system. PSE will provide annual reports to the Commission and the city of Bellevue concerning leaks discovered and services replace in the prior calendar year.

¹³ Exh. 3, Second Settlement Agreement, ¶ 14.

¹⁴ *Id.*, ¶ 15.

¹⁵ *Id.*, ¶ 20.

¹⁶ *Id.*, ¶¶ 16-17.

¹⁷ *Id.*, ¶ 19.

¹⁸ Exhibit A to the Second Settlement Agreement, concerning Electrical Survey Procedure and Criteria, is the same as the procedure and criteria appearing in Appendix F to the final WSSAP Report.

B. Staff Concerns

20 Overall, Staff agrees that PSE has complied with paragraphs 14 and 15 of the Revised Settlement Agreement and recommends approval of the Second Settlement Agreement. Staff remains concerned that PSE did not meet the original goal of the Revised Settlement Agreement and the WSSAP model – to estimate the “probability of failure” of service lines, but agrees that that the WSSAP Report is a “very useful” model for determining the relative risk of service lines.¹⁹ In particular, Staff is concerned that PSE lacks sufficient reliable data to populate the model, diminishing the model’s reliability.²⁰ Staff’s concerns about the model are mitigated by PSE’s commitments in the Second Settlement Agreement to conduct leak surveys, electrical surveys and confirmation assessments, and to add additional data elements to WSSAP over time to enhance the program’s effectiveness.²¹

21 During the hearing, Staff reiterated that the WSSAP Report and model together with the commitments PSE makes in the Second Settlement Agreement result in compliance with paragraphs 14 and 15 of the Revised Settlement Agreement. Staff and PSE assert that it is in the public interest to accept the settlement. PSE explained that PSE expects the model and program to continue in effect past December 2010. PSE expects that federal regulations will be adopted to require pipeline companies to adopt integrity management systems, and that the WSSAP program will likely provide a bridge to such a system. Despite the shortcomings Staff finds in the model, both PSE and Staff agree that PSE is a leader in pursuing this effort: No other pipeline company in Washington state has developed or implemented such a risk assessment model for pipeline safety.

C. Discussion and Decision

22 The Commission’s procedural rules govern the process for reviewing and accepting settlements. The Commission may approve settlements “when doing so is lawful, when the settlement terms are supported by an appropriate record, and when the result is

¹⁹ Exh. 4, Narrative Statement, ¶¶ 21-23.

²⁰ *Id.*, ¶¶ 23, 25.

²¹ *Id.*, ¶¶ 25-26.

consistent with the public interest in light of all the information available to the commission.”²²

- 23 The terms of the original Revised Settlement Agreement required PSE to conduct a comprehensive risk assessment of service lines of the same vintage as Mrs. Schmitz’ service line, and develop a mitigation plan, to reduce risks to PSE’s customers and increase public safety. PSE has complied with paragraphs 14 and 15 of the Revised Settlement Agreement through its data gathering efforts and development of a risk assessment model and mitigation plan through the WSSAP. Although Staff has concerns about the reliability of the data used to run the model, Staff appears satisfied that PSE’s commitment to conduct additional surveys and to update the model will enhance the model’s reliability.
- 24 The Second Settlement Agreement should be approved. The ultimate goal of the terms of the Revised Settlement Agreement – and now the Second Settlement Agreement – is to improve public safety and prevent incidents such as the one resulting in Mrs. Schmitz’s tragic death. The evidence in the record, including the testimony of Mr. Henderson and Mr. Rathbun, demonstrate that the commitments set forth in the Second Settlement Agreement will result in increased public safety by improving the integrity of service lines in PSE’s pipeline system. These public safety improvements are in the public interest. PSE’s and Staff’s efforts to develop a pioneering risk assessment model are to be commended.

FINDINGS OF FACT

- 25 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the parties and the reasons therefore, the Commission now makes and enters the following summary findings of fact, incorporating by reference pertinent portions of the preceding detailed findings:
- 26 (1) The Washington Utilities and Transportation Commission is an agency of the state of Washington, vested by statute with authority to regulate rates, rules,

²² WAC 480-07-750(1). See also *Washington Utilities and Transportation Commission v. PacifiCorp d/b/a Pacific Power & Light Co.*, Docket UE-032065, Order 06 at 26, ¶ 59 (October 2004).

regulations, practices and accounts of public service companies, including gas companies.

- 27 (2) PSE is a public service company that owns and operates a natural gas distribution system in Western Washington and provides natural gas service in the state of Washington, for compensation.
- 28 (3) The Revised Settlement Agreement, approved in October 2005, required PSE to collect data on service line in its pipeline system similar to the one at the Schmitz residence, to determine whether remedial actions were necessary and to work with Commission Staff on a risk assessment program.
- 29 (4) On March 16, 2007, PSE filed with the Commission its Wrapped Steel Service Assessment Program Report (WSSAP Report).
- 30 (5) On May 4, 2007, the parties filed with the Commission a Second Settlement Agreement resolving differences over reliability of the WSSAP model in predicting failure of service lines.
- 31 (6) PSE has complied with paragraphs 14 and 15 of the Revised Settlement Agreement through its data gathering efforts and development of the WSSAP risk assessment model and mitigation plan.
- 32 (7) Staff's concerns about the reliability of the data used to run the WSSAP model are satisfied through PSE's commitment to conduct additional surveys and to update the model to enhance its reliability.

CONCLUSIONS OF LAW

33 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law incorporating by reference pertinent portions of the preceding detailed conclusions:

- 34 (1) The Commission has jurisdiction over the subject matter of, and all parties to, these proceedings.

- 35 (2) The Commission may approve settlements “when doing so is lawful, when the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission.” *WAC 480-07-750(1)*.
- 36 (3) The terms of the Second Settlement are in the public interest. The evidence in the record, including the testimony of Mr. Henderson and Mr. Rathbun, demonstrate that the commitments set forth in the Second Settlement Agreement will result in increased public safety by improving the integrity of service lines in PSE’s pipeline system.

ORDER

THE COMMISSION ORDERS:

- 37 (1) The Substitute Second Settlement Agreement entered into between Puget Sound Energy, Inc., Commission Staff and the City of Bellevue, attached to this Order as Appendix A and incorporated by reference, is approved.
- 38 (2) The Commission retains jurisdiction to effectuate the terms of this order.

DATED at Olympia, Washington and effective June 18, 2007.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Administrative Law Judge

NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order, any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such an answer.

RCW 80.01.060(3), as amended in the 2006 legislative session, provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion. You will be notified if this order becomes final.

On copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and 17 copies of any Petition or Answer must be filed by mail delivery to:

Attn: Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

APPENDIX A