

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of	)	
	)	DOCKET UE-141335
KING COUNTY, WASHINGTON,	)	
BNSF RAILWAY, FRONTIER	)	
COMMUNICATIONS NORTHWEST	)	ORDER 03
INC., VERIZON WIRELESS, and NEW	)	
CINGULAR WIRELESS PCS, LLC,	)	
	)	INITIAL ORDER GRANTING
For an Order Requiring Puget Sound	)	PETITION IN PART AND
Energy to Fund Replacement of Electric	)	DENYING PETITION IN PART
Facilities	)	
.....	)	

**BACKGROUND**

- 1 On June 26, 2014, King County, Washington (King County), BNSF Railway (BNSF), Frontier Communications Northwest Inc. (Frontier), Verizon Wireless (Verizon), and New Cingular Wireless PCS, LLC (AT&T), (collectively Petitioners) filed with the Washington Utilities and Transportation Commission (Commission) a Petition for Declaratory Order “to address the degradation of service each of them receive from Puget Sound Energy (PSE) due to the physical deterioration of the 40-year-old underground cable (the ‘Maloney Ridge Line’) by which electric service is provided.” Petitioners request a Commission determination that PSE is obligated to replace that line and recover the resulting costs through the company’s electric rates, rather than directly from Petitioners.<sup>1</sup>
  
- 2 Petitioners, PSE, and the Commission’s regulatory staff (Staff) filed testimony in support of their respective positions pursuant to the procedural schedule established in Order 01, Prehearing Conference Order. On May 27, 2015, the Commission conducted an evidentiary hearing on that testimony. Petitioners presented the joint testimony of Anthony Minor, Gregory L. Britz, George Baker Thomson, Jr., Michael Mathisen, and Jennifer Firestone (collectively Joint Witnesses) and Michael P. Gorman. PSE presented the testimony of Jason M. Sanders, Lynn F. Logen, Katherine J. Barnard, and Jennifer

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<sup>1</sup> The parties requested during the prehearing conference that the Commission convert the declaratory order proceeding to an adjudication pursuant to WAC 480-07-930(4). The Commission agreed that an adjudication is the appropriate procedure for developing the factual record necessary to rule on the petition and granted the request.

Boyer. Commission staff (Staff) presented the testimony of Jason L. Ball and David Nightingale. The parties filed post-hearing briefs on June 30, 2015.

- 3 The parties do not dispute the basic facts. The Maloney Ridge Line is an 8.5 mile underground electric distribution cable in the Snoqualmie National Forest. PSE constructed the line for General Telephone Company of the Northwest, Inc. (GTE) pursuant to a 1971 agreement between the companies. The agreement required GTE to pay all construction costs for the line, as well as all ongoing operating expenses. PSE subsequently connected three additional entities, each of which executed a service agreement to pay for the line's operating costs. Petitioners comprise the four entities that currently obtain service over that line.
- 4 The Maloney Ridge Line is nearing the end of its useful life. The cable has experienced increasingly frequent failures, and annual repair costs now exceed \$200,000. All parties agree that the continuing pattern of piecemeal repairs is not sustainable. The cost to replace the line in its entirety would be approximately \$5.3 million.
- 5 Petitioners take the position that PSE should be required to replace the line and to be responsible for the construction costs on the following grounds:
  - PSE must provide all of its customers with safe and reliable service on a non-discriminatory basis. PSE can satisfy that obligation here only by replacing the line and recovering those costs in the same way PSE recovers the costs of other system replacements.
  - PSE's Electric Tariff G Schedule 85 (Schedule 85) provides that PSE is responsible for both the repair and replacement of line extensions. The service agreements with PSE modify certain tariff provisions but do not alter PSE's obligation with respect to replacement costs. Those agreements require Petitioners only to pay for "operating costs," which do not include replacement.
  - The provision in PSE's Electric Tariff G Schedule 80 (Schedule 80) that PSE is not required to provide service if to do so would be economically unfeasible applies only to new or additional service requests, not to existing customers.
  - Even if PSE may consider economic feasibility in these circumstances, the Commission should make that assessment based on the impact on PSE's retail

rates and whether replacement of the line is in the public interest and produces public benefits. The rate impact on other business customers that take service from PSE under its Electric Tariff G Schedule 24 (Schedule 24) is a *de minimus* 0.2 percent increase, which is more than justified by the public benefit of providing electric service to Petitioners to enable them to provide emergency, law enforcement, and other essential services. PSE, moreover, does not conduct an economic feasibility for replacement of all distribution lines, and the service agreements provide no basis for treating Petitioners differently.

- Other provisions of Schedule 80 are inapplicable to replacement of the Maloney Ridge Line. Petitioners are not seeking any change in the service they receive or any enhancement to its reliability beyond the level PSE must provide all customers and that PSE had provided in the past.
- The Maloney Ridge Line is part of PSE's electrical distribution system, and PSE should replace that line under the same terms the Company replaces any other portion of that system.

6 PSE contends that multiple options exist for Petitioners to obtain electric service, and if they want to have PSE replace the Maloney Ridge Line, they are responsible for all of the costs to do so on the following grounds:

- The service agreements between PSE and each of the Petitioners requires Petitioners to pay all operating costs, which implicitly includes replacement of the line.
- Replacement of the line is not economically feasible, and both Schedule 80 and Schedule 85 state that PSE has no obligation to provide service if it is economically unfeasible. The limitation is not limited to new or additional service requests but applies to all customers.
- The Commission consistently requires cost causers to pay the costs they cause. Petitioners are the cost causers of replacement of the line and as such are responsible for paying those costs.

- Petitioners are an entity that has requested PSE to rebuild the line, which is a change to enhance reliability, and Schedule 80 requires the requester to pay the costs of any such change.
- Analysis of the factors the Commission used to evaluate a petition for waiver a telecommunications company's obligation to extend service demonstrates that Petitioners' request to have PSE pay the costs of replacing the Maloney Ridge Line is unreasonable and should be denied.
- The Maloney Ridge Line is outside of PSE's general distribution system, so Petitioners are not similarly situated to other Schedule 24 customers. Those other customers should not be required to subsidize an extension beyond PSE's distribution system.

7 Staff supports the Company's position on the following grounds:

- Staff's analysis confirms that replacement of the Maloney Ridge Line is not economically feasible. Schedule 80 does not require PSE to provide service that is economically unfeasible, and that restriction is not limited to new or additional service.
- Principles of equity and fairness dictate that Petitioners pay the costs to replace the line, rather than requiring other Schedule 24 customers to subsidize the high costs to serve only Petitioners.
- The "replacement" language in Schedule 85 applies only to line extensions constructed under that tariff, and PSE constructed and maintains the Maloney Ridge Line pursuant to individual service agreements with each Petitioner.
- The Commission has previously refused to require a company to construct line extensions to serve a small number of customers when the costs would be extraordinarily high.

8 Tommy A. Brooks and Chad M. Stokes, Cable Huston, LLP, Portland, Oregon, represent King County, BNSF, Frontier, and Verizon. Cindy Manheim, General Attorney, AT&T, Redmond, Washington, represents AT&T. Donna L. Barnett, Perkins Coie, LLP,

Bellevue, Washington, represents PSE. Patrick J. Oshie, Assistant Attorney General, Olympia, Washington, represents Staff.

## **DISCUSSION**

- 9 The parties offer several grounds on which they contend the Commission should adopt their respective positions, most of which are not persuasive. The applicable statute, the service agreements between PSE and Petitioners, and the Company's tariffs do not resolve the issue of who should pay the costs to replace the Maloney Ridge Line as a matter of law. The Commission, therefore, makes its determination based on a fact-specific analysis of the circumstances of this case. Based on that analysis, we conclude that the Petitioners should be responsible for the costs at issue.

### **Statute**

- 10 RCW 80.28.100 requires electric companies to charge the same rates to all similarly situated customers. The Petitioners contend that PSE is discriminating against them in violation of this statute by insisting that they pay to replace the Maloney Ridge Line. According to Petitioners, the original service agreement between PSE and GTE mandated that GTE pay the costs to construct the line, and Petitioners agreed in subsequent service agreements only to pay for repair and maintenance in addition to their electric service rates. Petitioners argue that PSE is "changing the deal" and unilaterally requiring them to pay costs to replace the line when the Company does not impose the same requirement on other Schedule 24 customers.
- 11 The statute requires PSE to charge the same rates for "a like or contemporaneous service . . . under the same or substantially similar circumstances or conditions." Petitioners offered no evidence that PSE serves any other customers on a mountain in a national forest or in any other remote location, much less that PSE treats those customers any differently than Petitioners with respect to the costs to replace the line extension used to provide electric service to them. Absent such evidence, we cannot conclude that PSE is violating RCW 80.28.100.

### **Service Agreements**

- 12 The service agreements Petitioners have with PSE do not address which party must pay the costs to replace the line. Those agreements provide only that Petitioners must pay all

“operating costs,” which are defined to “include any repair and maintenance costs incurred by [PSE] pursuant to Section 3 above, and the costs in connection with securing or maintaining operating rights.”<sup>2</sup> Section 3 of the agreements defines repair and maintenance to include “the furnishing of all necessary labor, materials, and equipment to keep the System in good operating condition.”<sup>3</sup> The agreements thus do not expressly provide that operating costs include replacement of the line.

13 Nor do we infer such an obligation in those contracts. Replacement, by its nature, is distinct from operating, repairing, or maintaining an existing line. PSE tariff provisions recognize this distinction and specify facility replacement when the Company intends to include it.<sup>4</sup> In the absence of an express requirement that the Petitioners pay to replace the line, we do not interpret the agreements to include such an obligation.

14 We similarly do not construe the service agreements to require PSE to replace the line, as Petitioners contend. The agreements govern the Maloney Ridge Line, but they state that “[e]lectrical service provided by [PSE] to [Petitioners] shall be governed by the terms and provisions of [PSE’s] Electric Tariff G.”<sup>5</sup> Thus we must look to PSE’s Electric Tariff G for other provisions that specify the circumstances under which the Company must provide electric service to Petitioners, including through replacement of the line.

### **PSE Tariff**

15 PSE’s tariff also is not dispositive of whether PSE must pay to replace the Maloney Ridge Line. PSE and Staff rely on Schedule 80, General Rules and Provisions, Section 9, which states in relevant part, “The Company shall not be required to provide service if to do so would be economically unfeasible.”<sup>6</sup> We have two concerns with this provision.

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<sup>2</sup> Logen, Exh. LFL-4 at 2, 5, 8 & 11.

<sup>3</sup> *Id.* at 1, 4, 7 & 10. The “System” is the Maloney Ridge Line. *Id.*

<sup>4</sup> *See, e.g.*, Logen, Exh. LFL-7 at 15, Section 1.A. (“The Company shall own, operate, maintain and repair all electric distribution facilities installed by or for the Company under this schedule, *including replacement of such facilities* if necessary so long as such replacement is not inconsistent with this schedule or a contract governing such facilities.”) (emphasis added).

<sup>5</sup> Logen, Exh. LFL-4 at 1, 4, 7 & 10.

<sup>6</sup> Logen, Exh. LFL-7 at 1.

- 16 First, inclusion of this sentence in the tariff predates the Commission’s repeal of WAC 480-100-056, Refusal of service, and adoption of the current rule governing that subject, WAC 480-120-123. In promulgating the revised rule, the Commission expressly declined to include the language from the prior rule that permitted a utility to refuse new or additional service if providing that service would be “economically unfeasible.”<sup>7</sup> Nor does the Commission rule governing discontinuance of service, WAC 480-100-128, authorize a company to terminate service if that service is “economically unfeasible.” We question the continuing vitality of the provision in PSE’s tariff that allows the Company to refuse to provide service that is “economically unfeasible” in light of its inconsistency with applicable Commission rules.
- 17 Second, the concept of “economic unfeasibility” is overly broad and ambiguous. The Commission eliminated this term from the refusal of service rule, at least in part, because the language is “too general and vague to be useful.”<sup>8</sup> Taken to its extreme, a test of economic feasibility could be used to deny or terminate service to any individual customer if the revenues PSE receives do not exceed the Company’s calculations of the costs it incurs to serve that particular customer. Such a result is fundamentally inconsistent with the regulatory principle of averaging costs and demand among customer classes when establishing the rates that apply to that class. PSE cannot refuse service to an individual customer solely because the costs to serve, or the revenues the Company receives from, that customer vary from the class average.
- 18 The lawfulness of PSE’s tariff provision, however, is not before us, so we must harmonize Schedule 80 to the extent possible with Commission rules and orders. In doing so, we adhere to the statement in the order adopting WAC 480-100-123 that “Commission resolution of obligation to serve issues is likely to be based on fact-specific analysis.”<sup>9</sup> Consistent with the tariff, the Commission will consider whether providing service to the Petitioners is “economically unfeasible” as an important factor in that analysis, but as Commission rules contemplate, economic feasibility is not the sole determinant of the extent to which PSE must provide that service. Accordingly, PSE

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<sup>7</sup> *In re Adopting and Repealing Rules in Chapter 480-100 WAC Relating to Rules Establishing Requirements for Electric Companies*, Docket UE-990473, General Order No. R-495 ¶ 26 (Dec. 3, 2001).

<sup>8</sup> *Id.* ¶ 25. The tariff provision is also overbroad. The Petitioners argue that it applies only to new service, but the language itself is not so limited.

<sup>9</sup> *Id.* ¶ 25.

cannot rely on Schedule 80 alone to support its position that Petitioners must pay to replace the Maloney Ridge Line.

- 19 Schedule 85 similarly fails to resolve this issue. That schedule “sets forth the circumstances, terms and conditions under which the Company is responsible for the ownership, installation, maintenance, repair or replacement of electric distribution facilities.”<sup>10</sup> The tariff, however, does not specify who is responsible for facility replacement costs. Schedule 85 requires the customer to pay construction costs for *new* facilities but does not expressly impose that obligation on replacement facilities. Technically, perhaps, replacement facilities are “new,” but the tariff provisions contemplate that new facilities will be used to provide new service to new customers. Those are not the circumstances presented here, and we do not construe these provisions to apply to replacement of facilities used to serve existing customers when the service will remain the same.<sup>11</sup>
- 20 We also do not agree with Petitioners’ interpretation of Schedule 85. Petitioners quote the tariff provision stating that PSE “shall own, operate, maintain and repair all electric distribution facilities installed by or for the Company under this schedule, including replacement of such facilities if necessary so long as such replacement is not inconsistent with this schedule or a contract governing such facilities.”<sup>12</sup> Petitioners contend that PSE specifies in the tariff when the customer must pay replacement costs, but PSE has identified no provision that expressly requires the Petitioners to pay those costs. Accordingly, the Petitioners conclude, the tariff requires PSE to be responsible for those costs.
- 21 The language the Petitioners quote is from subsection 1.A. of the Additional Terms of Service section of Schedule 85, under the subheading “OWNERSHIP OF FACILITIES.” The placement of this language indicates that PSE’s undertaking to own, operate, maintain, repair, and replace facilities is in the context of ownership and control of those facilities. This subsection does not mention payment responsibility, and we do not

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<sup>10</sup> Logen, Exh. LFL-7 at 4.

<sup>11</sup> We do not accept PSE’s argument that Petitioners are seeking a change to their existing service to a service of higher quality. Petitioners request only the same quality service they historically received before the line began to deteriorate. Such a request seeks to *restore* service quality, not to alter or enhance it. The service remains the same.

<sup>12</sup> Logen, Exh. LFL-7 at 15.



interpret that silence to reflect PSE's intent to pay all costs associated with these activities.

22 Nor does our interpretation change when we consider other provisions in Schedule 85 that specify customers' obligation to pay to replace facilities. The Petitioners cite subsection 1.B. of the Additional Terms of Service section, which provides that the owner of a mobile home park or multi-family residential structure owns, operates, and pays all costs for installation, repair, and replacement of underground service lines.<sup>13</sup> That language indicates that in all circumstances, the property owner pays the costs associated with those facilities.

23 PSE, however, treats cost recovery for electric distribution facilities differently depending on whether those facilities are constructed within or outside of the Company's distribution system.<sup>14</sup> The tariff does not specify whether PSE or the customer is responsible for the costs to replace electric distribution facilities because that will be determined based on the circumstances of each case. PSE's tariff thus does not resolve the issue before us.

### **Fact-Specific Analysis**

24 The Commission, therefore, undertakes a fact-specific analysis to determine who should be responsible for the costs to replace the Maloney Ridge Line. PSE advocates that we rely on the Commission's decision in a case involving a request for telecommunications service from a handful of customers who lived several miles from the existing network.<sup>15</sup> The Commission in that order found appropriate the company's petition for waiver of the line extension rule after "taking into consideration and carefully balancing all relevant factors."<sup>16</sup> PSE proposes that the Commission analyze the same factors and reach the same conclusion.

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<sup>13</sup> *Id.*

<sup>14</sup> Nightingale, TR 95:18 – 96:9.

<sup>15</sup> *In re Petition of Verizon Northwest Inc.*, Docket UT-011439, Twelfth Supp. Order (April 2003) (*Verizon*).

<sup>16</sup> *Id.* ¶ 69.

25 The *Verizon* order is illustrative of the appropriate fact-based analysis, but the order has limited applicability. The factors the Commission considered were specific to the applicable rule, industry, and facts in that case, which vary significantly from those at issue here. Those factors, the Commission explained, are

non-exclusive and non-mandatory. It is a list of factors likely to be at issue in a line extension, but not all of these factors will be significant in every case, and there may be other factors, not listed, that will be relevant in a particular case. The fundamental task before the Commission is to consider and weigh all relevant factors, in order to determine, under the rule and under RCW 80.36.090, whether an applicant is “reasonably entitled” to service from the local exchange company.<sup>17</sup>

Accordingly, we will use the analytical framework the Commission employed in *Verizon* as applied to the facts and circumstances of Petitioners’ request for replacement of the Maloney Ridge Line.

26 The most salient factors in this case are the nature of the facilities, the economics of replacing the line, and the customer impact. Analysis of those facts supports the conclusion that Petitioners should bear all costs to replace the line that exceed the investment amounts PSE would recover through the rates it will receive for providing service over that line.

27 *Nature of facilities.* PSE originally constructed the Maloney Ridge Line on behalf of GTE, which paid the entire construction costs. Petitioners contend that, once constructed, the line became part of PSE’s distribution system and should be replaced under the same terms and conditions the Company replaces other parts of that system. We disagree.

28 PSE has consistently treated the Maloney Ridge Line as an adjunct to, rather than a part of, its distribution system. The Company required GTE to pay not only all costs to construct the line but all ongoing repair and maintenance expenses as well – terms that do not apply to customers the Company serves using only its distribution system. The other Petitioners signed contracts to take service over that line under the same terms. As the contracts require, PSE has billed those customers separately for repair and maintenance costs. At no time did PSE formally or informally incorporate the line into the system it

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<sup>17</sup> *Id.* ¶ 17.

uses to provide service to its larger customer base. The line has always been a separate facility dedicated to Petitioners, not a part of PSE's distribution system.

29 Petitioners nevertheless claim that the rates they pay include recovery of the Company's network investment, repair, and maintenance costs, which necessarily includes the Maloney Ridge Line used to provide the service for which they pay. Their conclusion does not follow from their premise. PSE's rates recover more network and other costs to provide service to Petitioners than those associated with that line.<sup>18</sup> The actual costs to provide service to each customer in a class will vary, but all of those customers pay the same rates. Those rates are calculated to ensure that PSE recovers the costs to build and maintain its entire distribution system. That is the nature of regulatory cost recovery, not an indication that PSE considers a line extension to be part of that system. PSE's distribution system, therefore, does not include the Maloney Ridge Line.

30 *Economics.* The parties' disparate approaches to "economic feasibility" highlight the ambiguity and limited utility of that term. PSE and Staff maintain that the costs to replace the line vastly exceed the amount the Company would recover in the rates it charges Petitioners, even under the most wildly optimistic projections. Petitioners, on the other hand, argue that PSE could recover those costs from all Schedule 24 customers with only a *de minimus* 0.2 percent rate increase. Each approach is a legitimate means of determining economic feasibility, but we find that PSE and Staff have proposed the more appropriate economic analysis.

31 As we observe above, the Commission establishes PSE's rates for service based on the average costs the Company incurs to provide that service to a customer within a particular class. Such averaging, however, requires that a reasonable relationship exist between costs and rates. If the Company's costs to serve a particular customer vary too much from the class average, equitable cost sharing among similarly situated customers becomes unreasonable cross-subsidy. The costs to replace the Maloney Ridge Line represent just such a variation.

32 PSE estimates those costs would total \$5.3 million, of which the Company could expect to recover approximately \$335,000 through the rates it charges the four customers that obtain service using that line. Requiring other customers to pay the almost \$5 million difference for facilities they do not use is not reasonable. Petitioners' argument that each

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<sup>18</sup> Logen, Exh. LFL-9T at 4.

ratepayer would be responsible only for a small fraction of the total cost misses the point. Customers who do not cause costs should not be responsible for paying them, even if it is only a few cents. Those few cents, moreover, could become several dollars if PSE were required to recover the costs to construct all line extensions from all of the Company's customers. The Commission chooses not to travel down that road.

33 *Customer impact.* Petitioners assert that they depend on the Maloney Ridge Line for electric service that enables them to provide 911 and other public safety services and that there is a strong public interest in ensuring these services remain available. The Commission agrees. No one questions the importance of the services Petitioners provide. PSE is willing to replace the Maloney Ridge Line and to continue to provide electric service to Petitioners. The issue, however, is whether the public interest demands that PSE ratepayers, rather than Petitioners' customers and taxpayers, should pay for that replacement. We do not believe it does.

34 The importance of electric service to a customer (or to the customer's customers) is not a basis on which the Commission will determine who pays for that service or the facilities used to deliver it. Every PSE customer depends on electricity, and we are not willing to place a higher societal value on one customer's usage over another in this context. PSE serves other entities that provide vital public services, and each of those customers pays the costs the Company incurs to provide that customer's electric service. We will not relieve Petitioners of that same responsibility.

### **Commission Determination**

35 The weight of the relevant facts supports PSE's and Staff's position that Petitioners should pay the costs to replace the Maloney Ridge Line. The line is, and always has been, dedicated to Petitioners' use, yet the costs to replace it far exceed the amounts the Company can reasonably expect to recover from Petitioners in rates. The public interest in ensuring the availability of 911 and other vital public services does not justify shifting costs from Petitioners to PSE's other ratepayers.

36 Petitioners, however, should not be required to pay more than the costs they cause. Schedule 85 requires applicants for new installations to pay 100 percent of the construction costs less a margin allowance.<sup>19</sup> A margin allowance is designed to ensure

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<sup>19</sup> Logen, Exh. LFL-9T at 12:8-9.

“that customers in effect don’t double-pay for their distribution services.”<sup>20</sup> PSE calculates the amount Petitioners would receive in margin allowance for replacing the Maloney Ridge Line as “less than approximately \$20,000.”<sup>21</sup> At the same time, the Company calculates that “for replacement of the Maloney Ridge line to be considered economic, the Maloney Ridge customers would have to pay all costs in excess of \$335,000, approximately \$5 million, and continue with the current arrangement for payment of O&M costs.”<sup>22</sup>

37 The margin allowance in Schedule 85 is for new installations and thus by its terms is inapplicable to replacement of the Maloney Ridge Line. Nor will we extend that margin allowance to the replacement installation here. A margin allowance of less than \$20,000 would fall far short of ensuring that Petitioners do not “double-pay” PSE’s network costs when the Company has calculated it will recover \$335,000 of its costs for the line through the rates Petitioners will pay over the anticipated useful life of that facility. The Company should undertake replacement of the line to the full extent it would be economic to do so. If Petitioners elect that option, therefore, they must pay all costs to replace the line in excess of \$335,000, as well as all operating and maintenance costs under the same terms and conditions in the existing service agreements.

### **FINDINGS AND CONCLUSIONS**

38 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including investor-owned electric companies.

39 (2) The Commission has jurisdiction over the subject matter of, and parties to, this proceeding.

40 (3) The Maloney Ridge Line is an 8.5 mile underground electric distribution cable in the Snoqualmie National Forest that PSE constructed for GTE pursuant to a 1971 service agreement between the companies. The agreement required GTE to pay all construction costs for the line, as well as all ongoing operating expenses.

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<sup>20</sup> Logen, TR 48:24-25.

<sup>21</sup> Logen, Exh. LFL-9T at 12:14.

<sup>22</sup> Exh. BR-2 at 2.

- 41 (4) PSE connected three additional entities to the line, each of which executed a service agreement to pay for the line's operating costs. Petitioners comprise the four entities that currently obtain service from PSE using that line.
- 42 (5) The Maloney Ridge Line has experienced increasingly frequent failures in recent years, and annual repair costs now exceed \$200,000. The cost to replace the line in its entirety would be approximately \$5.3 million.
- 43 (6) The service agreements between PSE and each of the Petitioners do not require Petitioners to pay the costs to replace the line.
- 44 (7) The service agreements do not require PSE to replace the line.
- 45 (8) Schedules 80 and 85 do not require either the Company or Petitioners to pay the costs to replace the line.
- 46 (9) The Commission undertakes a fact-specific analysis to determine who should be responsible for the costs to replace the Maloney Ridge Line.
- 47 (10) The Maloney Ridge Line is dedicated to serving Petitioners and is an adjunct to, not part of, PSE's distribution system.
- 48 (11) Economic feasibility is an important factor in the Commission's fact-specific analysis, but whether the service PSE provides to Petitioners is economically unfeasible is not the sole basis for determining who should be responsible for the costs to replace the line.
- 49 (12) The costs to replace the line vastly exceed the amount the Company would recover in the rates it charges Petitioners.
- 50 (13) Other Schedule 24 customers should not pay to replace facilities dedicated to serving Petitioners, even if each of those customers would only experience a 0.2 percent increase in their current rates.

- 51 (14) The public interest in ensuring the availability of the 911 and other public safety services Petitioners provide does not require PSE ratepayers, rather than Petitioners' customers or taxpayers, to pay to replace the Maloney Ridge Line.
- 52 (15) PSE should not be required to pay the entire costs to replace the line but should be authorized to require Petitioners to pay only the costs in excess of the amount at which the service the Company provides using that line would be economic.
- 53 (16) If Petitioners elect to have PSE replace the Maloney Ridge Line, PSE should be authorized to require Petitioners to pay all costs in excess of \$335,000, as well as pay for all operating and maintenance expenses under the terms and conditions in the existing service agreements.

**ORDER**

THE COMMISSION ORDERS That

- 54 (1) Puget Sound Energy, upon request from King County, Washington, BNSF Railway, Frontier Communications Northwest Inc., Verizon Wireless, and New Cingular Wireless PCS, LLC, must replace the Maloney Ridge line extension currently used to provide electric service to those customers on the following conditions:
- (a) King County, Washington, BNSF Railway, Frontier Communications Northwest Inc., Verizon Wireless, and New Cingular Wireless PCS, LLC, must pay all construction costs of the line in excess of \$335,000; and
  - (b) King County, Washington, BNSF Railway, Frontier Communications Northwest Inc., Verizon Wireless, and New Cingular Wireless PCS, LLC, must pay for all operating and maintenance expenses for the line under the terms and conditions in the existing service agreements between each of those entities and Puget Sound Energy.

- 55 (2) The Commission otherwise denies the petition of King County, Washington, BNSF Railway, Frontier Communications Northwest Inc., Verizon Wireless, and New Cingular Wireless PCS, LLC.

Dated at Olympia, Washington, and effective August 18, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA  
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 20 days after the entry of this initial order to file a petition for administrative review (Petition). Section (3) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-825(4) states that any party may file an answer (Answer) to a Petition within 10 days after service of the petition.

WAC 480-07-830 provides that before the Commission enters 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. The Commission will not accept answers to a petition to reopen unless the Commission requests answers by written notice.

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 must serve on each party of record one copy of any Petition or Answer filed with the Commission, including proof of service as required by WAC 480-07-150(8) and (9). To file a Petition or Answer with the Commission, you must file an original and three copies of your petition or answer by mail delivery to:

Attn: Steven V. King, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250