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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of
PUGET SOUND ENERGY, INC.

Nos. UE – 011170 and UE -- 011163

MEMORANDUM OF CITY OF
TUKWILA IN SUPPORT OF PUBLIC
COUNSEL’S MOTION TO DISMISS

The City of Tukwila supports Public Counsel’s Motion to Dismiss. Tukwila joins in Public Counsel’s Motion and adopts the argument set forth in his Memorandum. In addition, offers the following support for the Motion to Dismiss:

1. PSE’s Filing Is Contrary To The Merger Order.

PSE is permitted to seek an increase in its rates at this time only under the six part standard for interim rate relief set out in *WUTC v. Pacific Northwest Bell Telephone Co.*, Cause No. U-72-30, Second Supplemental Order (October 1972). Under this standard, PSE’s filing is *prima facie* insufficient to support interim rate relief.

PSE bases its request for interim relief not upon its current financial condition, but on future price volatility in the power markets. (*See, e.g.* Testimony of W. Gaines at 3:16-17. “[S]wings in power costs can occur at any time due to factors beyond the Company’s control.”) In addition, PSE claims an “outlook” for a deteriorating financial condition. Testimony of D. Gaines at 8:18. It alleges that the current federal price caps and its inability to sell into the markets at high enough

1 prices to offset its power costs jeopardizes its ability to fund “projected” capital and O&M expenses.

2 *Id.* at 8:14-15.

3 PSE, however, fails to allege or prove that its current financial condition warrants interim
4 rate relief. The Commission will not grant interim rate relief “based on speculation.” *WUTC v.*
5 *Alderton-McMillin Water Supply, Inc.*, 1992 Wash. UTC LEXIS 76 at *15 (1992). PSE fails to
6 assert that it is unable to make principal payments on long term loans, pay its accounts payable,
7 make interest payments, or continue providing service to its customers. When a company so fails to
8 establish that it is currently in such “peril,” the Commission can appropriately deny interim rate
9 relief. *See, e.g., WUTC v. Alderton-McMillin Water Supply, Inc.*

10
11 As Public Counsel points out, PSE’s application is also deficient on its face because interim
12 rate relief is appropriate only in the context of a general rate case. Like Public Counsel, Tukwila has
13 not found a single case in which the Commission granted interim relief outside a general rate case.
14 PSE’ remedy is not to seek interim relief in a vacuum on a highly truncated record with inadequate
15 time for full investigation, but to seek any such needed relief as part of its general rate filing in
16 November.

17
18 **2. PSE’s Filing Is A Request For A Power Cost Adjustment, Not Interim Rate Relief, And**
19 **Must Be Considered In The Context Of A General Rate Case.**

20 PSE’s request for a power cost adjustment mechanism should be dismissed. A power cost
21 mechanism can have complex, unforeseen impacts on a utility’s revenues and returns. Such a
22 mechanism should not be approved on an expedited schedule as “interim relief” in isolation from a
23 full-scale general rate case.
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1 This is not PSE's first attempt to implement a power cost adjustment mechanism. The
2 history of its prior versions of a power cost tracker is instructive. In 1983, PSE implemented an
3 energy cost adjustment clause or "ECAC." *WUTC v. Puget Sound Power & Light Co.*, 1983 Wash.
4 UTC LEXIS 39 (1983). A few years later, the Commission ordered termination of the ECAC in part
5 because PSE failed to comply with the Commission's directive to quantify the impact of the ECAC
6 on the company's cost of capital. *WUTC v. Puget Sound Power and Light Co.*, 1990 Wash. UTC
7 LEXIS 21 (1990). In addition, the Commission found that the process was too complicated and
8 involved too many controversial adjustments. *WUTC v. Puget Sound Power & Light Co.*, 1995
9 Wash. UTC LEXIS 39 at *5 (1995).

11 In 1991, PSE sought and won approval for a periodic rate adjustment mechanism or
12 "PRAM." *WUTC v. Puget Sound Power & Light Co.*, 1991 Wash. UTC LEXIS 41 (1991). Four
13 years later, the Commission terminated the PRAM, concluding that the PRAM was "not
14 demonstrated to have been, on balance, an improvement over traditional ratemaking." *WUTC v.*
15 *Puget Sound Power & Light Co.*, 1995 Wash. UTC LEXIS 39 at *14 (1995).

17 In order to permit a full investigation of PSE's new proposed power cost adjustment
18 mechanism, Tukwila joins Public Counsel in urging the Commission to dismiss PSE's request.

19 **3. PSE Has Failed To Provide Adequate Notice To Its Customers.**

21 Tukwila strongly objects to PSE's failure to provide adequate notice to its customers about
22 the proposed rate increase. Public Counsel properly points out that PSE's "notice" to its customers –
23 which apparently consists only of an "EnergyWise" newsletter included with the bills – is woefully
24 inadequate. The "notice" fails to comport with the requirements of WAC 480-80-125. It is not
25 distinguished from other material included in the billing, but in fact is disguised as a newsletter.

1 The “notice” simply informs customers about the “volatile wholesale power markets” and
2 suggests that based on forecasted energy costs, “there could be a 17-18 percent increase in electric
3 rates.” Nothing informs the customer as to what average monthly increase can be expected in dollar
4 amounts or cents per kilowatt or provides information about how the customer can submit comments
5 or contact Public Counsel.
6

7 The Commission ordered PSE to provide proper notice to its customers. Until the Company
8 complies with the Commission’s directives, its request for interim rate relief should be dismissed.

9 DATED this 7th day of September, 2001.

10 PRESTON GATES & ELLIS LLP

11
12 By _____
13 Carol S. Arnold, WSBA # 18474
14 Attorneys for Petitioner City of Tukwila
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the Memorandum Of City of Tukwila In Support Of Public Counsel's Motion To Dismiss upon all parties of record in this proceeding, as follows:

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DATED: September 12, 2001.

Jo Ann Sunderlage
Secretary to Carol S. Arnold