



Rob McKenna

ATTORNEY GENERAL OF WASHINGTON

900 Fourth Avenue #2000 • Seattle WA 98164-1012

February 22, 2005

STATEMENT OF SIMON FFITCH, PUBLIC COUNSEL, IN SUPPORT OF HB 1800

Public Counsel represents telecommunications, gas, and electric consumers in rate cases and other adjudication cases before the Washington Utilities and Transportation Commission (WUTC).

HB 1800 addresses concerns about private bilateral settlement negotiations between the regulated utility and the Commission Staff which have led to a developing perception of unfairness in quasi-judicial WUTC proceedings. The reality is, once the Commission Staff and the utility company have reached an agreement on their own, the ability of other parties to later affect that agreement or the ultimate outcome of the case is significantly limited. The playing field is no longer level.

This bill proposes two solutions to this problem in the interests of fundamental fairness and in maintaining public confidence in utility regulation in Washington: (1) all parties will receive notice of settlement discussions involving the Commission Staff, and will have an opportunity to participate; and (2) a party who does not agree to the settlement nonetheless retains its right to present its case before the Commission.

This proposal is consistent with the Washington state policy of encouraging negotiated settlement in lieu of litigation reflected in the state Administrative Procedure Act (APA) and the Commission's own procedural rules. Ensuring full participation by all interested parties in what can often be the most critical phase of a regulatory adjudication will improve the quality, fairness, and balance of the final Commission decision.

Public Counsel has raised this concern at the Commission. In 2003, we proposed in formal rulemaking that all parties be included in settlement negotiations, but the proposal was not adopted.

The solutions proposed in the bill are workable. Similar rules have been successfully instituted in New York and Oregon. Here in Washington, Puget Sound Energy's 2001 general rate case settlement was a model for this approach. The settlement talks included approximately 30 different parties negotiating simultaneously on multiple sub-agreements. All parties had notice of all settlement meetings and the option to attend. All issues were ultimately resolved through settlement. Unfortunately, this approach has not been adopted in all cases.

The issues addressed by the bill are real and need to be resolved. The public's confidence in the fairness and impartiality of the Commission's decision making would be significantly improved if HB 1800 were adopted.



HOUSE TECHNOLOGY, ENERGY AND COMMUNICATIONS COMMITTEE
HB 1800: Requiring the UTC's Adjudicative Proceedings Be Open
February 22, 2005

What Is the Background for this Bill?

Consumer representatives appearing before the Washington Utilities and Transportation Commission (WUTC) have had an ongoing problem with the Commission's Staff conducting secret, bilateral negotiations with the regulated utility when the utility is appearing before the Commission in an adjudicatory proceeding, often general rate cases where the utility seeks to raise customer rates. The Commission has been approving these non-unanimous settlements over the objections of consumer representatives. Additionally, non-settling parties have been afforded only limited due process rights, limiting their ability to present a full case on the merits. In 2004 this happened twice in successive rate cases (*WUTC v. PacifiCorp*, UE-032065 and *WUTC v. Avista*, UG-041515).

In the *PacifiCorp* case, the Commission staff and the utility began discussions to settle a rate case without including other parties. Only after they had reached agreement in principle were others allowed to participate. The excluded parties were Industrial Customers of Northwest Utilities, Natural Resources Defense Council, Citizens' Utility Alliance of Washington, Public Counsel, and the Energy Project.

In the *Avista* case, the company and the Staff reached an agreement in principle less than a month after the initial filing and before any other party had an opportunity to intervene. They came to the prehearing conference having reached an agreement in principle. The other parties were the Northwest Industrial Gas Users, the Energy Project, and Public Counsel. After the prehearing conference, there were settlement discussions open to others, but no other party had yet conducted discovery. The Commission provisionally approved the settlement agreement, imposed interim rate increases and commenced an expedited procedural schedule, further compromising other parties' due process rights.

Also, last December, in a Qwest "unfiled agreements" case, Docket No. UT-033011, the WUTC issued an order asserting the right to either dismiss an intervenor that did not agree to a settlement negotiated in secret by the Commission Staff and Qwest, or to restrict the intervenor's right of participation so as to deny it a hearing and a decision on the merits. This was done notwithstanding the clear mandate in the state Administrative Procedure Act that no party may be forced to agree to a settlement.

What Does this Bill Do?

HB 1800 addresses these problems by requiring the Commission's staff to notify all parties to a proceeding prior to initiating settlement discussions and to allow all parties to participate fully. The bill also assures non-settling parties a minimum right to due process in a Commission adjudicative proceeding.

Why Not Request the WUTC Promulgate a Rule?

In the summer of 2003 during the Commission's procedural rulemaking (Docket No. A-01648), parties suggested the same all-party settlement requirement specified in HB 1800. This recommendation was resisted by the WUTC staff and rejected by the Commissioners when they approved the final version of the procedural rules. Chp. 480-07 WAC.

Reasons to Support HB 1800

1. The WUTC is tasked with protecting the public interest in its regulation of investor-owned utilities. The interest of the public is served in part through ensuring fair public processes. Fundamental fairness requires that all parties to a case receive notice and have an opportunity to participate in settlement discussions. This is consistent with the encouragement of alternative dispute resolution in the Washington state Administrative Procedure Act (APA) and the WUTC's rules.
2. Notice and an opportunity to participate in settlement discussions as they commence increase the chance of a global agreement, which is preferable to non-unanimous settlements that tend to require a lengthier process.
3. Bilateral settlements between WUTC Staff and the utility leave other parties feeling little practical hope of having their interests addressed.
4. Two recent success stories demonstrate that notifying all parties at the beginning of settlement discussions is feasible, productive and can yield strong agreements. In its 2001 and 2004 general rate cases, Puget Sound Energy notified all parties and encouraged their participation in settlement discussions from day one. The result: a global settlement with 32 parties in the 2001 case and an all-party agreement on a subset of issues in the 2004 case.
5. A non-unanimous settlement is analogous to parties taking a joint position. Parties that do not join a settlement should be allowed their due process rights to present a case on the merits, rather than be limited to simply commenting on the settlement agreement.
6. Adoption of HB 1800 would enhance confidence in the fairness and impartiality of decision-making at the WUTC.

Concerns that Opponents May Raise and Responses to Those Concerns

1. Settlement procedures are addressed in the Commission's administrative rules, the Washington Administrative Procedure Act, and prior Commission orders.

RESPONSE: The Commission has not required that settlement talks involving WUTC staff begin with notice and an opportunity for all parties to participate. The APA does not specifically address this issue, but it encourages alternative dispute resolution, which calls for notice and inclusion.

2. The bill restricts WUTC staff from having contact with a utility once an adjudicated proceeding has commenced and prior to any potential settlement discussions.

RESPONSE: HB 1800 focuses on the big picture of guaranteeing parties' due process rights to be notified of and participate in settlement discussions. The bill is not intended to prevent discussions between staff and the utility, as long as those discussions are not aimed at settling issues without other parties being notified and invited to participate.

3. The bill would preclude candid, informal discussions that foster settlements, and would lead to procedural delays.

RESPONSE: The bill requires initial notice and an opportunity for participation. It does not preclude normal interactions between parties once negotiations have begun, nor does it preclude parties from establishing rules of conduct for discussions among parties. Implementation of the bill would not extend the hearing process. For example, RCW 80.04.130 (1) requires the Commission to make a decision on a rate increase request from a public service company within 10 months – that statutory language does not change. Oregon and New York have administrative rules that require the type of notice provided by HB 1800. According to parties in those states, the rules work well, do not create delays, and lead to sustainable settlement agreements.

4. The provisions in HB 1800 could allow a party to derail a settlement.

RESPONSE: The bill clarifies parties' due process rights while allowing the Commission discretion to reasonably tailor them to a specific case, thus protecting against potential misuse of the process. Currently, the Commission must make an independent determination, in a written order based on the record, that a settlement is in the public interest. HB 1800 clarifies that in partial settlements, the Commission must address disputed issues raised by non-settling parties, thus improving the Commission's record for decision. This already happens (to differing extents) in contested settlement cases. Settling parties, and ultimately the Commission, should be able to justify every element of a settlement that raises objections.

5. This bill would prohibit the Commission from restricting participation of a non-settling party in a case.

RESPONSE: To protect parties' due process rights, the Commission's existing discretion would be reduced somewhat. The Commission can still limit the scope of a potential intervenor's involvement in an adjudicatory proceeding at the time the party initially appears and intervenes. Limiting a party's scope of involvement only after a non-unanimous settlement has been filed creates the appearance that the Commission is not seeking the best record upon which to base its decision but rather trying to eliminate dissent. HB 1800 preserves the due process rights of intervening parties while also requiring the Commission specifically address objections raised by parties that do not join a non-unanimous settlement agreement. Several state courts (e.g., in Illinois, Missouri and Kentucky) have declared state commission orders approving non-unanimous settlements to be unlawful if the commission did not hold a full hearing on the issues and did not make findings and conclusions based on substantial evidence.

6. HB 1800 is improperly limited to the WUTC and is in conflict with the APA provision allowing limitation of intervention.

RESPONSE: The bill is arguably consistent with this APA provision, and furthers the APA goal of ensuring fair administrative proceedings. Several APA provisions already have been modified for or made inapplicable to specific agencies, including the WUTC. Recent experience at the WUTC justifies some reasonable limitation on the agency's ability to limit intervention.



Rob McKenna

ATTORNEY GENERAL OF WASHINGTON

900 Fourth Avenue #2000 • Seattle WA 98164-1012

February 24, 2005

VIA First Class Mail

The Honorable Derek Kilmer
Vice Chair, House Technology, Energy, and Telecommunications
430 John L. O'Brien Building
P.O. Box 40600
Olympia, WA 98504-7802

Dear Representative Kilmer:

I wanted to follow up on my appearance before House TEC on Tuesday in support of HB 1800. You had asked about the Puget Sound Energy (PSE) rate case settlement experience. Both the 2001 and 2004 PSE general rate cases involved successful all-party settlements based on an inclusive process like that proposed in the bill. We believe these recent experiences contradict the assertions that adoption of the bill would be counterproductive to the settlement of WUTC cases.

In the 2001 rate case (Docket UE-011570 et al.) all issues were settled. In the 2004 rate case (Docket UE-040641 et al.) an inclusive process with notice to all parties was also used. Some of the issues were successfully settled, the remainder went to full hearing.

I have attached some excerpts from the Commission order approving the 2001 case settlement (the Twelfth Supplemental Order) which describe the successful settlement procedures used. The full documents are available from the WUTC website. The Commission's order "commend[s] the Company and the parties for their hard work and success in forging an agreement of impressive and unprecedented scope," Order, ¶ 8, and quotes Puget Sound Energy's supporting testimony that "the process will have lasting benefits for the Company and its customers because of the quality of the settlement achieved, the extensive communication that occurred regarding various interests and concerns, and the working relationships that have developed through the process." Order, ¶7.

Paragraphs 14 and 15 of the Order provide a description of the process itself, including the "extensive meetings, formal and informal data exchange, and negotiations, in a good faith effort to resolve the remaining issues." 32 parties signed the agreement, which was unopposed.

The settlement agreement itself (Appendix A to the Commission's Order, excerpt attached) also described the settlement process, which involved 11 different "collaborative" groups negotiating on discrete topic areas and reaching 11 separate stipulations on those issues which were incorporated in the full settlement. The settlement agreement noted that: "Parties have all had notice regarding when collaborative meetings were scheduled, and have had the option of choosing which meetings to attend." Settlement Stipulation, ¶6.



ATTORNEY GENERAL OF WASHINGTON

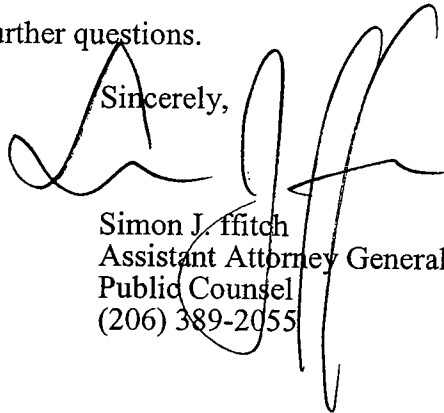
To: Representative Kilmer
Dated: February 25, 2005
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Since the Committee's hearing on February 22, Verizon Northwest's 2004 general rate case (Docket UT-040788) has also been settled, as to all issues, after a process in which all parties were given notice that settlement discussions were being initiated. All parties had the opportunity to participate. Virtually all did so, and all either signed, or stated they did not oppose the agreement. It is now pending before the Commission for approval.

Clearly, the process proposed in HB 1800 is not only workable, it has shown itself to be highly successful and productive in even the most complex Commission cases. Unfortunately, this approach has not been adopted consistently, with negative impacts on both fundamental fairness and public confidence in utility regulation in Washington. HB 1800 advances the public interest by making the inclusive approach available to parties in all Commission adjudication cases.

Feel free to contact me if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Simon J. Fitch', written over the typed name and title.

Simon J. Fitch
Assistant Attorney General
Public Counsel
(206) 389-2055

SJf:cjw
Enclosures

SERVICE DATE
JUN 20 2002

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,	)	DOCKET NO. UE-011570 and
	)	UG-011571 (consolidated)
)	
Complainant,	)	TWELFTH SUPPLEMENTAL ORDER:
	)	REJECTING TARIFF FILING;
v.	)	APPROVING AND ADOPTING
	)	SETTLEMENT STIPULATION
PUGET SOUND ENERGY, INC.,	)	SUBJECT TO MODIFICATIONS,
	)	CLARIFICATIONS, AND
Respondent.	)	CONDITIONS; AUTHORIZING AND
	)	REQUIRING COMPLIANCE FILING
.....)	

SYNOPSIS: The Commission approves and adopts an unopposed Settlement Stipulation as a reasonable resolution of Puget Sound Energy, Inc.'s request for a general increase in electric rates and other relief, and as a partial resolution of the Company's request for a general increase in gas rates. The Commission approves an overall 4.6 percent electric rate increase. The Commission also approves a power cost adjustment mechanism to enhance the Company's financial stability. Other provisions of the approved and adopted Settlement Stipulation include a one-year extension, through September 2003, of PSE's time-of-use (TOU) electricity pricing program, establishment of a new program to assist low-income PSE customers, increased commitment by PSE to electric and natural gas conservation, continuation and expansion of service quality performance standards, revision of PSE's tariff schedules that govern underground conversion of distribution facilities, and revisions to PSE's line extension and backup distribution services tariff schedules.

PROCEEDINGS. On November 26, 2001, Puget Sound Energy, Inc. ("PSE" or the "Company") filed tariff revisions designed to effectuate a general rate increase for electric and gas services. On December 3, 2001, PSE filed a request for an interim electric rate increase. These proceedings were consolidated under Docket Nos. UE-011570 and UG-011571. The Commission established procedural schedules for an interim phase (electric) hearing and general rate phase (electric and gas) hearing.

2 The Commission approved and adopted an unopposed Settlement Stipulation on
March 28, 2002, to resolve the interim phase of these proceedings.¹ The interim
settlement agreement included commitments by the parties to conduct further
settlement negotiations via a series of collaboratives and stipulations among the
parties to certain facts pertinent to the determination of final rates.

3 On April 19, 2002, PSE filed on behalf of itself and one other party, King County, a
proposed "Stipulation of Settlement for King County." PSE and King County filed a
revised Stipulation later on May 6, 2002, which the Commission approved.²

4 On June 6, 2002, PSE filed on behalf of itself and other parties a "Settlement
Stipulation for Electric and Common Issues and Application for Commission
Approval of Settlement" ("Settlement Stipulation"). The proposed Settlement
Stipulation is unopposed by any party.

5 **PARTIES.** Markham Quehrn and Kirstin Dodge, Perkins Coie LLP, Bellevue,
Washington, represent Puget Sound Energy, Inc. John A. Cameron and Traci
Kirkpatrick, Davis Wright Tremaine, represent AT&T Wireless and the Seattle Times
Company. Danielle Dixon, Policy Associate, Northwest Energy Coalition, represents
that organization and the Natural Resources Defense Council. Carol S. Arnold,
Preston Gates Ellis, Seattle, Washington, represents Cost Management Services, Inc.,
and the cities of Auburn, Des Moines, Federal Way, Redmond, Renton, SeaTac,
Tukwila, Bellevue, Maple Valley, and Burien ("Auburn, *et al.*"). Ron Roseman,
attorney at law, Seattle, Washington, represents the Multi-Service Center, the
Opportunity Council, and the Energy Project; Charles M. Eberdt, Manager, Energy
Project also entered his appearance for the Energy Project; Dini Duclos, CEO, Multi-
Service Center, also entered an appearance for that organization. Angela L. Olsen,
Assistant City Attorney, McGavick Graves, Tacoma, Washington, represents the City
of Bremerton. Donald C. Woodworth, Deputy Prosecuting Attorney, Seattle,
Washington, represents King County. Melinda Davison and S. Bradley Van Cleve,
Davison Van Cleve, P.C., Portland, Oregon, represent Industrial Customers of

¹ *WUTC v. PSE, Docket Nos. UE-011570/UG-011571 (consolidated), Ninth Supplemental Order (March 28, 2002).*

² *WUTC v. PSE, Docket Nos. UE-011570/UG-011571 (consolidated), Eleventh Supplemental Order (May 6, 2002).*

Northwest Utilities. Elaine L. Spencer and Michael Tobiason, Graham & Dunn, Seattle, Washington, represent Seattle Steam Company. Edward A. Finklea, Energy Advocates, LLP, represents the Northwest Industrial Gas Users. Donald Brookhyser, Alcantar & Kahl, Portland, Oregon, represents the Cogeneration Coalition of Washington. Michael L. Charneski, Attorney at Law, Woodinville, Washington, represents the City of Kent. Norman J. Furuta, Associate Counsel, Department of the Navy, represents the Federal Executive Agencies ("FEA"). Michael L. Kurtz, Boehm, Kurtz & Lowry, Cincinnati, Ohio, represents Kroger Company. Kirk H. Gibson and Lisa F. Rackner, Ater Wynne LLP, Portland, Oregon, represent WorldCom, Inc. Elizabeth Thomas, Preston Gates Ellis LLP, Seattle, Washington, represents Sound Transit. Harvard M. Spigal and Heather L. Grossman, Preston Gates and Ellis LLP, Portland, Oregon, represent Microsoft Corporation. Simon ffitch, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section, Office of Attorney General. Robert D. Cedarbaum, Senior Assistant Attorney General, and Shannon Smith, Assistant Attorney General, Olympia, Washington, represent the Commission's regulatory staff (Staff).³

6 **COMMISSION:** The Commission approves and adopts the unopposed Settlement Stipulation, with certain modifications, clarifications, and conditions, as a full and final resolution of the remaining issues in Docket No. UE-011570 and of certain issues in Docket No. UG-011571. The Commission incorporates the Settlement Stipulation by reference and makes it a part of this Order. *Appendix A, infra*. The Commission authorizes and requires PSE to make any compliance filings required to effectuate the terms of the Settlement Stipulation and this Order.

MEMORANDUM

I. Introduction.

7 This Order marks the culmination of significant efforts by the parties, and by the Commission, to help restore the financial integrity of one of Washington State's major electric utilities, and to help ensure that PSE's customers continue to receive

³ In formal proceedings, such as this case, the Commission's regulatory staff (Staff) functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an "ex parte wall" separating the Commissioners, the presiding ALJ, and the Commissioners' policy and accounting advisors from all parties, including Staff. *RCW 34.05.455*.

reliable electric service at reasonable rates. Ms. Kimberly Harris, PSE's Vice-President of Regulatory Affairs, testified that:

The parties' ability to reach agreement is a significant accomplishment that required an extraordinary commitment on behalf of the parties and their representatives, that in many respects required more effort than would be required for resolution of a rate case through litigation. I believe that the process will have lasting benefits to the Company and its customers because of the quality of the settlement achieved, the extensive communication that occurred regarding various interests and concerns, and the working relationships that have developed through this process. The Company looks forward to continuing to work collaboratively with its customers on many more issues into the future.

Exhibit No. 530 at 2.

8 As we stated in our Ninth Supplemental Order in this proceeding, the Commission is encouraged by the approach of the Company's new management in meeting its public service obligation, which includes the obligation to improve PSE's financial condition and restore the Company's financial vitality. Steps taken or to be taken by PSE both as a result of the terms of settlement, and independently, demonstrate the Company's commitment to building and maintaining greater financial strength on a prospective basis. We commend the Company and the parties for their hard work and success in forging an agreement of impressive and unprecedented scope. Both the Company and its customers will benefit from the agreement we approve today and from continuing constructive collaborative efforts.

II. Background and Procedural History.

9 PSE filed a general rate case on November 26, 2002. The Company sought by its filing permanent increases in both electric and gas rates in the amounts of \$228.3 million per year and \$85.9 million per year, respectively, for an aggregate amount of \$314.2 million. On December 3, 2001, PSE filed both a Petition for Interim Rate Relief and an Electric Tariff Filing in Advice No. 2001-51. The Company sought by that filing to implement a temporary rate increase, subject to refund, to obtain immediate rate relief in the amount of \$170.7 million. PSE requested the Commission to approve Tariff Schedule 128, which would implement an Electric Energy Cost Surcharge rate of \$1.4568¢ per kWh.

10 Both the interim and general rate filings were docketed as Nos. UE-011570 and UG-011571.⁴ The Commission convened a prehearing conference in these proceedings on December 20, 2001, in Olympia, Washington, before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, Commissioner Patrick J. Oshie, and Administrative Law Judge Dennis J. Moss. The dockets were consolidated by the Commission's Second Supplemental Order: Prehearing Conference, entered on December 28, 2001. A procedural schedule for both the interim and general phases of these proceedings was set by the Second Supplemental Order, as later amended by the Commission's Fifth and Seventh Supplemental Orders.

11 The Commission conducted evidentiary hearings on the interim rate issues in Olympia from February 18, 2002, through February 22, 2002. The Commission heard public testimony in Olympia on the issues related to interim rate relief on February 21, 2002. The parties requested several continuances of the date established for filing briefs (*i.e.*, March 1, 2002) to permit them an opportunity to conduct settlement negotiations with the assistance of Administrative Law Judge C. Robert Wallis as mediator.

12 On March 20, 2002, Puget Sound Energy, Inc., the Commission's regulatory staff, Public Counsel, Industrial Customers of Northwest Utilities, Northwest Industrial Gas Users, Kroger Co., AT&T Wireless, Northwest Energy Coalition, Natural Resources Defense Council, and Seattle Steam Company filed a partial settlement in Docket Nos. UE-011570/UG-011571. These parties requested that the Commission enter an order by March 29, 2002, approving and adopting the settlement agreement as a full and final resolution of the interim rate issues, as a resolution of certain other issues pending in Docket Nos. UE-011570/UG-011571, and as full and final resolution of all issues pending in Docket No. UE-011411.⁵ The Commission conducted an evidentiary hearing on the proposed settlement agreement on March 25, 2002, and entered its Ninth Supplemental Order approving and adopting the settlement agreement on March 28, 2002.

⁴ In a related filing, Docketed as No. UE-011600, PSE petitioned for an order authorizing the deferral of a portion of the Company's electric energy supply costs. The Commission entered its Order Granting Accounting Petition on December 28, 2001.

⁵ On October 8, 2001, the Public Counsel Section of the Attorney General's Office filed with the Commission a complaint against PSE in Docket No. UE-011411. The complaint alleges that PSE violated the Commission's Fourteenth Supplemental Order in the Puget/WNG Merger proceeding (Docket No. UE-960195) and the Rate Plan in the underlying merger settlement by failing to transfer the prior Bonneville Power Administration residential exchange credit to general rates on July 1, 2001.

- 13 On April 19, 2002, PSE filed on behalf of itself and King County a proposed Stipulation of Settlement for King County. On April 26, 2002, Commission staff filed comments to which it appended a document captioned "PSE-Staff Stipulation Regarding PSE's King County Settlement." On May 6, 2002, following hearing proceedings, PSE and King County filed and presented for the Commission's consideration a revised Stipulation of Settlement. On May 6, 2002, the Commission, by its Eleventh Supplemental Order, approved and adopted the settlement between PSE and King County and the related Stipulation between PSE and Staff.
- 14 Pursuant to the settlement agreement we approved by our Ninth Supplemental Order, the parties conducted a series of collaboratives during April and May, 2002. According to the Settlement Stipulation now before us, this involved "extensive meetings, formal and informal data exchange, and negotiations, in a good faith effort to resolve the remaining issues in dispute in the electric General Rate Case and common issues in dispute in the gas General Rate Case." *Stipulation at 3.*
- 15 On June 6, 2002, PSE filed a "Settlement Stipulation for Electric and Common Issues and Application for Commission Approval of Settlement." On June 7, 2002, several parties filed testimony in support of the Settlement Stipulation. The Settlement Stipulation is signed by 32 of the 34 parties to this proceeding and is unopposed by any party.⁶ The Commission conducted prehearing proceedings on the proposed settlement on June 11, 2002, and evidentiary hearing proceedings on June 13, 14, and 17, 2002. The Commission held a public comment hearing on June 13, 2002.

⁶ The so-called Participating Parties include PSE, the Commission's regulatory staff, the Public Counsel Section of the Attorney General's Office ("Public Counsel"), Industrial Customers of Northwest Utilities ("ICNU"), Kroger Company, Northwest Industrial Gas Users ("NWIGU"), AT&T Wireless Services ("AT&T"), Microsoft Corporation, WorldCom, Inc., Seattle Steam Company, Northwest Energy Coalition ("NWECC") jointly with Natural Resources Defense Council ("NRDC"), Multi-Service Center jointly with Opportunity Council and Energy Project, Cost Management Services, Inc., Federal Executive Agencies, Cogeneration Coalition of Washington, King County, Sound Transit, and the Cities of Auburn, Bremerton, Bellevue, Burien, Des Moines, Federal Way, Kent, Maple Valley, Redmond, Renton, SeaTac, and Tukwila. Although Cogeneration Coalition of Washington is listed as a Participating Party, it is not a signatory to the Settlement Stipulation. Seattle Times Company is neither a Participating Party nor a signatory to the Settlement Stipulation, but does not oppose its approval.

1 Parties that did not execute the Conservation and Low Income Issue Agreements agree not to
2
3 oppose those Issue Agreements.
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5 **II. PROCEDURAL BACKGROUND**

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7 4. On November 26, 2001, PSE filed tariff revisions designed to effectuate a
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9 general rate increase for electric and gas services (the "General Rate Case"). On December 3,
10
11 2001, PSE filed a request for an interim electric rate increase of \$170.7 million (the "Interim
12
13 Rate Case"). These proceedings were consolidated under Docket Nos. UE-011570 and UG-
14
15 011571.
16

17 5. The Interim Rate Case and a number of issues related to the General Rate Case
18
19 were settled through the Settlement Stipulation and Application for Commission Approval of
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21 Settlement dated March 20, 2002 ("March Interim Settlement"), which was filed in the above
22
23 referenced dockets on that date. On March 28, 2002, the Commission approved the March
24
25 Interim Settlement in its Ninth Supplemental Order: Rejecting Tariff Filing; Approving and
26
27 Adopting Settlement Stipulation; Authorizing and Requiring Compliance Filing ("Ninth
28
29 Supplemental Order").
30

31 6. Since late March 2002, the parties that participated in the March Interim
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33 Settlement and other parties to the General Rate Case have been engaged in a collaborative
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35 process involving extensive meetings, formal and informal data exchange, and negotiations, in
36
37 a good faith effort to resolve the remaining issues in dispute in the electric General Rate Case
38
39 and common issues in dispute in the gas General Rate Case. In order to assist the parties in
40
41 allocating their resources, the collaborative process was divided by topic as follows: Power
42
43 Cost Adjustment mechanism (PCA); Revenue Requirements; Electric Rate Spread; Electric
44
45 Rate Design; Time of Use (TOU); Conservation; Low Income; Electric Line Extension;
46
47 Relocation and Underground Conversions (Cities); Service Quality Index (SQI); and Backup

1 Distribution Service (Schedule 459). Parties have all had notice regarding when collaborative
2 meetings were scheduled, and have had the option of choosing which meetings to attend.
3

4 7. As agreement was reached among parties participating in a collaborative as to
5 a particular topic, the parties involved in the collaborative memorialized and executed the
6 terms of the agreement as to that topic ("Issue Agreement"). The Issue Agreements are
7 attached to this Settlement Stipulation, as described below, and are incorporated herein by
8 reference.
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13

14 III. SETTLEMENT AND 15 REQUEST FOR APPROVAL 16

17 A. Settlement of Disputed Issues in the General Rate Case and Request for 18 Approval 19 20

21 8. All disputed electric and common issues in the General Rate Case have been
22 settled on the terms set forth in the attached Issue Agreements, as follows:
23

24 Exhibit A: Settlement Terms for the Power Cost Adjustment mechanism
25 (PCA);
26

27 Exhibit B: Settlement Terms for Electric Revenue Requirements, Common
28 Cost Allocation, and Overall Rate of Return
29

30 Exhibit C: Settlement Terms for Electric Rate Spread
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32 Exhibit D: Settlement Terms for Electric Rate Design
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34 Exhibit E: Settlement Terms for Time of Use (TOU)
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36 Exhibit F: Settlement Terms for Conservation
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38 Exhibit G: Settlement Terms for Low Income
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40 Exhibit H: Settlement Terms for Electric Line Extensions
41

42 Exhibit I: Settlement Terms for Relocation and Underground Conversions
43 (Cities)
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