

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION  
COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

DOCKET NO. UG-110723

**REPLY BRIEF OF PUBLIC COUNSEL**

**January 6, 2012**

## I. INTRODUCTION

1. Public Counsel submits this brief in reply to the Initial Brief of Puget Sound Energy, Inc. (PSE Brief), filed in this docket on December 16, 2011.

2. All of the major arguments made in PSE's Brief have been addressed in the Initial Brief of Public Counsel (Public Counsel Brief). As a result, there is no need to repeat the points made earlier. This reply will be limited to addressing a few PSE assertions that merit an additional response.

## II. PUBLIC COUNSEL REPLY TO PSE INITIAL BRIEF

3. Public Counsel rejects any suggestion that its position in this case reflects a lack of concern for safety or a short-sighted defense of the status quo. Public Counsel believes that public safety is a paramount concern of public policy generally, and of customers specifically, as well as a fundamental part of PSE's public service obligation. PSE should accelerate its pipeline replacement program, if it is determined to be necessary and prudent, and should be allowed to recover those costs in general rates. Nothing prevents PSE from undertaking any needed accelerated pipeline replacement now, on its own or in collaboration with the Commission Pipeline Safety staff. Alternatively, the Commission can order such an approach if necessary, as it has done for cast-iron and bare steel pipe. Public Counsel would support this proven approach to safety improvement and cost recovery.

4. PSE cites a letter received from the Citizens Advisory Committee on Pipeline Safety (Citizens Committee) as implicit support for the Pipeline Integrity Program (PIP), stating that "[p]ublic advocates have also expressed support for a consensus approach to accelerating vintage

pipe replacement.”<sup>1</sup> PSE asserts that the PIP is designed to achieve this desired consensus. PSE’s discussion of the letter is incomplete. The Citizens Committee does not specifically endorse the PIP and makes a point of acknowledging that “this filing represents a rate policy discussion that is beyond our scope of knowledge and responsibility.”<sup>2</sup> Moreover, while the Citizens Committee supports a consensus approach, the PIP is not based on consensus. Every aspect of the PIP has been questioned by the Commission Staff and the customer representatives in this case.

5. The record of this case establishes clearly that investment by PSE in accelerated pipeline replacement, and recovery for that investment, can occur without the PIP. The PIP proposal, on the other hand, provides no guarantee or commitment that the accelerated replacement desired by the Citizens Committee would occur. The Company has offered no specific evidence that it would do anything more under the PIP than already planned and budgeted<sup>3</sup> and has offered no means for the Commission to measure safety improvement caused by the PIP.<sup>4</sup>

6. Despite this lack of evidence, PSE argues that the “enhanced pipeline safety” that would ostensibly result from the PIP easily outweighs any minimal rate impact on individual customer bills.<sup>5</sup> This argument is not well-taken. Many components of PSE’s revenue requirement amount to only a few cents per month on each customer’s bill. Yet, it has never been true in ratemaking that, if a rate impact can be characterized as *de minimis*, cost recovery

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<sup>1</sup> PSE Brief, ¶ 5, citing Exh. No. BE-1 at 3-5 (public comments). The letter is at page 5.

<sup>2</sup> Exh. No. BE-1 at 5.

<sup>3</sup> Public Counsel Brief, ¶¶ 33, 91-93.

<sup>4</sup> Public Counsel Brief, ¶¶ 85-89.

<sup>5</sup> PSE Brief, ¶ 42. According to PSE, the rate increase for a typical residential customer is initially expected to average 16 cents per month

rules no longer apply. All costs included in rates must be lawful and consistent with ratemaking methodology and policy principles. Even at the initial level proposed, the PIP would be a \$16 million annual program, hardly *de minimis* for ratepayers in the aggregate. Since the PIP proposal is open-ended, the surcharge could also be significantly larger in future, depending on the direction the program takes.<sup>6</sup>

7. PSE's Brief continues the Company's practice of citing "recent pipeline explosions...around the country" in an effort to create a sense of urgency around its PIP proposal.<sup>7</sup> As Public Counsel's Brief discusses, PSE has not presented any evidence that links the California or Pennsylvania accidents to conditions in PSE's system or to the specifics of the PIP proposal.<sup>8</sup>

8. Public Counsel's Brief contains an error. The brief mistakenly stated that PSE witness Duane Henderson mentioned the California and Pennsylvania pipeline accidents in his rebuttal testimony.<sup>9</sup> Mr. Henderson did not make such a reference in written testimony. At the hearing, however, he defended PSE's use of the references.<sup>10</sup>

### III. CONCLUSION

9. The PIP offers PSE customers the certainty of added charges and PSE investors the

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<sup>6</sup> Public Counsel Brief, ¶¶ 90-91.

<sup>7</sup> PSE Brief, ¶ 13. In addition, for the first time in the case, PSE refers to a third-party caused accident involving plastic pipe in Avista's service territory, providing detailed facts about the incident and the Commission investigation. PSE Brief, ¶ 32. The relevance of this incident is unclear. If caused by third-party action, it is not obvious that pipe replacement beforehand would have avoided the accident. In any event, PSE's brief improperly relies on evidence that is not in the record. No PSE witness previously cited this incident, and it was mentioned only in passing by Mr. Lykken in oral testimony in generally. PSE has not requested that official notice be taken regarding any order or other document from the investigation docket cited. No party has had an opportunity to conduct discovery or examine any witness to determine how to address PSE's assertions regarding the accident. Accordingly, Public Counsel requests that the Commission give no weight to ¶ 32.

<sup>8</sup> Public Counsel Brief, ¶¶ 55-58.

<sup>9</sup> Public Counsel Brief, ¶ 55.

<sup>10</sup> Henderson, TR. 167:9-168:5.

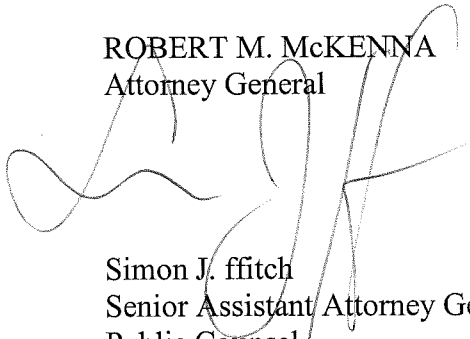
certainty of improved returns. At the same time, the program offers no certainty that public safety will be enhanced in any determinable manner. PSE has failed to carry its burden of proof. The proposal is poorly supported, poorly designed, and is contrary to fundamental ratemaking policy and law.

10. Should the Commission wish to encourage PSE to pursue more pipeline replacement, Public Counsel recommends consideration be given to establishing a Staff investigation. If it is determined that conditions in PSE's system warrant it, a program similar to the cast-iron or bare steel program could be implemented to make system improvements, with cost recovery through general rates.<sup>11</sup>

11. For the foregoing reasons, and those stated in the initial brief, Public Counsel recommends that the Commission reject PSE's PIP proposal.

12. DATED this 6<sup>th</sup> day of January, 2012.

ROBERT M. McKENNA  
Attorney General



Simon J. Ffitch  
Senior Assistant Attorney General  
Public Counsel

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<sup>11</sup> As well as following existing Washington practice, this would be similar in framework to the approach of the Maryland Public Service Commission in the *Washington Gas Light* case, approving accelerated pipe replacement, but ordering that recovery occur through general rates. Public Counsel Brief, ¶¶ 12-14.