

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY, INC.

Respondent.

DOCKET NO. UG-110723

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**REPLY BRIEF OF THE NORTHWEST INDUSTRIAL GAS USERS**

January 6, 2012

## I. INTRODUCTION

1. Puget Sound Energy, Inc. (“Puget” or “Company”) begins its opening brief with a plea for the other parties and the Commission to “recognize the significant public benefits of the PIP and work collaboratively with PSE as needed to achieve consensus on the proposal.”<sup>1</sup> As the Northwest Industrial Gas Users (“NWIGU”) has consistently stated, NWIGU and its members are wholly aligned with Puget and the Commission on a shared goal of public safety.<sup>2</sup> Puget’s filing and the record in this matter, however, fail to demonstrate any tangible, quantifiable benefit to ratepayers sufficient to justify approval of the proposed tariff. Put more simply, Puget has failed to demonstrate the “significant public benefits” it wants the other parties to accept. If and when Puget comes before the Commission with an actual analysis of the costs and benefits of an accelerated pipeline replacement program, NWIGU and other parties will be more likely to work with Puget to achieve consensus on a proposal that will result in quantifiable benefits to the Company and its customers.

## II. REPLY TO SPECIFIC ARGUMENTS IN PUGET’S OPENING BRIEF

2. In support of its proposal to authorize the PIP, Puget raises several issues which NWIGU and the other parties have already addressed.<sup>3</sup> For example, Puget asserts that the PIP is necessary because “traditional ratemaking encourages utilities to replace pipe that is necessary to maintain a safe system – no more and no less.”<sup>4</sup> To the contrary, the record demonstrates clearly that, through the traditional ratemaking process, Puget has gone beyond, and will continue to go beyond, minimum safety requirements. Indeed, even Puget’s Opening Brief concedes that “PSE has already gone beyond minimum pipeline safety

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<sup>1</sup> Initial Brief of Puget Sound Energy, Inc. (“Puget’s Opening Brief”) at ¶2.

<sup>2</sup> See, e.g. Initial Post Hearing Brief of the Northwest Industrial Gas Users (“NWIGU’s Opening Brief”) at ¶1.

<sup>3</sup> Because NWIGU’s Opening Brief already addressed most of the arguments raised in Puget’s Opening Brief, and in order to avoid building a record for the Commission that is full of redundant arguments, this reply brief will not restate fully the arguments set forth in NWIGU’s Opening Brief. Instead, NWIGU incorporates the points and authorities in NWIGU’s Opening Brief by this reference as if stated fully herein.

<sup>4</sup> Puget’s Opening Brief at ¶18.

requirements to ensure the safety and reliability of its pipeline system in a cost-effective and efficient manner.”<sup>5</sup>

3. A consistent weakness in the arguments Puget presents is Puget’s failure to apply those arguments to its own factual situation. For example, Puget’s Opening Brief claims broadly that “*utilities* are discouraged from investing in pipeline replacement” under the traditional ratemaking structure,<sup>6</sup> but the record does not reflect – nor does Puget’s Opening Brief assert – that *Puget* has been discouraged from investing in pipeline replacement under the traditional ratemaking structure. Similarly, Puget’s Opening Brief asserts that other states “have recognized the appropriateness of adjusting traditional ratemaking methods when existing mechanisms are inconsistent with and undermine modern energy policy goals such as pipeline safety.”<sup>7</sup> Yet, Puget does not attempt to demonstrate that the traditional ratemaking method in Washington is inconsistent with or undermines Washington’s pipeline safety goals.

4. One issue raised in Puget’s Opening Brief not addressed in NWIGU’s Opening Brief relates to whether the PIP would violate the Used and Useful Doctrine. As explained in the opening briefs submitted by Public Counsel and Commission Staff, Washington law mandates that utility company plant costs may be included in rates only if the plant is “used and useful” to provide the utility’s service to its customers.<sup>8</sup> The State Supreme Court, applying the Used and Useful Doctrine set forth in RCW 80.04.250, has rejected the Commission’s attempts to allow a utility to include uncompleted plant in that utility’s rate base.<sup>9</sup>

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<sup>5</sup> Puget’s Opening Brief at ¶40.

<sup>6</sup> Puget’s Opening Brief at ¶17 (emphasis added).

<sup>7</sup> Puget’s Opening Brief at ¶16.

<sup>8</sup> RCW 80.04.250.

<sup>9</sup> See *People’s Org. For Washington Energy Res. (Power) v. State of Wash. Utilities & Transp. Comm’n*, 101 Wash. 2d 425, 430 (1984) (“Obviously, an uncompleted utility plant is neither employed for service nor capable of being put to use for service; therefore, such a plant is not ‘used and useful’ for service as required by RCW 80.04.250. . . .”).

5. The surcharge proposed in the PIP is based on the recovery of a forecasted investment. Specifically, the revenue deficiency for the PIP is based on an “incremental investment” that Puget defines as “new investment in PIP plant that *will be put into service from the end of the most recent test year.*”<sup>10</sup> Thus, by its very design, the PIP surcharge recovers investment on uncompleted plant and, therefore, attempts to recover investment on plant that is not “used and useful” in contravention to statute. The Commission cannot approve such a recovery mechanism.<sup>11</sup>

### III. CONCLUSION

6. Despite Puget’s insinuation to the contrary, neither NWIGU nor any other party to this proceeding objects to Puget’s stated goal of finding ways to increase the safety of Puget’s system. The question before the Commission is not whether increased safety should be a goal. Rather, the question before the Commission is whether Puget has met its burden of demonstrating that the extraordinary measure it seeks is necessary or appropriate for achieving that goal. In the face of Puget’s own admission that it can and will go beyond minimum safety standards under the traditional ratemaking process, and in the absence of a full analysis of the costs and benefits of Puget’s PIP proposal, the record simply cannot support a decision by the Commission to approve the PIP.

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<sup>10</sup> Exhibit No. JHS-1T at 4:1-6 (emphasis added).

<sup>11</sup> In further reply to Puget’s claim that the PIP does not violate the Used and Useful Doctrine, NWIGU incorporates by this reference the arguments of Public Counsel and Commission Staff in their opening briefs as if stated fully herein.

7. For these reasons, and the reasons set forth in the briefs from Commission Staff and Public Counsel, the Commission should reject Puget's implementation of the proposed PIP.

Dated in Portland, Oregon, this 6<sup>th</sup> day of January, 2012.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C. Stokes', with a long horizontal flourish extending to the right.

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**CERTIFICATE OF SERVICE**  
**Docket No. UG-110723**

**SERVICE LIST**

I hereby certify that a true and correct copy of the electronic filing of the Reply Brief of Northwest Industrial Gas Users was sent to each of the parties of record shown below, via electronic mail on January 6, 2012

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DATED: January 6, 2012



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