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August 24, 2015

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

**Re: Comments of Puget Sound Energy, Inc. on Rulemaking
to Consider Adoption of Rules to Implement RCW 80.54,
Relating to Attachments to Transmission Facilities
Docket No. U-140621**

Dear Mr. King:

Puget Sound Energy, Inc. (“PSE”) thanks the Washington Utilities and Transportation Commission (“Commission” or “UTC”) for this opportunity to provide comments on proposed rules to implement RCW 80.54 relating to attachments to transmission facilities (“proposed rules”). PSE also appreciates the tremendous amount of work put forth in soliciting stakeholder input and drafting these new rules. However, PSE is compelled to take a strong position for the sake of our electric customers¹ and the impact of the rules as currently drafted. PSE does not support the adoption of the proposed rules because they do not currently provide a superior alternative to existing federal rules. In fact, the proposed rules are worse than the existing federal rules. In addition, the proposed rules have not incorporated important previous PSE comments, and will create process changes that could further strain existing working relationships with pole attachers. Simply adopting the existing federal rules would be preferable to the current UTC proposed rules.

From the beginning of this rulemaking process, PSE has emphasized that any change to existing rules governing pole attachments should:

- Prioritize the safety and reliability of the electric system over expediency for attachers (“licensees”, “occupants” and “requesters” in the proposed rules)
- Not deviate beyond the Federal Communications Commission (“FCC”) rules governing pole attachments and thereby set new precedents

¹ The current process for recovery of pole attachment revenues and expenses is that costs and revenues are included in base rates in a general rate case and therefore are ultimately borne and received by PSE customers. PSE is very concerned that the current draft rules as proposed will simultaneously increase costs and decrease revenues that will ultimately impact PSE’s customers.

The current proposed rules fall short on both counts. The proposed rules do not adequately consider the robust federal rulemaking process conducted by the FCC, subsequent federal court decisions, or comments from PSE in previous drafts. Should the UTC proceed with the development of its own set of rules, PSE requests that the UTC continue to refine the current proposed rules to better balance the interests of the pole owners with attachers to ensure safety and reliability of the electric distribution system and to avoid setting negative precedents beyond what the FCC or any other state has adopted.

Setting a Negative Precedent

WAC 480-54-010(2) states that *“the commission will consider the FCC orders promulgating and interpreting its pole attachments rules and federal court decisions reviewing those rules and interpretations as persuasive authority in construing the provisions in this chapter.”*

In several areas, the current draft rules do not adequately consider or provide sufficient justification to promulgate rules beyond the FCC rulemaking process and federal court decisions to establish pole attachment rules. The proposed rules set a standard that no other state has adopted and no compelling evidence has been presented that these proposed rules are better than the current robust federal (FCC) rules.

One example of this in the proposed rules is **WAC 480-54-030(1)** related to pole replacement for insufficient capacity. Requiring pole replacement, even if the attacher is willing to compensate for a taller pole and make-ready work, goes beyond the FCC rules and no evidence has been cited in the UTC rulemaking process justifying this mandate. PSE does not refuse replacement of a pole to provide additional capacity to support attachments and no evidence has been cited otherwise. In addition, requiring a pole owner to replace poles for a third party as make-ready work sets a negative precedent beyond the rules adopted by the FCC and other states and has the potential to negatively impact PSE’s work to provide service to new electrical customers or restore service to existing customers. This provision in the proposed rules prioritizes the needs of attachers over all other services provided by PSE. For the last four years, PSE has accommodated attachments to an average of over 4,000 poles per year and is planning to continue to meet a growing number of attachment requests in the future.

PSE proposed revised language for WAC 480-54-030(1) in its April 17, 2015, comments on the Third Draft Proposed Rules that better balances the needs of attachers and pole owners. PSE requests the UTC adopt the PSE proposed language².

² See Comments of Puget Sound Energy, Inc. on Third Draft Proposed Rules Rulemaking Relating to Attachments to Transmission Facilities, April 17, 2015, Page 11

Increasing Safety Risk

The proposed rules create additional safety risk and prioritize the needs of attachers, specifically in section **WAC 480-54-030(11)** related to overlashing. The proposed rules in this section are unnecessary given the FCC rules for overlashing. The arbitrary timelines in the proposed rules compromise a pole owner's ability to adequately assess the impacts of the overlashing on the safety and reliability of the electric system and adds additional risk to the safety of the communication workers installing the overlashing. In addition, requiring only a notice instead of an application to overlash additional wires or cables prioritizes attachers' needs over pole owners and reduces a pole owners ability to maintain a safe and reliable system. Finally, the proposed rules fail to include any language addressing liability for damages caused by attacher overlashing. PSE proposes that the attacher be liable for all damages if the actual overlashing differs from the overlashing proposed in the occupant's notice or fails to meet applicable rules and codes.

PSE proposes that WAC 480-54-030(11) should be eliminated from the proposed rules and instead the Commission should rely on the FCC rules related to overlashing. Should the UTC decide to include this section, PSE requests the proposed rules adopt PSE's proposed language³ for WAC 480-54-030(11) included in its April 17, 2015, comments on the Third Draft Proposed Rules which would reduce safety risk and better balance the needs of pole owners and attachers.

As with WAC 480-54-030(1), the timelines cited in WAC 480-54-030(11) are not supported by evidence and set a negative precedent.

Increasing Complaints to the UTC

The expedited and unnecessary timelines to process new applications or conduct make-ready work in **WAC 480-54-030** of the proposed rules increase the likelihood for complaints at the UTC. The arbitrary timelines in the proposed rules will not allow the pole owner sufficient time to adequately determine whether a pole(s) can support additional loading. Requests for pole attachments or overlashing at PSE are often for heavily-loaded poles located in dense, urban and rapidly growing neighborhoods and the engineering assessments should not be restricted by timelines.

The following photos in Exhibit 1 illustrate common examples of PSE poles heavily loaded with attachments and overlashing that would prove difficult for PSE to determine additional loading capability within the short term timelines in the proposed rules.

³ See Comments of Puget Sound Energy, Inc. on Third Draft Proposed Rules Rulemaking Relating to Attachments to Transmission Facilities, April 17, 2015, Page 4-5.

Exhibit 1: Heavily loaded PSE poles with examples of attachments and overlashing, including Frontier Communications Northwest Inc., in the Kirkland, WA area



In addition, by not including language addressing liability and damages from improper overlashing in section **WAC 480-54-030(11)**, parties will be increasingly forced to rely on the complaint provisions in the proposed rules (**WAC 480-54-070**) to settle claims and seek damages from improper overlashing. Given the increase in attachment and overlashing applications⁴ and requests in PSE's service territory, and the uncertainty in the proposed rules, the UTC can expect an increasing number of complaints related to pole attachments.

This is not speculation by PSE, it is already happening and will increasingly happen if these rules are adopted. Several months before the rules may even be finalized and

⁴ See Comments of Puget Sound Energy, Inc. on Third Draft Proposed Rules Rulemaking Relating to Attachments to Transmission Facilities, April 17, 2015, Page 2, footnote 1.

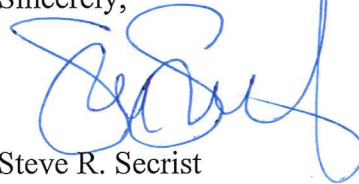
adopted, Frontier Communications Northwest Inc. ("Frontier") refused to pay a debt owed to PSE, requiring PSE to initiate a collection action in Superior Court for recovery of sums owed. Frontier is now separately pursuing a complaint with the UTC. PSE contends in its answer that Frontier is using the proposed Complaint (as described in WAC 480-54-070 of the proposed rules) process at the UTC as a means to avoid its contractual obligations and side-step its debt. PSE urges the UTC to only adopt rules that keep the burden of proof with the Complainant or to simply rely on the existing rules regarding complaints.

SUMMARY

In summary, PSE believes the current draft rules are unnecessary, increase safety risks, further complicate pole attachment processes and associated costs, set a negative precedent, and do not provide sufficient justification to go beyond rules already established by the FCC and other states. In addition, the proposed rules prioritize expediency for attachers over safety, and create uncertainty over liability and damages that can only be settled via an increasing complaint process at the UTC. PSE encourages the Commission to maintain the status quo, adopt the FCC rules regarding pole attachments or make significant revisions to the proposed rules to address overlashing, make-ready work, and pole replacement using language PSE suggested in earlier comments.

If you have any questions about the comments contained in this filing, please contact Lynn Logen, Supervisor Tariffs at 425-462-3872 or Nathan Hill, Regulatory Affairs Initiatives Manager at 425-457-5524.

Sincerely,



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Sr. Vice President, General Counsel, and
Chief Ethics & Compliance Officer

Cc: Simon J. ffitich, Public Counsel
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