

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the

Petition of King County, Washington, BNSF Railway, Frontier Communications Northwest, Inc., Verizon Wireless, and New Cingular Wireless PCS, LLC. For a Declaratory Order to address the degradation of service from Puget Sound Energy due to the physical deterioration of the Maloney Ridge Line underground cable.

DOCKET UE-141335

COMMISSION STAFF STATEMENT  
OF FACT AND LAW ON THE  
ISSUES

1           The Commission's June 27, 2014, Notice<sup>1</sup> in this docket invited interested persons to "present a statement of fact and law on the issues raised by the Petition, including the application of Washington statutes and Commission rules to those issues." This is Commission Staff's response to that Notice.

2           **Statement Regarding Facts.** Commission Staff has not investigated this matter to date, and therefore, Commission Staff has no facts to offer the Commission, other than those contained in the Petition.

3           There are certain factual areas raised by the Petition that merit investigation, such as the nature and specifications of the facilities involved, the nature of the facilities and service today compared to 1971, what engineering criteria should be used to determine when a particular line should be replaced, what specific facilities require replacement, and why, the nature of the outages, and so on. This list is not exhaustive.

---

<sup>1</sup> *Petition of King Cy, et al. for a Declaratory Order* (Petition), Docket UE-141355, Notice of Receipt of Petition for Declaratory Order and Opportunity to Submit Statements of Fact and Law (June 27, 2014).

4           In short, Commission Staff does not believe the Commission can resolve this matter based solely on the facts presented by the Petition. On the other hand, Commission Staff believes it is likely that the relevant facts can be attained efficiently if the parties cooperate.

5           **Statement Regarding the Law.** On its face, the Petition raises issues regarding interpretation of Puget Sound Energy Inc.'s (PSE) Tariff G, Schedule 85, as well as the service agreements between PSE and its customers at issue here. The Petition also raises a discrimination issue under RCW 80.28.100.<sup>2</sup>

6           At issue also is the interpretation of RCW 80.28.010(2), *i.e.*, whether PSE is offering facilities and service that are “safe, adequate and efficient, and in all respects just and reasonable.”

7           Commission Staff notes that two sections cited in the Petition, RCW 80.28.020 and RCW 80.28.130, by their terms, apply *after hearing* “on the Commission’s own motion, or upon complaint.” These are important sections, because, among other things, RCW 80.28.020 requires all “contracts” and utility “practices” to be just and reasonable, and if they are not, the Commission may determine the just, reasonable and sufficient contracts and practices. Similarly, RCW 80.28.130 empowers the Commission to order a utility to change its facilities “in order to secure adequate service or facilities.”

8           In Commission Staff’s view, these sections provide the Commission all the power and discretion it needs to achieve a just result in this case. However, the Commission implements those sections by holding a hearing on its own motion or by complaint. A “paper record” may not be sufficient. Accordingly, Commission Staff recommends the Commission hold a hearing on this matter on its own motion. The Commission can decide the form of the hearing at a later date.

---

<sup>2</sup> Petition at 19-20.

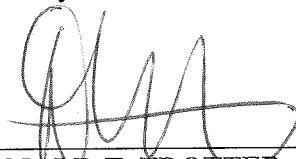
9 Commission Staff does not believe the case involves interpretation of any  
Commission rules other than the rule on declaratory orders, WAC 480-07-930.

10 Procedurally, Commission Staff notes that for “good cause,” the Commission may  
change the time limits for holding a proceeding on a petition for declaratory order and for  
issuing a declaratory order.<sup>3</sup> It appears to Commission Staff that the time limits in the  
statute and rules are not sufficient to resolve this case in a reasonable manner.

DATED this 15<sup>th</sup> day of July 2014.

Respectfully submitted,

ROBERT W. FERGUSON  
Attorney General



---

DONALD T. TROTTER  
Assistant Attorney General  
Counsel for Washington Utilities and  
Transportation Commission Staff

---

<sup>3</sup> RCW 34.05.240(6) and WAC 480-07-930(6).