

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Rulemaking to Consider Possible  
Corrections and Changes in Rules in  
Chapter 480-07 WAC, Relating to  
Procedural Rules

DOCKET NO. A-050802

THIRD SET OF COMMENTS OF  
PUGET SOUND ENERGY, INC.

1. Puget Sound Energy, Inc. ("PSE") respectfully submits the following comments in response to the Commission's Notice of Opportunity to Submit Comments in this Docket dated April 4, 2006.

2. Generally, PSE would like to emphasize that it appreciates the attention that has been paid to the procedural rules by the Commission and Commission Staff over the past several years. PSE believes that clear, workable procedural rules result in more efficient proceedings and reduce disputes among stakeholders who appear before the Commission regarding the manner in which such proceedings are conducted. PSE also appreciates the Commission's ongoing efforts to keep the rules up to date with respect to electronic media and with respect to "best practices" that are developed through application of the rules over time.

3. PSE is pleased to see that the Commission is not proposing changes to a number of sections of WAC Chapter 480-07 about which PSE expressed concern in PSE's earlier comments in this docket. In particular, PSE supports the Commission's decision to reject changes that had been proposed by some stakeholders to the Commission's existing rules regarding settlement negotiations and the *ex parte* rule.

4. PSE is concerned, however, about the proposed revision to **WAC 480-07-140(6)(b)**, which were proposed for the first time with the April 4, 2006 Notice. PSE believes that the Commission should reject the proposed revisions because of the very serious consequences (probably unintended) that they would have on persons appearing before and companies regulated by the Commission.

5. WAC 480-07-140 sets forth general filing requirements for all filings with the Commission. WAC 480-07-140(6) requires electronic versions of all documents filed with the Commission. The current version of WAC 480-07-140(6)(b) sets forth the Commission's *preference* that persons filing documents do so in Word or WordPerfect file format supplemented by a copy in Adobe Acrobat (.pdf) file format created directly from the word processing software used for the original document. Thus, the rule is not mandatory and is limited to original word processing files.

6. The proposed revisions to WAC 480-07-140(6)(b) would *require* the filing of electronic versions of documents:

in .pdf (Adobe Acrobat) format, supplemented by a separate file in .doc (MS Word), .wpd (WordPerfect), .xls (Excel), or .ppt (Power Point) format, so that spreadsheets displaying results of calculations based on formulas include all formulas, and do not include locked, password protected or hidden cells.

Proposed WAC 480-07-140(6)(b). PSE is extremely concerned about the proposed requirement to supplement .pdf (Adobe Acrobat) versions of electronic documents with versions in the original software.

7. First, original electronic versions are not always available or would be very burdensome to locate (for example, with respect to historic documents, documents from third parties that may have been emailed to someone at a company but that were then printed

for use and reference within the company, etc.). In such cases, parties can comply with the existing rules by scanning a paper copy of a document and filing the document in .pdf (Adobe Acrobat) format. At a minimum, any requirement to supplement .pdf (Adobe Acrobat) versions with original software versions should include an exception where the original is not reasonably available.

8. A related practical concern is that it is not unusual for a single document (such as a presentation, memorandum or report) to be made up of several different original software formats. A simple example is a Word document that has Excel exhibits, or even a number of stand-alone exhibits in Word. In PSE's experience, it is less confusing to the Commission, the public and to stakeholders to properly assemble such documents and scan them to .pdf for filing rather than submitting files on a piecemeal basis that then must be assembled by the viewer. Examples of such filings made by PSE in the recent past include petitions for accounting orders in which PSE has provided the fully assembled Petition and exhibits and PSE's testimony and exhibits in its 2004 and 2006 general rate cases. In the latter cases, PSE has filed electronic versions of exhibits that look exactly like the paper versions, even though many of them are composed of a cover page that is a Word document and subsequent pages in one or more different file formats (often Excel or Power Point rather than or in addition to Word). PSE respectfully submits that it is far easier to click on and review the .pdf versions it has filed than the piecemeal versions that would be required by the proposed new rule.

9. A more complicated example that is of even greater concern is the increasing ability of software to incorporate a number of file formats, such as Word documents that include graphs pasted from Excel exhibits. In some cases the document's author pastes a flat "picture" of the graph into the Word document and in other cases the document's author

pastes an Excel file into the Word document. Do the proposed revisions intend to require persons filing documents with the Commission to provide both the Word document and the underlying Excel file? If so, tracking down such underlying files could prove to be very burdensome. In the event the proposed rule intends to require the underlying Excel file, PSE has a number of concerns regarding Excel files, as described below.

10. PSE believes the expansion of this rule beyond word processing software files to .xls (Excel) and .ppt (Power Point) files is unwarranted, unwise, and would be extraordinarily burdensome to companies regulated by the Commission and persons who appear before the Commission. There are appropriate times and places to call for production of such original .xls (Excel) and .ppt (Power Point) files, such as in the data request process for an adjudicative proceeding. But it would not be appropriate to require such electronic files at all times for all filings through inclusion of this requirement in WAC 480-07-140(6)(b).

11. In this regard, PSE notes that it has had extensive experience filing electronic versions of documents with the Commission in its general rate cases over the past several years as well as producing .xls (Excel) and .ppt (Power Point) files during the data request process for such proceedings. PSE understands that in some circumstances, other parties to a proceeding may wish to review documents in their original formats. In particular, PSE generally has not objected to producing functioning .xls (Excel) files in response to data requests. However, the Commission should be aware that it can be impossible to provide fully functioning files if information in the files need to be redacted for confidentiality.

12. Generally, there is no reason to produce or file .ppt (Power Point) files in their original format. Power Point is typically used to produce presentations that can as easily be read and understood in a "flat" .pdf format as in the original "slide show" format.

Moreover, Power Point is used extensively in the business context, often as a substitute for using the outline function of word processing software. The administrative burdens associated with saving, filing and archiving original Power Point files for potential later production as an exhibit in a Commission filing would be extensive. In the rare cases where an original Power Point file is desired, nothing prevents the Commission, its Staff, or other stakeholders or parties from requesting that the original be provided if it is reasonably available.

13. PSE is even more concerned about the potential requirement to file working .xls (Excel) files as a general filing requirement. In a company such as PSE, Excel is used extensively for many purposes ranging from very simple tables to sophisticated resource acquisition or financial modeling. Some Excel files are proprietary models that PSE has licensed from third parties. In such cases, PSE would typically be prohibited from providing anything but the output of the model unless and until adequate licensing agreements are in place. PSE has also developed its own Excel-based models, the functionality of which is a PSE trade secret. Because of such concerns, a document that can be made publicly available in .pdf (Adobe Acrobat) format can become confidential or highly confidential if required to be filed as a functioning Excel file.

14. In addition, a single worksheet that is relevant to a filing may be located in the same file with many other worksheets that are not relevant to the filing and/or that contain confidential or highly confidential information. As a result, it would often be inappropriate and would only burden the record to file the original Excel file. At a minimum, it would be very burdensome to have to prepare Excel versions of documents that are fit to be filed and posted on the Commission's website for every Excel file that is filed with the Commission.

15. Notwithstanding the objections outlined above, PSE recognizes that it might well increase efficiencies and reduce administrative burdens on the Commission and its Staff if proposed orders that are filed with the Commission are submitted in the original software file (Word or WordPerfect). PSE would not object to such a requirement. There would be very little or no additional burden on filing parties associated with this requirement since such word processing software files would be created shortly before the filing and can easily be cleaned up for filing. For the same reasons, PSE would also not object to a requirement that petitions, briefs, motions, or other such documents be filed in the original .doc or .wpd formats.

16. PSE also objects in part to the proposed revised **WAC 480-07-510(3)(b)**. The revised version would require all parties to rate cases to file electronic files supporting their work papers that are fully functional and include all formulas and linked spreadsheet files. PSE does not object to this requirement *per se*, as such files are already typically provided voluntarily as a matter of course shortly after the filing or in response to data requests. Incorporating the requirement in the procedural rules would reduce the procedural burdens and delay associated with exchanging such information. However, PSE requests that parties be permitted to provide these electronic files within five business days of a filing rather than on the day of the filing.

17. Such a short delay is likely to be inconsequential to a party receiving the files. On the other hand, the party preparing the files would then have an opportunity after the original filing is made to prepare the electronic workpapers for production without the distraction and competing time commitment of finalizing the substance and presentation of the filing itself. The Commission might condition the delay on the filing party serving the electronic files on other parties by overnight mail rather than regular mail, which would

likely result in receipt at nearly the same time as if the files were served the same day as filing by regular mail.

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