

FORMAL COMPLAINT, PETITION, STAFF INVESTIGATION,  
RULEMAKINGS (INITIATED BY THE PUBLIC) OR  
REJECTION OF FILINGS DISTRIBUTION UTILITIES

Date: 12-13-00

Docket No: UE-001952

Document: Air Liquide America Corporation, et al vs. PSE, Request for Emergency  
Adjudicative Proceeding

✓Chairwoman Showalter  
✓Commissioner Hemstad  
✓Commissioner Gillis  
Util. Tariff Desk (4)  
Jeff Goltz  
Carolyn Caruso (Formal Complaints)  
Mary Taylor (Formal Complaints)  
Bob Wallis (Formal Complaints)

✓ALD  
Policy Planning  
Vicki Elliott  
Penny Hansen  
Public Affairs  
Catherine Taliaferro (RFPR)

✓No Payphone Petitions

TRANSACTION REPORT

P. 01

DEC-12-2000 TUE 05:02 PM

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
DEC-12	04:55 PM	97867317	7' 22"	32	SEND	OK	576	
TOTAL :						7M 22S	PAGES: 32	

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BOVES UE-001952 (F)

Davison Van Cleve PC

TEL (503) 241-7242 • FAX (503) 241-8166 • mail@dvcclaw.com

Suite 2915  
1300 SW Fifth Avenue  
Portland, OR 97201

Melinda J. Davison

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STATE OF WASH.  
UTIL. AND TRANSP.  
COMMISSION

December 12, 2000

*Via Facsimile and Federal Express*

Carole J. Washburn  
Secretary  
Washington Utilities and Transportation Commission  
1300 S Evergreen Park Drive S.W.  
Olympia, WA 98504-7250

Re: Docket No: \_\_\_\_\_  
Formal Complaint Requesting an Emergency Adjudicative Proceeding and an Order  
Requiring PSE to Offer Service Under Schedule 49

Dear Ms. Washburn:

TRANSACTION REPORT

P. 01

DEC-12-2000 TUE 04:55 PM

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
DEC-12	04:48	PM 8-5439344254623414	6' 55"	31	SEND	OK	575	

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Suite 2915  
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Mollnda J. Davison

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Dear Ms. Washburn:

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Suite 2915  
1300 SW Fifth Avenue  
Portland, OR 97201

Melinda J. Davison

VE-001952 (F)  
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UTIL. AND TRANSP.  
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December 12, 2000

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1300 S Evergreen Park Drive S.W.  
Olympia, WA 98504-7250

Re: Docket No: \_\_\_\_\_  
Formal Complaint Requesting an Emergency Adjudicative Proceeding and an Order  
Requiring PSE to Offer Service Under Schedule 49

Dear Ms. Washburn:

Enclosed please find an original and twenty copies of the Formal Complaint  
Requesting Emergency Adjudicative Proceeding and an Order Requiring PSE to Offer Service  
Under Schedule 49.

Please return one file-stamped copy of the Formal Complaint Requesting an  
Emergency Adjudicative Proceeding and Order Requiring PSE to Offer Service Under Schedule  
49 in the postage-prepaid envelope provided. Thank you for your assistance.

Sincerely yours,



Melinda J. Davison

Enclosures

cc: Steve McKeon



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STATE OF WASH.  
UTIL. AND TRANSP.  
COMMISSION

BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AIR LIQUIDE AMERICA CORPORATION, )  
AIR PRODUCTS AND CHEMICALS, INC., )  
THE BOEING COMPANY, CNC )  
CONTAINERS, EQUILON ENTERPRISES, )  
LLC, GEORGIA-PACIFIC WEST, INC., and )  
TESORO NORTHWEST CO. )

DOCKET NO.: UE-001952

Complainants,

FORMAL COMPLAINT REQUESTING AN  
EMERGENCY ADJUDICATIVE  
PROCEEDING

v.

PUGET SOUND ENERGY,

Respondent.

INTRODUCTION

Air Liquide America Corporation ("Air Liquide"), Air Products and Chemicals, Inc. ("Air Products"), The Boeing Company ("Boeing"), CNC Containers ("CNC"), Equilon Enterprises, LLC ("Equilon"), Georgia-Pacific West, Inc. ("G-P"), and Tesoro Northwest Company ("Tesoro") (collectively referred to herein as "Complainants"), bring this complaint before the Washington Utilities and Transportation Commission ("WUTC" or "Commission") against Puget Sound Energy ("PSE") for charging rates that are not just, fair and reasonable, in violation of RCW § 80.28.010. Specifically, pricing for retail electric service based on the Dow Jones Mid-Columbia indices is unjust, unfair, unreasonable and not in the public interest.

The prices under the Dow Jones Mid-Columbia indices have skyrocketed in recent weeks to the point at which customers purchasing from PSE pursuant to Schedule 48 or special contracts are paying among the highest, if not, the highest retail price for electricity in the

PAGE 1 - FORMAL COMPLAINT REQUESTING AN EMERGENCY ADJUDICATIVE PROCEEDING AND AN ORDER REQUIRING PSE TO OFFER SERVICE UNDER SCHEDULE 49

DAVISON VAN CLEVE, P.C.  
1300 SW Fifth, Suite 2915  
Portland, OR 97201  
Telephone: (503) 241-7142



1           3.     Boeing is a Delaware corporation with its principal place of business in  
2 Seattle, Washington. Boeing's address is PO Box 3707, Seattle, Washington 98124-2207.

3           4.     CNC is a Washington company that is doing business in Washington.  
4 CNC's address is 3045 32<sup>nd</sup> Avenue, Tumwater, WA 98512.

5           5.     Equilon is a Delaware limited liability company that is qualified to do  
6 business, and is doing business, in the State of Washington. Equilon's address is PO Box 4453,  
7 Houston, Texas 77210.

8           6.     G-P is an Oregon corporation that is qualified to do business, and is doing  
9 business in the state of Washington as a manufacturer of paper pulp, paper products, and assorted  
10 industrial chemicals. G-P's address is 300 W. Laurel Street, Bellingham, WA 98227-1236.

11          7.     Tesoro is a Delaware corporation that is qualified to do business, and is  
12 doing business, in the state of Washington. Tesoro's address is 3450 S. 344<sup>th</sup> Way, Auburn, WA  
13 98001.

14          8.     Each of the Complainants except for Georgia-Pacific currently purchases  
15 power from PSE pursuant to Schedule 48. Georgia-Pacific purchases power from PSE pursuant  
16 to a special contract that was approved by the Commission in Docket No. UE-960612 ("G-P  
17 Special Contract").

18          9.     Respondent, PSE is a Washington corporation that is qualified to do  
19 business in the state of Washington as an electric utility company regulated by the Commission.  
20 Puget's address is P.O. Box 97304, Bellevue, WA 98009-9734.

21                   **APPLICABLE STATUTES AND ADMINISTRATIVE RULES**

22          10.    The Commission has jurisdiction over this complaint and PSE pursuant to  
23 RCW § 34.05.479 (emergency adjudicative proceedings); RCW § 80.01.040 (general powers and  
24 duties of the Commission); RCW § 80.04.110 (complaints); RCW § 80.28.010 (utility required

25           **PAGE 3 – FORMAL COMPLAINT REQUESTING AN EMERGENCY ADJUDICATIVE  
PROCEEDING AND AN ORDER REQUIRING PSE TO OFFER SERVICE UNDER  
SCHEDULE 49**



1 to charge just, fair and reasonable rates); and RCW § 80.28.020 (Commission required to fix just  
2 and reasonable rates).

3 11. The statutes expected to be involved in this case include:  
4 RCW § 34.05.479; RCW § 80.01.040; RCW §§ 80.04.020, .110 and .120; RCW §§ 80.28.010  
5 and .020. The rules involved in this case include: WAC §§ 480-09-400, -410, -420, -425, -480,  
6 -510, -700, -710, -720, -730, -735, -736, -740, -750 and -770.

### 7 **FACTUAL BACKGROUND**

#### 8 **Complainants First Claim for Relief** 9 **Unjust, Unfair and Unreasonable Rates and a Violation of the Public Interest**

#### 10 **Complainants Allege:**

11 12. The Complainants take electric service from PSE under pricing based on  
12 the Mid-Columbia indices through the Schedule 48 tariff or the G-P Special Contract. Air  
13 Liquide, Air Products, Boeing, CNC, Equilon and Tesoro purchases power priced at the Dow  
14 Jones Mid-Columbia Revised Nonfirm Index. G-P receives its power priced at the Dow Jones  
15 Mid-Columbia Firm Index. The Complainants principal purpose in choosing electric service  
16 priced at the Mid-Columbia indices was to receive just and reasonable rates, leading to complete  
17 market access at the end of the five-year service agreement and Special Contract term.

18 Attachment A is the Affidavit of Ken Canon.

19 13. The historic price of power for the Mid-Columbia Firm Index is  
20 approximately 26.24 on peak and 18.19 off peak for 1999. Attachment B provides detailed  
21 information supporting this historic price calculation.

22 14. The historic price of power for the Mid-Columbia Non-Firm Index is  
23 approximately 23.24 on peak and 17.40 off peak for 1999. See Attachment B.

24  
25 **PAGE 4 – FORMAL COMPLAINT REQUESTING AN EMERGENCY ADJUDICATIVE  
PROCEEDING AND AN ORDER REQUIRING PSE TO OFFER SERVICE UNDER  
SCHEDULE 49**

1           15.     The California marketplace is directly impacting the spot market prices in  
2 the Northwest. The Federal Energy Regulatory Commission ("FERC") recently concluded that,  
3 the California market structure and rules are providing sellers an opportunity to exercise market  
4 power and causing California electric rates to be unjust and unreasonable. San Diego Gas &  
5 Electric Co. v. Sellers of Energy, 93 FERC ¶ 61,121 (Nov. 1, 2000).

6           16.     The Pacific Northwest and California markets are interrelated, and the  
7 high price of power in California is a substantial factor that is causing the price of power in the  
8 Pacific Northwest to increase. See PSE v. All Jurisdictional Sellers of Elec., Docket No. EL01-  
9 10-000, PSE Complaint at 7-13 (Oct. 26, 2000) (PSE requesting a price cap on wholesale electric  
10 energy because of the interrelated California and Pacific Northwest markets).

11           17.     At least in part due to current circumstances in the California market, the  
12 current price of power for the Mid-Columbia Indices far exceeds historic levels. For example,  
13 the Mid-Columbia Firm Index on peak price was \$714.44 for Friday, December 8, 2000, and the  
14 Mid-Columbia Non-Firm Index on peak price was \$604.06. The Mid-Columbia Firm Index on  
15 peak price was at \$3,300.00 for Monday, December 11, 2000. The Mid-Columbia Non- Firm  
16 Index on peak price for Monday, December 11, 2000, was unreported at the present time.<sup>1/</sup>

17           18.     Air Liquide is a customer of PSE and purchases its electric supply  
18 pursuant to Schedule 48. Air Liquide takes approximately 8 aMW of electricity from PSE under  
19 Schedule 48. Because of the high price of electricity Air Liquide has reduced its operations,  
20 shutting down operations at certain times.

21           19.     Air Products is a customer of PSE and purchases its electric supply  
22 pursuant to Schedule 48. Air Products takes approximately 7 aMW of electricity from PSE.

23 \_\_\_\_\_  
24 <sup>1/</sup> The source for the Mid-Columbia numbers is the Wall Street Journal, Tues., Dec. 12, 2000 at C12.



1 Because of the high price of electricity, Air Products has been forced to reduce its operations, by  
2 shutting down operations at certain times. Attachment C is the Affidavit of Randall Clancy.

3 20. G-P is a customer of PSE and purchases its electric supply pursuant to a  
4 Special Contract with pricing provisions tied to the Mid-Columbia Firm Index. G-P takes  
5 approximately 40 aMW of electricity from PSE. Because of the high price of electricity, G-P has  
6 been forced to close its Bellingham operations indefinitely. Attachment D is the Affidavit of  
7 James Cunningham.

8 21. Boeing is a customer of PSE and purchases its electric supply pursuant to  
9 Schedule 48. Boeing takes approximately 80 aMW of electricity from PSE. Attachment E is the  
10 Affidavit of Keith Warner.

11 22. CNC is a customer of PSE and purchases its electric supply pursuant to  
12 Schedule 48. CNC takes approximately 8 aMW of electricity from PSE. Because of the high  
13 price of electricity, CNC has been forced to shut down its operations at certain times.  
14 Attachment F is the Affidavit of Matthew Franz.

15 23. Equilon is a customer of PSE and purchases its electric supply pursuant to  
16 Schedule 48. Equilon takes approximately 34 aMW of electricity from PSE.

17 24. Tesoro is a customer of PSE and purchases its electric supply pursuant to  
18 Schedule 48. Tesoro takes approximately 20 aMW of electricity from PSE.

19 25. Upon information and belief, continued use of the Mid-Columbia indices  
20 to set retail power prices will result in enormous windfall profits to PSE. PSE's September 30,  
21 2000 10-Q financial report shows an increase in industrial revenues from approximately \$38  
22 million for 1999, to approximately \$101 million for the first nine months of 2000. Given the  
23 dramatic increase in spot market electric prices at the Mid-Columbia since September 30, 2000,  
24 this revenue number will rise significantly.

25 PAGE 6 - FORMAL COMPLAINT REQUESTING AN EMERGENCY ADJUDICATIVE  
PROCEEDING AND AN ORDER REQUIRING PSE TO OFFER SERVICE UNDER  
SCHEDULE 49







- 1           2. Finding that PSE is obligated to serve Complainants based on Schedule 49 or
- 2           any otherwise available PSE rate schedule; pending the determination of a
- 3           cost-based, just and reasonable rate;
- 4           3. Requiring that payment of the Schedule 49 rate be subject to refund, or
- 5           surcharge, as the case may be, with interest, to reflect the difference between
- 6           such Schedule 49 rate and the cost-based just and reasonable rate;
- 7           4. Finding that the Complainants shall receive a refund of the transition charges
- 8           paid to PSE in exchange for market access at the end of the five year service
- 9           agreements and G-P Special Contract;
- 10          5. Finding that the relief shall become effective as of the date of the Complaint;
- 11          6. Alternatively, the Complainants request that the Commission issue a finding
- 12          that Schedule 48 and the Special Contract include an interim price cap based
- 13          on Schedule 49 subject to refund or surcharge or another interim price cap
- 14          level which the Commission considers to be just and reasonable; and
- 15          7. Such other relief as the Commission may deem necessary.

16  
17           Dated this 12th day of December, 2000.

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Respectfully submitted,

DAVISON VAN CLEVE, P.C.



Melinda J. Davison

Irion A. Sanger

Davison Van Cleve, P.C.

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Of Attorneys for Air Liquide America Corporation, Air Products and Chemicals Inc., The Boeing Company, CNC Containers, Equilon Enterprises, LLC, Georgia-Pacific West, Inc., and Tesoro Northwest Company.

PAGE 10 – FORMAL COMPLAINT REQUESTING AN EMERGENCY ADJUDICATIVE PROCEEDING AND AN ORDER REQUIRING PSE TO OFFER SERVICE UNDER SCHEDULE 49

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Telephone: (503) 241-7142



**ATTACHMENT A**

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BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AIR LIQUIDE AMERICA CORPORATION, )  
AIR PRODUCTS AND CHEMICALS, INC., )  
THE BOEING COMPANY, CNC )  
CONTAINERS, EQUILON ENTERPRISES, )  
LLC, GEORGIA-PACIFIC WEST, INC., and )  
TESORO NORTHWEST CO. )

Complainants,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKET NO.: \_\_\_\_\_

AFFIDAVIT OF KENNETH D. CANON

STATE OF OREGON )  
County of Multnomah )

ss.

I, KENNETH D. CANON, being first duly sworn, do say:

I am the Executive Director of the Industrial Customers of Northwest Utilities ("ICNU"). ICNU's business address is:

Industrial Customers of Northwest Utilities  
825 NE Multnomah, Suite 180  
Portland, Oregon 97232-2158

1. ICNU is an incorporated, non-profit association of large industrial electric customers in the Pacific Northwest. Many of Puget Sound Energy's ("PSE's") industrial customers are members of ICNU.
2. I was the lead negotiator for PSE's industrial customers in the development of the terms of the Schedule 48. I became the lead negotiator through my role as

1 Executive Director of ICNU. Puget Sound Power & Light Company ("Puget")  
2 approached me in early 1996 to negotiate the support of industrial customers for  
3 Puget's proposed merger with Washington Natural Gas Company ("WNG").

4 During the winter and spring of 1996, I met with representatives of Puget  
5 regarding the proposed merger. In April 1996, Puget proposed negotiating a  
6 market-based tariff for large industrial customers in exchange for the customers'  
7 support of the merger. The terms of Schedule 48 were negotiated in May 1996.  
8

9 3. There was a direct relationship between the Schedule 48 tariff and the Merger  
10 Application. Puget and WNG agreed to submit, support and pursue approval of  
11 Schedule 48 in exchange for the industrial customers' agreement not to oppose  
12 the merger. Without Puget's and WNG's commitment to provide market-based  
13 electric rates through Schedule 48 and a commitment to provide open access;  
14 industrial customers would have opposed the merger. The terms of this  
15 settlement are set forth in a formal Settlement Agreement, dated May 22, 1996.

16 4. The bulk of the negotiation process regarding the terms of Schedule 48 occurred  
17 in May of 1996. Although Schedule 48 was not approved by the Commission  
18 until October 31, 1996, the parties to the negotiation of Schedule 48 had come to  
19 agreement on all significant terms by the end of May 1996. It was assumed that  
20 the range of market costs would vary from the then \$15 mills per KWh to  
21 approximately 50 mills per KWh which was the assumed long term costs of new  
22 resources.

23 5. A critical element of the agreement the industrial customers reached with PSE,  
24 was the commitment that Schedule 48 customers would receive open access to the  
25 competitive markets; i.e., customer choice by no later than the end of the five year  
Schedule 48 service agreements.

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- 6. In exchange for this commitment, customers agreed to pay PSE transition charges set forth in the body of Schedule 48.
- 7. Instead, PSE has indicated to me on numerous occasions that they will not provide open access to their Schedule 48 customers at the end of the five-year service agreements.
- 8. Schedule 48 customers believed, based on information provided by PSE and based on their own analysis, that rates under Schedule 48 would be just and reasonable.

15/  
\_\_\_\_\_  
KENNETH D. CANON

SUBSCRIBED AND SWORN to before me this 12th day of December, 2000.

\_\_\_\_\_  
Notary Public for Oregon  
County of Multnomah  
My Commission Expires: \_\_\_\_\_

**ATTACHMENT B**



Mid-C Index without PSE Adders

Monthly Average \$/MWH

		Firm On-Peak	Firm Off-Peak	Non-Firm On-Peak	Firm Off-Peak
Jun	1998	13.44	6.09	11.11	7.36
Jul	1998	25.26	19.14	23.56	17.46
Aug	1998	47.89	27.87	38.51	24.14
Sep	1998	38.82	25.34	32.98	24.00
Oct	1998	30.27	25.96	30.35	25.60
Nov	1998	28.06	25.34	27.35	23.56
Dec	1998	30.84	24.93	27.23	22.03
Jan	1999	18.02	14.03	16.47	12.55
Feb	1999	18.03	13.57	17.92	12.98
Mar	1999	16.16	12.08	15.63	10.97
Apr	1999	24.20	14.95	22.11	16.11
May	1999	26.25	15.93	23.63	15.32
Jun	1999	23.39	6.97	18.28	8.05
Jul	1999	24.48	14.39	19.30	14.37
Aug	1999	29.90	16.95	21.63	16.22
Sep	1999	31.65	26.40	29.36	25.15
Oct	1999	44.78	37.79	44.97	37.05
Nov	1999	31.41	24.97	27.37	20.93
Dec	1999	26.63	20.25	23.43	19.06
Jan	2000	26.46	23.09	25.94	21.95
Feb	2000	26.88	24.96	27.01	24.72
Mar	2000	27.79	26.37	27.75	24.66
Apr	2000	27.23	15.74	23.27	16.76
May	2000	58.11	33.87	48.55	32.59
Jun	2000	170.52	52.90	88.38	50.49
Jul	2000	126.53	65.94	91.39	60.71
Aug	2000	206.50	91.66	143.50	93.50
Sep	2000	129.50	86.47	116.63	87.07
Oct	2000	104.06	84.42	95.95	80.00
Nov	2000	174.20	142.49	184.47	146.49
Dec	2000	722.74	498.82	395.35	322.80
Average 1999		26.24	18.19	23.34	17.40
Average (Jan - Apr 2000)		27.09	22.54	25.99	22.02
Average (May-Dec 2000)		211.52	132.07	145.53	109.21
Average Dec 2000 to Date		722.74	498.82	395.35	322.80
Average 2000		150.04	95.56	105.68	80.15

Data through Dec 11, 2000 for firm and December 10,2000 for Non-Firm

**ATTACHMENT C**

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

)  
) **DOCKET NO.:** \_\_\_\_\_  
)  
) **AFFIDAVIT OF**

)  
)  
)  
)  
) **Complainants,**

)  
) **v.**

) **PUGET SOUND ENERGY,**

)  
) **Respondent,**  
)  
)

---

**STATE OF WASHINGTON** )  
)  
**COUNTY OF** King )


**ss.**

1. I, RANDALL B. CLANCY, being duly sworn according law, depose as say that:
2. I am Site Manager for the Gases and Equipment Group, Product Supply Organization of Air Products and Chemicals, Inc., incorporated in Delaware, ("Air Products") in Puyallup, Washington. I have been employed by Air Products for approximately twenty (20) years. I was first employed at the Air Products facility located at 1500 39<sup>th</sup> Ave. S.E. in Puyallup, Washington in August, 1984. In the Spring of 1993, I became Plant Manager and have held that position, and later the position of Site Manager, since that time.
3. As Site Manager, I am responsible for all product manufacturing and supply operations in the Puyallup area, including power purchases for our Puyallup facility.
4. Air Products is a leading producer of industrial gases and chemicals in the United States and around the world. The Air Products facility in Puyallup, Washington produces industrial gases, including liquid oxygen, nitrogen and argon.
5. Air Products buys electricity from Puget Sound Energy, Inc. ("PSE") for its Puyallup plant. Typically, this facility purchases approximately 7 aMW of power from PSE under Schedule 48 at prices based on the Dow Jones Mid-Columbia Non-Firm Index.

6. Power costs normally represent approximately 60 to 70% of the variable costs of producing the products manufactured at the Puyallup facility.
7. In December 1999, Air Products paid on average between \$22 and \$30/MWH. Over the last few months, our power costs have increased dramatically to unprecedented levels. For example, on December 7, 2000, the average Mid-Columbia revised non-firm electric index price charged by PSE was approximately \$600/MWH. Air Products expects that on certain days this month power costs could be as high as 100 times historic levels. At these price levels, Air Products cannot continue to manufacture liquid nitrogen, oxygen and argon at its Puyallup plant.
8. These unprecedented power costs are far in excess of historic levels – levels that formed the basis of the industrial gas contracts Air Products has with its Puyallup facility customers.
9. As a result, recently Air Products has been required periodically to curtail or shut down its Puyallup facility to avoid these extraordinary power costs. Because we cannot predict when power costs will return to historic levels, our operating plan varies day-to-day at these pricing levels.
10. The Puyallup facility provides products to, among others, customers in the aerospace and aviation industry, medical home health care providers, hospitals, semiconductor fabricators, industrial manufacturers in the glass and steel industries, food services providers, and the United States Air Force. These customers depend on supply of industrial gases from the facility for manufacturing, health, and in particular safety.

  
RANDALL B. CLANCY

Sworn to and subscribed before me,  
this 11th, day of December 2000.

E. Anderson E.L. ANDERSON  
Notary Public  
119102  


**ATTACHMENT D**





**Georgia-Pacific Corporation**

**Georgia-Pacific West, Inc.**  
A wholly owned subsidiary

P.O. Box 1236  
Bellingham, Washington 98227-1236  
Telephone (360)793-4410  
Fax (360)676-7217

STATE OF WASHINGTON  
COUNTY OF WHATCOM

1. I, James W. Cunningham, being first duly sworn, do say:
2. I am the General Manager of Georgia-Pacific West's Pulp, Paper and Chemical operation in Bellingham, Washington. I have been employed by Georgia-Pacific for 30 years and I have held my present position for 6 years. My responsibility includes the safe and environmentally compliant operation of the Bellingham facility.
3. Georgia-Pacific West, Inc. is an Oregon corporation that is qualified to do business, and is doing business in the state of Washington as a manufacturer of pulp, paper products and specialty industrial chemicals. Our customers rely on our products to make plastic laminates, photographic paper, concrete admixture for construction, textile dyes, gasohol fuel, mud thinning compounds for oil and gas exploration, etc. Typically our customers operate on a "just in time" basis, requiring shipments on a regular schedule.
4. Georgia-Pacific is a customer of Puget Sound Energy, Inc. ("PSE") and purchases its electricity supply pursuant to a special contract. Georgia-Pacific takes approximately 40 a MW of electricity from PSE at prices based on the Dow Jones Mid-Columbia Firm Index.
5. The high prices of electricity have increased from approximately 7% of our production costs to in excess of 50% based on real and projected costs for December 2000. At this level of cost Georgia-Pacific cannot cover the variable costs of our products and has thus decided to shutdown operations and layoff approximately 500 employees. These are employees who make living wage jobs (\$70,000 wages and benefits) and have historically contributed to the economic well-being of the Whatcom county economy. Further, Georgia-Pacific's \$250,000,000 of annual revenue will not flow into the local and regional economy.
6. When our special contract with PSE was completed in June, 1996, electricity rates were envisioned in the \$10-60/MWH range with further expectations for market prices to stabilize lower as deregulation progressed and led to a truly open market. Of course what was expected to happen did not happen and the electrical market did not develop into the robust entity thought to be the future by both the customers and the utility. Today's December 12, 2000 prices are forecast to be \$876/MWH.
7. In order to continue to do business in the State of Washington, Georgia-Pacific requires competitive electrical energy pricing within a reasonable amount of variability. Georgia-Pacific's products are sold regionally and globally, and must be competitive in all markets.

  
James W. Cunningham

Subscribed and Sworn to before me,  
this 12<sup>th</sup> day of December, 2000

  
  
Notary Public for Washington  
My Commission Expires: 7-01-04

**ATTACHMENT E**

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BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AIR LIQUIDE AMERICA CORPORATION, )  
AIR PRODUCTS AND CHEMICALS, INC., )  
THE BOEING COMPANY, C & C )  
CONTAINERS, EQUILON ENTERPRISES, )  
INC, GEORGIA-PACIFIC WEST, INC., and )  
TESORO NORTHWEST CO. )

DOCKET NO.: \_\_\_\_\_

AFFIDAVIT OF KEITH C. WARNER,  
COMPANY ENERGY MANAGER,  
THE BOEING COMPANY

Complainants,

v.

PUGET SOUND ENERGY,

Respondent.

STATE OF WASHINGTON )  
County of King )

ss.

I, Keith C. Warner, being first duly sworn, do say:

1. I am the Company Energy Manager for The Boeing Company (Boeing), a Delaware Corporation. My office is located at 1420 South Trenton Street, Seattle, Washington 98108. I have been in this position for approximately two years. My responsibilities include oversight of long term energy planning and procurement.
2. Boeing is the largest aerospace company and the largest manufacturer of commercial jetliners in the world. It is a world leader in the development and production of military-aircraft and defense-system products and programs. Boeing's customers include NASA, all branches of the U.S. military, as well as

1 over 140 commercial airline companies worldwide. Boeing is the nation's largest  
2 exporter.

3 3. Six of Boeing's facilities in the Puget Sound area are customers of Puget Sound  
4 Energy, Inc. ("PSE") and purchase their electricity supply pursuant to Schedule  
5 48. These facilities are located in Auburn, Bellevue, Frederickson (Pierce  
6 County), Kent, Longacres (Renton) and Renton. Together, these facilities  
7 employ approximately 30,000 and consume approximately 80 aMW of electricity  
8 from PSE at prices based on the Dow Jones Mid-Columbia (Mid-C) Non-Firm  
9 Index.  
10

11 4. The market price of electricity upon which Schedule 48 is based has skyrocketed.  
12 The impact on Boeing can be easily illustrated. For example, on December 7,  
13 1999, Boeing paid approximately \$22 per MegaWatt hour (MWh) for the Mid-C  
14 peak non-firm energy charge resulting in an energy charge for the day for the  
15 subject six facilities of \$59,208.<sup>1</sup> On December 7, 2000, the Dow Jones Index  
16 price rate for Mid-C peak non-firm for energy was \$664.04 per MWh.<sup>2</sup> Assuming  
17 the same consumption for December 7, 2000 as December 7, 1999, Boeing's  
18 energy charge for the subject six facilities on Schedule 48 would be \$1,349,871<sup>3</sup>  
19 based on the Mid-C peak non-firm price of \$664.04 and the off-peak price of  
20  
21

---

22 <sup>1</sup> Based on price paid on December 7, 1999 as depicted in the actual bill from PSE.

23 <sup>2</sup> Based on the Wall Street Journal.

24 <sup>3</sup> The rate charged under Schedule 48 uses the Dow Jones Mid-Columbia Index rate as the basis for the  
25 rate, and then adjusts the energy charge to increase for losses associated with power delivery, the cost of  
ancillary services, utility profit, state utility taxes and a WUTC fee. [Index (1+loss  
factor)+margin)(1+utility tax+WUTC fee)]. The \$1,349,871 energy charge reflects the Schedule 48  
adjustments to the Dow Jones Index rate.



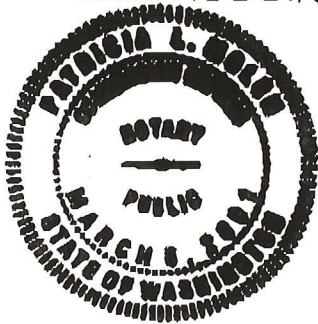
1 \$377.22. This one-day energy charge is over twenty (20) times larger than the  
2 year before.<sup>4</sup>

3 5. The current alarming trend in the rising price of electricity under Schedule 48 also  
4 is apparent from a comparison of the average price Boeing paid for energy last  
5 year with this year over the same time period. For the period of December 1  
6 through 10, 1999, Boeing paid on average \$24.45 peak and 20.04 off-peak per  
7 MWh for energy under Schedule 48. This year, from December 1 through 10,  
8 2000, Boeing paid on average \$395.35 peak and 322.80 off-peak per MWh – a 15  
9 fold increase.  
10

11 6. Boeing is very concerned about the current high rates as well as the likelihood of  
12 equally high – if not higher rates – as the winter proceeds. Indeed, PSE advised  
13 Boeing on December 7<sup>th</sup> that the price of electric power could rise in the very near  
14 term to a high of \$3,000 per MWh. (See Attachment I to this Affidavit.)  
15

16 Keith C. Warner  
17 Keith C. Warner

18 SUBSCRIBED AND SWORN to before me this 12th day of December, 2000.



24 Patricia L. Molen / Washington  
25 Notary Public for [State]  
My Commission Expires: March 5, 2001

<sup>4</sup> According to today's Wall Street Journal, the published Dow Jones Index price for Mid-C peak firm for energy was \$3,322.04 per MWh. The price for peak non-firm is usually less than the price for peak firm. At the time of signing this affidavit, the Dow Jones Index price for Mid-C peak non-firm was not yet available. However, it is reasonable to believe that Boeing's energy charge for the subject six facilities for December 11, 2000 was higher than the energy charge for December 7, 2000.

**Warner, Keith C**

---

**From:** Bronaugh, Lynn[SMTP:lbrona@puget.com]  
**Sent:** Thursday, December 07, 2000 5:38 PM  
**To:** 'Gary Austin (Boeing)'; 'Keith Warner (Boeing)'; 'Kirk Thomson (Boeing)'; 'Kent Granzow (Boeing)';  
'Dwayne Sherry (Boeing)'  
**Subject:** Power Price Estimates  
**Importance:** High



- > The current price of power is extremely high and continues to climb. PSE
- > has prepared estimates of expected prices through next Tuesday to share
- > with you. These are best estimates of prices for the next 5 days, based
- > on market transactions as of mid-day today.
- >
- > I would appreciate knowing if you have any plans to alter operations
- > because of the high price of power.
- >
- > <<Projected Power Prices1A.doc>>
- >
- > Lynn Bronaugh
- > Puget Sound Energy
- > Key Customer Services
- > P.O. Box 90868 XRD-01
- > Bellevue, WA 98009-0868
- > (206) 287-3891
- > FAX (206) 287-3933
- >
- >



These are PSE's best estimate of forecasted power prices as of mid-day, Thursday December 7<sup>th</sup>. These estimates are subject to change and PSE makes no guarantee that these will be the actual prices for these days. The estimates are based on transactions in the market place.

### Projected Power Prices

Fri 12/8	off peak \$500/Mwh	on peak \$750/Mwh
Sat 12/9	off peak \$500/Mwh	on peak \$750/Mwh
Sun 12/10	off peak \$1,750/Mwh	on peak \$1,750/Mwh
Mon 12/11	off peak \$1,750/Mwh	on peak \$3,000/Mwh
Tue 12/12	off peak \$1,750/Mwh	on peak \$3,000/Mwh

**ATTACHMENT F**

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATIONS COMMISSION

DOCKET NO: \_\_\_\_\_

AFFIDAVIT OF MATTHEW G. FRANZ

STATE OF WASHINGTON

COUNTY OF THURSTON

I, Mathew G. Franz, being first duly sworn do say:

1. I am the Vice President of Operations for CNC Containers Corporation. I am responsible for all aspects of the manufacturing operation to include the safety, quality, productivity and costs of our manufacturing facilities. The purchase of electricity also falls under my responsibility.
2. CNC Containers Corporation is a manufacturer of PET, plastic bottles and preforms. Preforms are the intermediate component used in the production of PET bottles. CNC manufactures a variety of bottles for end uses that include Carbonated Soft drinks, Water, Dairy, Liquor, and Juice. We have manufacturing facilities located in Southern California, Northern California, Arizona and Tumwater, Washington. The largest site is the Tumwater, Washington facility that currently employs 306 people and produces about 480 million bottles and 1.1 billion preforms annually.  
  
The CNC facility in Tumwater provides bottles and preforms to 57 different customers, 18 of which are located in the State of Washington. Our customers in Washington include all of the bottled water companies and almost all of the carbonated soft drink companies in State. They also include two Dairies in Washington.
3. CNC is a customer of Puget Sound Energy, Inc. (PSE) and purchases its electricity supply pursuant to schedule 48. CNC takes approximately 8 aMW of electricity from PSE at prices based on the Dow Jones Mid-Columbia, non-firm Index.
4. Historically, the Tumwater facility has paid between \$25 and \$45 per megawatt hour. Electrical costs over the past seven months have ranged between \$80 to over \$4,000 per megawatt hour and CNC has been forced to absorb these exorbitant costs. We will not be able to sustain this. Simply put, We cannot continue operations at these rates. As a result of both high and volatile electrical costs, CNC has been managing the Tumwater facility on a day to

day basis, based on predictions of what electrical prices will be for the next day on the Mid Columbia Index. For the past several months, any time electrical rates were suspected to be high, CNC would try to limit our operations to reduce electrical costs. This included day to day layoffs of our hourly employees. As electricity prices remained high throughout the last half of November, CNC was forced to have a permanent layoff of some managers and corporate employees. As electrical prices rose even higher at the beginning of December, We had layoffs of our hourly employees.

5. CNC will be forced to shut down operations unless electricity returns to a delivered cost of less than \$70 per megawatt hour in the very near future. At \$70 per megawatt hour or less, CNC Containers will be able to sustain operations in the State of Washington and remain viable. It is doubtful if we will be able to continue operations at electrical rates higher than this. Historically, electricity has represented about 35% of the variable costs of the Tumwater facility. In November, electricity was over 80% of the variable costs of the operation. Currently, electrical costs now exceed revenues at the Tumwater plant.
6. Large local suppliers of the Tumwater facility include box and cardboard manufacturers, pallet manufacturers, plastic liner manufacturers and machine parts manufacturers. Large local service suppliers include freight carriers, industrial contractors and temporary employment providers.

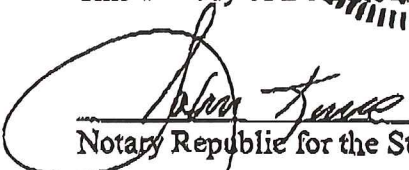
Bottles that CNC provides to our customers will not be easily replaced. Capacity does not now exist in nearby states to replace the bottles that CNC currently produces for its customers. We believe that all the Bottled Water companies that CNC services would have difficulty continuing operations if CNC bottles were unavailable. We also believe that the carbonated soft drink companies that we service would also have to close large parts of their operation if bottles were unavailable from CNC.

  
Matthew G. Franz



Sworn to and subscribed before me

This 12<sup>th</sup> day of December 2000

  
Notary Public for the State of Washington

My commission expires: 02-04-2001

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing Formal Complaint  
Requesting an Emergency Adjudicative Proceeding and Order Requiring PSE to Offer Service  
Under Schedule 49 upon Puget Sound Energy and Public Counsel by facsimile and Federal  
Express.

DATED this 12th day of December, 2000

  
\_\_\_\_\_  
Melinda J. Davison



VE-001952 (F)

# Davison Van Cleve PC

TEL (503) 241-7242 • FAX (503) 241-8160 • mail@dvclaw.com

Suite 2915  
1300 SW Fifth Avenue  
Portland, OR 97201

Melinda J. Davison

RECEIVED  
RECORDS MANAGEMENT  
00 DEC 13 AM 9:59  
STATE OF WASH.  
UTIL. AND TRANSP.  
COMMISSION

December 12, 2000

*Via Facsimile and Federal Express*


Carole J. Washburn  
Secretary  
Washington Utilities and Transportation Commission  
1300 S Evergreen Park Drive S.W.  
Olympia, WA 98504-7250

Re: Docket No: \_\_\_\_\_  
Formal Complaint Requesting an Emergency Adjudicative Proceeding and an Order  
Requiring PSE to Offer Service Under Schedule 49

Dear Ms. Washburn:

Enclosed please find an original and twenty copies of the Formal Complaint  
Requesting Emergency Adjudicative Proceeding and an Order Requiring PSE to Offer Service  
Under Schedule 49.

Please return one file-stamped copy of the Formal Complaint Requesting an  
Emergency Adjudicative Proceeding and Order Requiring PSE to Offer Service Under Schedule  
49 in the postage-prepaid envelope provided. Thank you for your assistance.

Sincerely yours,  
  
Melinda J. Davison

Enclosures  
cc: Steve McKeon



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BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AIR LIQUIDE AMERICA CORPORATION, )  
AIR PRODUCTS AND CHEMICALS, INC., )  
THE BOEING COMPANY, CNC )  
CONTAINERS, EQUILON ENTERPRISES, )  
LLC, GEORGIA-PACIFIC WEST, INC., and )  
TESORO NORTHWEST CO. )

Complainants,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKET NO.: \_\_\_\_\_

FORMAL COMPLAINT REQUESTING AN  
EMERGENCY ADJUDICATIVE  
PROCEEDING

RECEIVED  
REGISTRATION DIVISION  
00 DEC 13 AM 9:59  
STATE OF WASH.  
UTIL. AND TRANSP.  
COMMISSION

INTRODUCTION

Air Liquide America Corporation (“Air Liquide”), Air Products and Chemicals, Inc. (“Air Products”), The Boeing Company (“Boeing”), CNC Containers (“CNC”), Equilon Enterprises, LLC (“Equilon”), Georgia-Pacific West, Inc. (“G-P”), and Tesoro Northwest Company (“Tesoro”) (collectively referred to herein as “Complainants”), bring this complaint before the Washington Utilities and Transportation Commission (“WUTC” or “Commission”) against Puget Sound Energy (“PSE”) for charging rates that are not just, fair and reasonable, in violation of RCW § 80.28.010. Specifically, pricing for retail electric service based on the Dow Jones Mid-Columbia indices is unjust, unfair, unreasonable and not in the public interest.

The prices under the Dow Jones Mid-Columbia indices have skyrocketed in recent weeks to the point at which customers purchasing from PSE pursuant to Schedule 48 or special contracts are paying among the highest, if not, the highest retail price for electricity in the

PAGE 1 – FORMAL COMPLAINT REQUESTING AN EMERGENCY ADJUDICATIVE  
PROCEEDING AND AN ORDER REQUIRING PSE TO OFFER SERVICE UNDER  
SCHEDULE 49

1 entire United States. As a result, daily spot market pricing at the Mid-Columbia no longer  
2 provides a reasonable basis for setting retail electric rates. These rates have little relationship to  
3 PSE's cost of service, and, the Complainants believe, are resulting in a financial windfall to PSE.  
4 PSE's current rates "are unjust, unreasonable, unjustly discriminatory or unduly preferential,"  
5 therefore, the Commission is required to, "determine the just, reasonable, or sufficient rates . . .  
6 to be thereafter observed and in force, and shall fix the same by order." RCW § 80.28.020.

7 The Commission should authorize the use of the emergency adjudicative  
8 proceeding statute, which is available "to require immediate action in any situation involving an  
9 immediate danger to the public health, safety, or welfare requiring immediate action by the  
10 commission." WAC § 490-09-510. Several Complainants have already closed or curtailed their  
11 operations due to unprecedented high power prices, and others may soon follow. These closures  
12 or reductions in operations, even temporarily, will result in employment terminations, lost  
13 revenues, economic and social hardship and pose an immediate danger to the Puget Sound area  
14 economy, and therefore, the public welfare. The standard complaint procedure, in which the  
15 Commission must order relief in up to ten months, will not provide an adequate remedy to the  
16 Complainants' immediate and dire need for power at just and reasonable rates.

17 **In support of their Complaint, Complainants allege as follows:**

18 **IDENTITY OF THE PARTIES**

19 1. Air Liquide is a Delaware corporation that is qualified to do business, and  
20 is doing business, in the State of Washington. Air Liquide's address is 2700 Post Oak Blvd.,  
21 Houston, Texas 77056.

22 2. Air Products is a Delaware corporation that is qualified to do business, and  
23 is doing business, in the State of Washington. Air Products' address is 7201 Hamilton  
24 Boulevard, Allentown, Pennsylvania 18195.

25 PAGE 2 – FORMAL COMPLAINT REQUESTING AN EMERGENCY ADJUDICATIVE  
PROCEEDING AND AN ORDER REQUIRING PSE TO OFFER SERVICE UNDER  
SCHEDULE 49





1 to charge just, fair and reasonable rates); and RCW § 80.28.020 (Commission required to fix just  
2 and reasonable rates).

3 11. The statutes expected to be involved in this case include:  
4 RCW § 34.05.479; RCW § 80.01.040; RCW §§ 80.04.020, .110 and .120; RCW §§ 80.28.010  
5 and .020. The rules involved in this case include: WAC §§ 480-09-400, -410, -420, -425, -480,  
6 -510, -700, -710, -720, -730, -735, -736, -740, -750 and -770.

## 7 **FACTUAL BACKGROUND**

### 8 **Complainants First Claim for Relief** 9 **Unjust, Unfair and Unreasonable Rates and a Violation of the Public Interest**

#### 10 **Complainants Allege:**

11 12. The Complainants take electric service from PSE under pricing based on  
12 the Mid-Columbia indices through the Schedule 48 tariff or the G-P Special Contract. Air  
13 Liquide, Air Products, Boeing, CNC, Equilon and Tesoro purchases power priced at the Dow  
14 Jones Mid-Columbia Revised Nonfirm Index. G-P receives its power priced at the Dow Jones  
15 Mid-Columbia Firm Index. The Complainants principal purpose in choosing electric service  
16 priced at the Mid-Columbia indices was to receive just and reasonable rates, leading to complete  
17 market access at the end of the five-year service agreement and Special Contract term.  
18 Attachment A is the Affidavit of Ken Canon.

19 13. The historic price of power for the Mid-Columbia Firm Index is  
20 approximately 26.24 on peak and 18.19 off peak for 1999. Attachment B provides detailed  
21 information supporting this historic price calculation.

22 14. The historic price of power for the Mid-Columbia Non-Firm Index is  
23 approximately 23.24 on peak and 17.40 off peak for 1999. *See* Attachment B.

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25 **PAGE 4 – FORMAL COMPLAINT REQUESTING AN EMERGENCY ADJUDICATIVE  
PROCEEDING AND AN ORDER REQUIRING PSE TO OFFER SERVICE UNDER  
SCHEDULE 49**

1           15.    The California marketplace is directly impacting the spot market prices in  
2 the Northwest. The Federal Energy Regulatory Commission (“FERC”) recently concluded that,  
3 the California market structure and rules are providing sellers an opportunity to exercise market  
4 power and causing California electric rates to be unjust and unreasonable. San Diego Gas &  
5 Electric Co. v. Sellers of Energy, 93 FERC ¶ 61,121 (Nov. 1, 2000).

6           16.    The Pacific Northwest and California markets are interrelated, and the  
7 high price of power in California is a substantial factor that is causing the price of power in the  
8 Pacific Northwest to increase. *See PSE v. All Jurisdictional Sellers of Elec.*, Docket No. EL01-  
9 10-000, PSE Complaint at 7-13 (Oct. 26, 2000) (PSE requesting a price cap on wholesale electric  
10 energy because of the interrelated California and Pacific Northwest markets).

11           17.    At least in part due to current circumstances in the California market, the  
12 current price of power for the Mid-Columbia Indices far exceeds historic levels. For example,  
13 the Mid-Columbia Firm Index on peak price was \$714.44 for Friday, December 8, 2000, and the  
14 Mid-Columbia Non-Firm Index on peak price was \$604.06. The Mid-Columbia Firm Index on  
15 peak price was at \$3,300.00 for Monday, December 11, 2000. The Mid-Columbia Non- Firm  
16 Index on peak price for Monday, December 11, 2000, was unreported at the present time.<sup>1/</sup>

17           18.    Air Liquide is a customer of PSE and purchases its electric supply  
18 pursuant to Schedule 48. Air Liquide takes approximately 8 aMW of electricity from PSE under  
19 Schedule 48. Because of the high price of electricity Air Liquide has reduced its operations,  
20 shutting down operations at certain times.

21           19.    Air Products is a customer of PSE and purchases its electric supply  
22 pursuant to Schedule 48. Air Products takes approximately 7 aMW of electricity from PSE.

23 \_\_\_\_\_  
24 <sup>1/</sup> The source for the Mid-Columbia numbers is the Wall Street Journal, Tues., Dec. 12, 2000 at C12.



1 Because of the high price of electricity, Air Products has been forced to reduce its operations, by  
2 shutting down operations at certain times. Attachment C is the Affidavit of Randall Clancy.

3 20. G-P is a customer of PSE and purchases its electric supply pursuant to a  
4 Special Contract with pricing provisions tied to the Mid-Columbia Firm Index. G-P takes  
5 approximately 40 aMW of electricity from PSE. Because of the high price of electricity, G-P has  
6 been forced to close its Bellingham operations indefinitely. Attachment D is the Affidavit of  
7 James Cunningham.

8 21. Boeing is a customer of PSE and purchases its electric supply pursuant to  
9 Schedule 48. Boeing takes approximately 80 aMW of electricity from PSE. Attachment E is the  
10 Affidavit of Keith Warner.

11 22. CNC is a customer of PSE and purchases its electric supply pursuant to  
12 Schedule 48. CNC takes approximately 8 aMW of electricity from PSE. Because of the high  
13 price of electricity, CNC has been forced to shut down its operations at certain times.  
14 Attachment F is the Affidavit of Matthew Franz.

15 23. Equilon is a customer of PSE and purchases its electric supply pursuant to  
16 Schedule 48. Equilon takes approximately 34 aMW of electricity from PSE.

17 24. Tesoro is a customer of PSE and purchases its electric supply pursuant to  
18 Schedule 48. Tesoro takes approximately 20 aMW of electricity from PSE.

19 25. Upon information and belief, continued use of the Mid-Columbia indices  
20 to set retail power prices will result in enormous windfall profits to PSE. PSE's September 30,  
21 2000 10-Q financial report shows an increase in industrial revenues from approximately \$38  
22 million for 1999, to approximately \$101 million for the first nine months of 2000. Given the  
23 dramatic increase in spot market electric prices at the Mid-Columbia since September 30, 2000,  
24 this revenue number will rise significantly.

25 PAGE 6 – FORMAL COMPLAINT REQUESTING AN EMERGENCY ADJUDICATIVE  
PROCEEDING AND AN ORDER REQUIRING PSE TO OFFER SERVICE UNDER  
SCHEDULE 49







- 1                   2. Finding that PSE is obligated to serve Complainants based on Schedule 49 or  
2                   any otherwise available PSE rate schedule; pending the determination of a  
3                   cost-based, just and reasonable rate;
- 4                   3. Requiring that payment of the Schedule 49 rate be subject to refund, or  
5                   surcharge, as the case may be, with interest, to reflect the difference between  
6                   such Schedule 49 rate and the cost-based just and reasonable rate;
- 7                   4. Finding that the Complainants shall receive a refund of the transition charges  
8                   paid to PSE in exchange for market access at the end of the five year service  
9                   agreements and G-P Special Contract;
- 10                  5. Finding that the relief shall become effective as of the date of the Complaint;
- 11                  6. Alternatively, the Complainants request that the Commission issue a finding  
12                  that Schedule 48 and the Special Contract include an interim price cap based  
13                  on Schedule 49 subject to refund or surcharge or another interim price cap  
14                  level which the Commission considers to be just and reasonable; and
- 15                  7. Such other relief as the Commission may deem necessary.

16  
17                  Dated this 12th day of December, 2000.



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Respectfully submitted,

DAVISON VAN CLEVE, P.C.



Melinda J. Davison

Irion A. Sanger

Davison Van Cleve, P.C.

1300 S.W. Fifth Avenue, Suite 2915

Portland, OR 97201

(503) 241-7242 phone

(503) 241-8160 fax

[mail@dvclaw.com](mailto:mail@dvclaw.com)

Of Attorneys for Air Liquide America Corporation, Air Products and Chemicals Inc., The Boeing Company, CNC Containers, Equilon Enterprises, LLC, Georgia-Pacific West, Inc., and Tesoro Northwest Company.

**ATTACHMENT A**

BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AIR LIQUIDE AMERICA CORPORATION, )  
AIR PRODUCTS AND CHEMICALS, INC., )  
THE BOEING COMPANY, CNC )  
CONTAINERS, EQUILON ENTERPRISES, )  
LLC, GEORGIA-PACIFIC WEST, INC., and )  
TESORO NORTHWEST CO. )

Complainants,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKET NO.: \_\_\_\_\_

AFFIDAVIT OF KENNETH D. CANON

STATE OF OREGON )

County of Multnomah )

ss.

I, KENNETH D. CANON, being first duly sworn, do say:

I am the Executive Director of the Industrial Customers of Northwest Utilities ("ICNU"). ICNU's business address is:

Industrial Customers of Northwest Utilities  
825 NE Multnomah, Suite 180  
Portland, Oregon 97232-2158

1. ICNU is an incorporated, non-profit association of large industrial electric customers in the Pacific Northwest. Many of Puget Sound Energy's ("PSE's") industrial customers are members of ICNU.
2. I was the lead negotiator for PSE's industrial customers in the development of the terms of the Schedule 48. I became the lead negotiator through my role as

1 Executive Director of ICNU. Puget Sound Power & Light Company ("Puget")  
2 approached me in early 1996 to negotiate the support of industrial customers for  
3 Puget's proposed merger with Washington Natural Gas Company ("WNG").

4 During the winter and spring of 1996, I met with representatives of Puget  
5 regarding the proposed merger. In April 1996, Puget proposed negotiating a  
6 market-based tariff for large industrial customers in exchange for the customers'  
7 support of the merger. The terms of Schedule 48 were negotiated in May 1996.

- 8
- 9 3. There was a direct relationship between the Schedule 48 tariff and the Merger  
10 Application. Puget and WNG agreed to submit, support and pursue approval of  
11 Schedule 48 in exchange for the industrial customers' agreement not to oppose  
12 the merger. Without Puget's and WNG's commitment to provide market-based  
13 electric rates through Schedule 48 and a commitment to provide open access;  
14 industrial customers would have opposed the merger. The terms of this  
15 settlement are set forth in a formal Settlement Agreement, dated May 22, 1996.
- 16 4. The bulk of the negotiation process regarding the terms of Schedule 48 occurred  
17 in May of 1996. Although Schedule 48 was not approved by the Commission  
18 until October 31, 1996, the parties to the negotiation of Schedule 48 had come to  
19 agreement on all significant terms by the end of May 1996. It was assumed that  
20 the range of market costs would vary from the then \$15 mills per KWh to  
21 approximately 50 mills per KWh which was the assumed long term costs of new  
22 resources.
- 23 5. A critical element of the agreement the industrial customers reached with PSE,  
24 was the commitment that Schedule 48 customers would receive open access to the  
25 competitive markets; i.e., customer choice by no later than the end of the five year  
Schedule 48 service agreements.



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6. In exchange for this commitment, customers agreed to pay PSE transition charges set forth in the body of Schedule 48.
7. Instead, PSE has indicated to me on numerous occasions that they will not provide open access to their Schedule 48 customers at the end of the five-year service agreements.
8. Schedule 48 customers believed, based on information provided by PSE and based on their own analysis, that rates under Schedule 48 would be just and reasonable.

15 /  
\_\_\_\_\_  
KENNETH D. CANON

SUBSCRIBED AND SWORN to before me this 12th day of December, 2000.

\_\_\_\_\_  
Notary Public for Oregon  
County of Multnomah  
My Commission Expires: \_\_\_\_\_

**ATTACHMENT B**

Mid-C Index without PSE Adders

Monthly Average \$/MWH

		Firm On-Peak	Firm Off-Peak	Non-Firm On-Peak	Firm Off-Peak
Jun	1998	13.44	6.09	11.11	7.36
Jul	1998	25.26	19.14	23.56	17.46
Aug	1998	47.89	27.87	38.51	24.14
Sep	1998	38.82	25.34	32.98	24.00
Oct	1998	30.27	25.96	30.35	25.60
Nov	1998	28.06	25.34	27.35	23.56
Dec	1998	30.84	24.93	27.23	22.03
Jan	1999	18.02	14.03	16.47	12.55
Feb	1999	18.03	13.57	17.92	12.98
Mar	1999	16.16	12.08	15.63	10.97
Apr	1999	24.20	14.95	22.11	16.11
May	1999	26.25	15.93	23.63	15.32
Jun	1999	23.39	6.97	18.28	8.05
Jul	1999	24.48	14.39	19.30	14.37
Aug	1999	29.90	16.95	21.63	16.22
Sep	1999	31.65	26.40	29.36	25.15
Oct	1999	44.78	37.79	44.97	37.05
Nov	1999	31.41	24.97	27.37	20.93
Dec	1999	26.63	20.25	23.43	19.06
Jan	2000	26.46	23.09	25.94	21.95
Feb	2000	26.88	24.96	27.01	24.72
Mar	2000	27.79	26.37	27.75	24.66
Apr	2000	27.23	15.74	23.27	16.76
May	2000	58.11	33.87	48.55	32.59
Jun	2000	170.52	52.90	88.38	50.49
Jul	2000	126.53	65.94	91.39	60.71
Aug	2000	206.50	91.66	143.50	93.50
Sep	2000	129.50	86.47	116.63	87.07
Oct	2000	104.06	84.42	95.95	80.00
Nov	2000	174.20	142.49	184.47	146.49
Dec	2000	722.74	498.82	395.35	322.80
Average 1999		26.24	18.19	23.34	17.40
Average (Jan - Apr 2000)		27.09	22.54	25.99	22.02
Average (May-Dec 2000)		211.52	132.07	145.53	109.21
Average Dec 2000 to Date		722.74	498.82	395.35	322.80
Average 2000		150.04	95.56	105.68	80.15

Data through Dec 11, 2000 for firm and December 10,2000 for Non-Firm

**ATTACHMENT C**



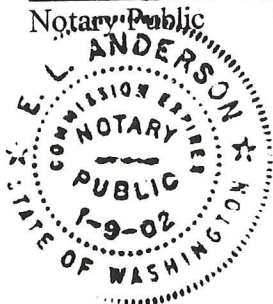


6. Power costs normally represent approximately 60 to 70% of the variable costs of producing the products manufactured at the Puyallup facility.
7. In December 1999, Air Products paid on average between \$22 and \$30/MWH. Over the last few months, our power costs have increased dramatically to unprecedented levels. For example, on December 7, 2000, the average Mid-Columbia revised non-firm electric index price charged by PSE was approximately \$600/MWH. Air Products expects that on certain days this month power costs could be as high as 100 times historic levels. At these price levels, Air Products cannot continue to manufacture liquid nitrogen, oxygen and argon at its Puyallup plant.
8. These unprecedented power costs are far in excess of historic levels – levels that formed the basis of the industrial gas contracts Air Products has with its Puyallup facility customers.
9. As a result, recently Air Products has been required periodically to curtail or shut down its Puyallup facility to avoid these extraordinary power costs. Because we cannot predict when power costs will return to historic levels, our operating plan varies day-to-day at these pricing levels.
10. The Puyallup facility provides products to, among others, customers in the aerospace and aviation industry, medical home health care providers, hospitals, semiconductor fabricators, industrial manufacturers in the glass and steel industries, food services providers, and the United States Air Force. These customers depend on supply of industrial gases from the facility for manufacturing, health, and in particular safety.

  
\_\_\_\_\_  
RANDALL B. CLANCY

Sworn to and subscribed before me,  
this 11th, day of December 2000.

  
\_\_\_\_\_  
Notary Public  
E. L. ANDERSON  
11/9/02



**ATTACHMENT D**



**Georgia-Pacific Corporation**

**Georgia-Pacific West, Inc.**

*A wholly owned subsidiary*

*P.O. Box 1236*

*Bellingham, Washington 98227-1236*

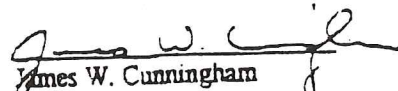
*Telephone (360)793-4410*

*Fax (360)676-7217*

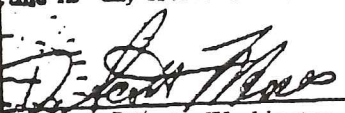
STATE OF WASHINGTON

COUNTY OF WHATCOM

1. I, James W. Cunningham, being first duly sworn, do say:
2. I am the General Manager of Georgia-Pacific West's Pulp, Paper and Chemical operation in Bellingham, Washington. I have been employed by Georgia-Pacific for 30 years and I have held my present position for 6 years. My responsibility includes the safe and environmentally compliant operation of the Bellingham facility.
3. Georgia-Pacific West, Inc. is an Oregon corporation that is qualified to do business, and is doing business in the state of Washington as a manufacturer of pulp, paper products and specialty industrial chemicals. Our customers rely on our products to make plastic laminates, photographic paper, concrete admixture for construction, textile dyes, gasohol fuel, mud thinning compounds for oil and gas exploration, etc. Typically our customers operate on a "just in time" basis, requiring shipments on a regular schedule.
4. Georgia-Pacific is a customer of Puget Sound Energy, Inc. ("PSE") and purchases its electricity supply pursuant to a special contract. Georgia-Pacific takes approximately 40 a MW of electricity from PSE at prices based on the Dow Jones Mid-Columbia Firm Index.
5. The high prices of electricity have increased from approximately 7% of our production costs to in excess of 50% based on real and projected costs for December 2000. At this level of cost Georgia-Pacific cannot cover the variable costs of our products and has thus decided to shutdown operations and layoff approximately 500 employees. These are employees who make living wage jobs (\$70,000 wages and benefits) and have historically contributed to the economic well-being of the Whatcom county economy. Further, Georgia-Pacific's \$250,000,000 of annual revenue will not flow into the local and regional economy.
6. When our special contract with PSE was completed in June, 1996, electricity rates were envisioned in the \$10-60/MWH range with further expectations for market prices to stabilize lower as deregulation progressed and led to a truly open market. Of course what was expected to happen did not happen and the electrical market did not develop into the robust entity thought to be the future by both the customers and the utility. Today's December 12, 2000 prices are forecast to be \$876/MWH.
7. In order to continue to do business in the State of Washington, Georgia-Pacific requires competitive electrical energy pricing within a reasonable amount of variability. Georgia-Pacific's products are sold regionally and globally, and must be competitive in all markets.

  
 James W. Cunningham

Subscribed and Sworn to before me,  
 this 12<sup>th</sup> day of December, 2000

  
 Notary Public for Washington  
 My Commission Expires: 7-01-04





**ATTACHMENT E**

BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AIR LIQUIDE AMERICA CORPORATION, ) DOCKET NO.: \_\_\_\_\_  
 AIR PRODUCTS AND CHEMICALS, INC., )  
 THE BOEING COMPANY, C & C ) AFFIDAVIT OF KEITH C. WARNER,  
 CONTAINERS, EQUILON ENTERPRISES, ) COMPANY ENERGY MANAGER,  
 INC, GEORGIA-PACIFIC WEST, INC., and ) THE BOEING COMPANY  
 TESORO NORTHWEST CO. )

Complainants,

v.

PUGET SOUND ENERGY,

Respondent.

STATE OF WASHINGTON )  
 ) ss.  
 County of King )

I, Keith C. Warner, being first duly sworn, do say:

1. I am the Company Energy Manager for The Boeing Company (Boeing), a Delaware Corporation. My office is located at 1420 South Trenton Street, Seattle, Washington 98108. I have been in this position for approximately two years. My responsibilities include oversight of long term energy planning and procurement.
2. Boeing is the largest aerospace company and the largest manufacturer of commercial jetliners in the world. It is a world leader in the development and production of military-aircraft and defense-system products and programs. Boeing's customers include NASA, all branches of the U.S. military, as well as

1 over 140 commercial airline companies worldwide. Boeing is the nation's largest  
2 exporter.

3 3. Six of Boeing's facilities in the Puget Sound area are customers of Puget Sound  
4 Energy, Inc. ("PSE") and purchase their electricity supply pursuant to Schedule  
5 48. These facilities are located in Auburn, Bellevue, Frederickson (Pierce  
6 County), Kent, Longacres (Renton) and Renton. Together, these facilities  
7 employ approximately 30,000 and consume approximately 80 aMW of electricity  
8 from PSE at prices based on the Dow Jones Mid-Columbia (Mid-C) Non-Firm  
9 Index.  
10

11 4. The market price of electricity upon which Schedule 48 is based has skyrocketed.  
12 The impact on Boeing can be easily illustrated. For example, on December 7,  
13 1999, Boeing paid approximately \$22 per MegaWatt hour (MWh) for the Mid-C  
14 peak non-firm energy charge resulting in an energy charge for the day for the  
15 subject six facilities of \$59,208.<sup>1</sup> On December 7, 2000, the Dow Jones Index  
16 price rate for Mid-C peak non-firm for energy was \$664.04 per MWh.<sup>2</sup> Assuming  
17 the same consumption for December 7, 2000 as December 7, 1999, Boeing's  
18 energy charge for the subject six facilities on Schedule 48 would be \$1,349,871<sup>3</sup>  
19 based on the Mid-C peak non-firm price of \$664.04 and the off-peak price of  
20

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22 <sup>1</sup> Based on price paid on December 7, 1999 as depicted in the actual bill from PSE.

23 <sup>2</sup> Based on the Wall Street Journal.

24 <sup>3</sup> The rate charged under Schedule 48 uses the Dow Jones Mid-Columbia Index rate as the basis for the  
25 rate, and then adjusts the energy charge to increase for losses associated with power delivery, the cost of  
ancillary services, utility profit, state utility taxes and a WUTC fee. [Index (1+loss  
factor)+margin)(1+utility tax+WUTC fee)]. The \$1,349,871 energy charge reflects the Schedule 48  
adjustments to the Dow Jones Index rate.

1 \$377.22. This one-day energy charge is over twenty (20) times larger than the  
2 year before.<sup>4</sup>

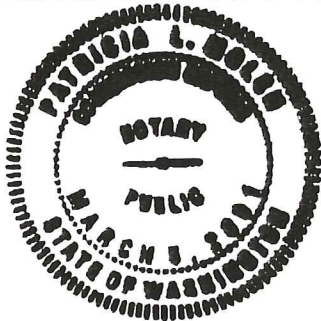
3 5. The current alarming trend in the rising price of electricity under Schedule 48 also  
4 is apparent from a comparison of the average price Boeing paid for energy last  
5 year with this year over the same time period. For the period of December 1  
6 through 10, 1999, Boeing paid on average \$24.45 peak and 20.04 off-peak per  
7 MWh for energy under Schedule 48. This year, from December 1 through 10,  
8 2000, Boeing paid on average \$395.35 peak and 322.80 off-peak per MWh – a 15  
9 fold increase.


10  
11 6. Boeing is very concerned about the current high rates as well as the likelihood of  
12 equally high – if not higher rates – as the winter proceeds. Indeed, PSE advised  
13 Boeing on December 7<sup>th</sup> that the price of electric power could rise in the very near  
14 term to a high of \$3,000 per MWh. (See Attachment 1 to this Affidavit.)

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17  
18 Keith C. Warner

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SUBSCRIBED AND SWORN to before me this 12th day of December, 2000.



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Notary Public for [State]  
My Commission Expires: March 5, 2001

<sup>4</sup> According to today's Wall Street Journal, the published Dow Jones Index price for Mid-C peak firm for energy was \$3,322.04 per MWh. The price for peak non-firm is usually less than the price for peak firm. At the time of signing this affidavit, the Dow Jones Index price for Mid-C peak non-firm was not yet available. However, it is reasonable to believe that Boeing's energy charge for the subject six facilities for December 11, 2000 was higher than the energy charge for December 7, 2000.



**Warner, Keith C**

---

**From:** Bronaugh, Lynn[SMTP:lbrona@puget.com]  
**Sent:** Thursday, December 07, 2000 5:38 PM  
**To:** 'Gary Austin (Boeing)'; 'Keith Warner (Boeing)'; 'Kirk Thomson (Boeing)'; 'Kent Granzow (Boeing)';  
'Dwayne Sherry (Boeing)'  
**Subject:** Power Price Estimates  
**Importance:** High



- > The current price of power is extremely high and continues to climb. PSE
- > has prepared estimates of expected prices through next Tuesday to share
- > with you. These are best estimates of prices for the next 5 days, based
- > on market transactions as of mid-day today.
- >
- > I would appreciate knowing if you have any plans to alter operations
- > because of the high price of power.
- >
- > <<Projected Power Prices1A.doc>>
- >
- > Lynn Bronaugh
- > Puget Sound Energy
- > Key Customer Services
- > P.O. Box 90868 XRD-01
- > Bellevue, WA 98009-0868
- > (206) 287-3891
- > FAX (206) 287-3933
- >
- >

These are PSE's best estimate of forecasted power prices as of mid-day, Thursday December 7<sup>th</sup>. These estimates are subject to change and PSE makes no guarantee that these will be the actual prices for these days. The estimates are based on transactions in the market place.

### Projected Power Prices

Fri 12/8	off peak \$500/Mwh	on peak \$750/Mwh
Sat 12/9	off peak \$500/Mwh	on peak \$750/Mwh
Sun 12/10	off peak \$1,750/Mwh	on peak \$1,750/Mwh
Mon 12/11	off peak \$1,750/Mwh	on peak \$3,000/Mwh
Tue 12/12	off peak \$1,750/Mwh	on peak \$3,000/Mwh

**ATTACHMENT F**

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATIONS COMMISSION

DOCKET NO: \_\_\_\_\_

AFFIDAVIT OF MATTHEW G. FRANZ

STATE OF WASHINGTON

COUNTY OF THURSTON

I, Mathew G. Franz, being first duly sworn do say:

1. I am the Vice President of Operations for CNC Containers Corporation. I am responsible for all aspects of the manufacturing operation to include the safety, quality, productivity and costs of our manufacturing facilities. The purchase of electricity also falls under my responsibility.
2. CNC Containers Corporation is a manufacturer of PET, plastic bottles and preforms. Preforms are the intermediate component used in the production of PET bottles. CNC manufactures a variety of bottles for end uses that include Carbonated Soft drinks, Water, Dairy, Liquor, and Juice. We have manufacturing facilities located in Southern California, Northern California, Arizona and Tumwater, Washington. The largest site is the Tumwater, Washington facility that currently employs 306 people and produces about 480 million bottles and 1.1 billion preforms annually.

The CNC facility in Tumwater provides bottles and preforms to 57 different customers, 18 of which are located in the State of Washington. Our customers in Washington include all of the bottled water companies and almost all of the carbonated soft drink companies in State. They also include two Dairies in Washington.

3. CNC is a customer of Puget Sound Energy, Inc. (PSE) and purchases its electricity supply pursuant to schedule 48. CNC takes approximately 8 aMW of electricity from PSE at prices based on the Dow Jones Mid-Columbia, non-firm Index.
4. Historically, the Tumwater facility has paid between \$25 and \$45 per megawatt hour. Electrical costs over the past seven months have ranged between \$80 to over \$4,000 per megawatt hour and CNC has been forced to absorb these exorbitant costs. We will not be able to sustain this. Simply put, we cannot continue operations at these rates. As a result of both high and volatile electrical costs, CNC has been managing the Tumwater facility on a day to



day basis, based on predictions of what electrical prices will be for the next day on the Mid Columbia Index. For the past several months, any time electrical rates were suspected to be high, CNC would try to limit our operations to reduce electrical costs. This included day to day layoffs of our hourly employees. As electricity prices remained high throughout the last half of November, CNC was forced to have a permanent layoff of some managers and corporate employees. As electrical prices rose even higher at the beginning of December, We had layoffs of our hourly employees.

5. CNC will be forced to shut down operations unless electricity returns to a delivered cost of less than \$70 per megawatt hour in the very near future. At \$70 per megawatt hour or less, CNC Containers will be able to sustain operations in the State of Washington and remain viable. It is doubtful if we will be able to continue operations at electrical rates higher than this. Historically, electricity has represented about 35% of the variable costs of the Tumwater facility. In November, electricity was over 80% of the variable costs of the operation. Currently, electrical costs now exceed revenues at the Tumwater plant.
6. Large local suppliers of the Tumwater facility include box and cardboard manufacturers, pallet manufacturers, plastic liner manufacturers and machine parts manufacturers. Large local service suppliers include freight carriers, industrial contractors and temporary employment providers.

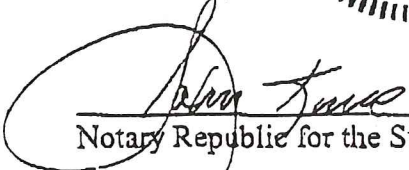
Bottles that CNC provides to our customers will not be easily replaced. Capacity does not now exist in nearby states to replace the bottles that CNC currently produces for its customers. We believe that all the Bottled Water companies that CNC services would have difficulty continuing operations if CNC bottles were unavailable. We also believe that the carbonated soft drink companies that we service would also have to close large parts of their operation if bottles were unavailable from CNC.

  
Matthew G. Franz



Sworn to and subscribed before me

This 12<sup>th</sup> day of December, 2000

  
Notary Public for the State of Washington

My commission expires: 02-04-2001

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing Formal Complaint Requesting an Emergency Adjudicative Proceeding and Order Requiring PSE to Offer Service Under Schedule 49 upon Puget Sound Energy and Public Counsel by facsimile and Federal Express.

DATED this 12th day of December, 2000

  
\_\_\_\_\_  
Melinda J. Davison