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May 15, 2017

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

Re: Docket A-130355, Rulemaking to Consider Possible Corrections and Changes in WAC 480-07, Relating to Procedure Rules (Part III B)

Dear Mr. King:

Before providing comments in the above-referenced rulemaking, Puget Sound Energy (“PSE”) wishes to raise an issue regarding PSE’s current general rate proceeding (“GRC”), Dockets UE-170033 and UG-170034. As the Commission is aware, PSE witness Katherine Barnard proposed procedures regarding expedited rate proceedings in her Prefiled Direct Testimony in the GRC filed on January 13, 2017. The Commission subsequently issued its proposed amendments to Part III B of WAC 480-07. The Commission’s proposed amendments also include proposed procedures regarding expedited rate proceedings/limited rate proceedings. Accordingly, it appears there is a potential for ex parte communications to occur in this proceeding regarding issues raised in Ms. Barnard’s GRC testimony. PSE also raised this issue with Greg Kopta, the administrative law judge assigned to this docket, who suggested we raise the issue in this letter.

PSE hereby provides the following comments in response to the Commission’s Notice of Opportunity to File Written Comments dated March 30, 2017 regarding proposed amendments to Part III B in WAC 480-07 (General Rate Proceedings):

WAC 480-07-500(4) Summary rejection for failure to comply.

PSE suggests removal of the proposed language, “...but the stated effective date of the tariffs must be based on the date the company makes the revised submission.” PSE is not opposed to changing the tariff effective date to the date the company makes its revised submission, but PSE recommends that the Commission allow the administrative law judge flexibility in determining whether changing the effective date of the tariff is appropriate.

Mr. Steven King
May 15, 2017
Page 2

WAC 480-07-505(1)(b)

PSE requests that the Commission retain the language “on common equity” in this subsection. Without this language, a company that files a limited rate proceeding, and in that proceeding updates the cost of debt, would “initiate general rate proceedings” under the language in WAC 480-07-505(1) because the change in debt costs changes the company’s authorized rate of return. For example, in PSE’s 2013 Expedited Rate Filing, Dockets UE-130137 and Dockets UG-130138, PSE updated debt costs to reflect lower cost of debt, which changed PSE’s overall rate of return from 7.80 to 7.77. An update to the cost of debt, without other changes to capital structure or ROE, should not trigger a general rate case. However, the proposed rule, as written, indicates that a change in cost of debt as part of a limited rate proceeding would “initiate general rate proceedings.” This issue is further addressed in comments to WAC 480-07-515.

WAC 480-07-505(2)(d)

PSE requests that the proposed WAC 480-07-505(2)(d) add a provision to allow the company to withdraw its filing if the Commission exercises its discretion to review a limited rate proceeding as a general rate proceeding. Additionally, PSE has concerns about the broad scope of discretion set forth in this subsection, which would allow the Commission to convert any limited rate proceeding to a general rate case. This issue is further addressed in PSE’s comments to WAC 480-07-505(4).

WAC 480-07-505(3) Submissions under chapter 81.77 RCW that do not initiate general rate proceedings.

PSE proposes to change the word “do” to “will” in the above-referenced subsection to be consistent with the title in WAC 480-07-505(2).

WAC 480-07-505(4)

The proposed revisions to this subsection significantly broaden the Commission’s discretion to “consider any submission described in this section as initiating a general rate proceeding or to convert any rate proceeding to a general rate proceeding.” PSE is concerned that this broad statement of Commission discretion, without any stated boundaries or criteria for exercising such discretion, would increase uncertainty for regulated companies because any described submission—including but not limited to limited rate proceedings, power cost adjustments and purchased gas adjustments—could be converted to a general rate case for no enumerated reason other than because the Commission chooses, in its discretion, to do so. PSE requests that the current language of this subsection remain unchanged.

WAC 480-07-510(1) Testimony and exhibits

For the sake of clarity, PSE recommends removing the following proposed addition from the first sentence: “if the commission suspends the tariff changes and commences an adjudication.” The subsection requires testimony and exhibits to be filed with a company’s initial submission of a general rate case, but the Commission suspends the tariff changes and commences an adjudication after a company’s initial submission. Accordingly, whether the Commission suspends the tariff changes and commences an adjudication should not determine whether a company files testimony and exhibits at the outset of its case. Rather, the company’s general rate case submission for filing should include all testimony and exhibits in every case.

WAC 480-07-510(3) Work papers and accounting adjustments

WAC 480-07-510(3)(a)

- PSE recommends the proposed rules include a definition of “work paper”.
- PSE recommends rejecting the proposed amendment, “Every party must submit for filing and serve work papers that support its position and the testimony of each of its witnesses when the party submits that testimony.” PSE recommends that the current rules remain unchanged with regard to filing and service of work papers. That is, work papers are not to be filed but the company must serve them on Public Counsel and Staff. Work papers are not intended to be a part of the record or a company’s rate case. Instead, like data requests, work papers are provided to assist a party’s or the Commission’s review of a company’s rate case. Responses to data requests are not filed and, similarly, work papers should not be filed. If the Commission or other parties request work papers they may issue a bench or data request.

WAC 480-07-510(3)(b)

- PSE recommends the Commission keep the current rule’s provision that if a referenced document is voluminous, it need not be provided. In past rate proceedings, it has been common to reference specific books. In those cases, the book or other voluminous written material is not provided but is identified clearly and is made available if requested. The Commission should maintain this provision.
- The rule should make clear that companies are not required to provide copies of copyrighted materials as workpapers. The rule, as written, requires articles and studies to be provided as workpapers if they are referred to in testimony, exhibits or workpapers. The Commission should not require companies to violate a copyright in order to comply with these rules.

WAC 480-07-510(3)(d)

- PSE has encountered situations where it is required to produce a model that contains confidential information in certain tabs, but the tabs cannot be marked as confidential or redacted according to the Commission rules without destroying the functionality of the model. These models are typically submitted as workpapers, not exhibits. Thus, the requirement that all electronic files be marked for confidentiality and redacted according to the rules is not possible for these models.

WAC 480-07-510(3)(e)

- PSE renews its request that work papers be provided to parties, but not be filed. However, if the company is required to file its work papers, other parties should be required to file their work papers, as well. Accordingly, PSE recommends that the last sentence of the proposed subsection read, “Any other party that submits testimony or exhibits for filing that propose revisions to the company’s proposals also must submit for filing supporting work papers.”

WAC 480-07-510(3)(f)(i)(F)(ii)

- PSE recommends the Commission reject the insertion of the last sentence, “Pro forma adjustments must be calculated based on the restated operating results”. This addition essentially requires adjustments to be calculated twice. This is overly burdensome and increases the potential for errors. Further, whether an adjustment is a pro forma adjustment or restating adjustment is, to some extent, subject to interpretation. There can be significant overlap between a pro forma and restating adjustment. The Commission should reject the proposed addition in order to maintain the flexibility in calculating a company’s pro forma adjustments.

WAC 480-07-510(3)(h) Achievement of rate of return.

- For clarity, PSE recommends the Commission amend the proposed last sentence to read, “If the company has not taken any such actions, the company must explain why it has not.” The amendment as proposed by Staff is confusing because it appears to require the company to identify actions that it has taken, then explain why it has not taken them. PSE’s recommended amendment attempts to resolve this confusion.

WAC 480-07-510(3)(j) Affiliate and subsidiary transactions.

- PSE recommends the Commission amend the proposed last sentence to state, “The company’s must submit work papers for filing that must support the allocation method the company used to distribute common costs between regulated and nonregulated affiliated entities and the dollar amount of those costs.” Requiring the company to determine the dollar amount of costs not included in its proposed rates is unnecessary and overly burdensome.

WAC 480-07-510(4)(a)(v)

- PSE recommends the Commission define “typical residential customers”.

WAC 480-07-510(5) Cost studies

- Regarding the proposed addition, “If the cost studies are in the form of a model, the company must provide a copy of that model that will enable the commission to verify and modify the model’s inputs and assumptions”. PSE interprets “cost studies” to mean cost of service studies. If the Commission interprets it differently, PSE requests clarification.

WAC 480-07-510(6) Additional documents

- PSE questions whether it is necessary for companies to submit copies of FERC Form 1 and FERC Form 2 and Form 10K’s and Form 10Q’s when these documents are publicly available electronically. PSE opposes requiring companies to submit these publicly available documents.

WAC 480-07-515 Limited rate proceedings--electric and natural gas companies.

WAC 480-07-515(1)(b)

- In the first sentence of the proposed rule, PSE recommends that the company provide data through the end of the most recent quarter for which data are available, rather than “through the end of the most recent month for which data are available.”

WAC 480-07-515(1)(c)

- PSE recommends the following change to the proposed rule: “The company must maintain may not propose a change to its authorized rate of return on equity and capital structure from its most recent general rate proceeding.” This was discussed in more detail in PSE’s comments addressing WAC 480-07-505(1)(b).

WAC 480-07-515(1)(d)

- Without PSE's proposed revision to subsection (c) above, the proposed requirement to "update debt costs for known changes" is inconsistent with the proposed requirement in WAC 480-07-515(1)(c) that a company must maintain its authorized rate of return and capital structure. The two provisions appear mutually exclusive.

WAC 480-07-515(3)(a)

- PSE recommends that the Commission issue a final order within ninety days rather than six months, as proposed in the second sentence of WAC 480-07-515(3)(a.) If the Commission uses a Commission Basis Report ("CBR") format to update costs in the limited rate proceeding, the process is largely formulaic and can be done in an open meeting setting versus an adjudicated case. The ERF that the Commission approved for PSE in 2013 in Dockets UE-130137 and UG-130138 was treated as an adjudicative proceeding, but even so it was completed less than five months after the case was filed. In contrast, the rule, as written, will require a seven-month proceeding (six months from the stated effective date of the tariff changes). Companies are unlikely to use this mechanism because of the extended time frame for completion of the case.

WAC 480-07-515(3)(b)

- PSE recommends omitting this subsection. As noted in PSE's earlier comments, PSE is concerned about the Commission's broad discretion to treat a limited rate proceeding as a general rate case. There are no criteria set forth for when it would be appropriate for the Commission to convert a limited proceeding into a general rate proceeding. The lengthy process for the limited rate proceeding, combined with the uncertainty as to whether the Commission may decide to convert the filing to a general rate case, are significant disincentives to filing a limited rate proceeding.

Thank you for the opportunity to file comments, and we look forward to participating in the workshop scheduled for June 12, 2017. If we can be of any further assistance, please contact Donna L. Barnett or Sheree Strom Carson at 425-635-1400.

Mr. Steven King
May 15, 2017
Page 7

Sincerely,

A handwritten signature in blue ink that reads "Donna B" followed by a long horizontal flourish.

Donna L. Barnett