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STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application of

PUGET SOUND ENERGY, INC.,

For (1) Approval of the Proposed Sale of PSE's
Share of the Centralia Power Plant and
Associated Transmission Facilities, and (2)
Authorization to Amortize Gain over a Five-
Year Period

DOCKET NO. UE-991409

PUGET SOUND ENERGY, INC.'S
MOTION FOR LEAVE TO LATE-FILE
ITS PETITION FOR
RECONSIDERATION

I. INTRODUCTION

Puget Sound Energy Inc. ("PSE") requests that the Commission allow it to late-file its Petition for Reconsideration ("Petition") in this matter on March 16, 2000, due to failure by the process-server to file before 5:00 p.m. on March 16, 2000. The Commission has such discretion under RCW 34.05.080 and WAC 480-09-130 to accept a late filing in instances where the late filing was inadvertent, and no parties rights are substantially impaired by a acceptance of a filing one day after the 10-day filing period.

II. FACTS

The Commission issued its Second Supplemental Order ("Order") in this matter on March 6, 2000. Petitioner timely prepared its Petition for filing on March 16, 2000. See Affidavit of Deborah L. Sifferman attached as Exhibit A hereto ("Sifferman Affidavit").

PSE'S MOTION FOR LEAVE TO LATE-FILE
ITS PETITION FOR RECONSIDERATION - 1

[7771-864/BA003676.445]

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1 Ms. Sifferman arranged with Fleetfoot Messenger Service ("Fleetfoot") to pick up the petition
2 at 1:30 p.m. for delivery and filing at the Commission offices in Olympia prior by 4:30 p.m.
3 that day. See Sifferman Affidavit at ¶ 4. Ms. Sifferman called Fleetfoot to move up the pick
4 up time to 12:00 p.m. to ensure timely delivery. See letter attached to Sifferman Affidavit.
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6 The messenger service picked up the documents for filing at 1:30 p.m., and agreed to confirm
7 filing with Ms. Sifferman. The messenger arrived at the Commission offices on March 16,
8 2000 but the office had closed for filing. PSE did not learn of this fact until the morning of
9 March 17, 2000, at which time PSE's Petition was filed at the Commission offices.
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17 III. ARGUMENT

18 A. Under RCW 34.050.080 and WAC 480-09-135 the Commission Has the 19 Discretion to Allow Late Filing of A Petition for Reconsideration

20 RCW 34.05.080 provides that an agency may modify time limits established under
21 the Administrative Procedure Act by rule of an agency under certain circumstances. This
22 Commission has enacted WAC 480-09-135, which provides that:
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28 The time stated in chapter 34.05 RCW for action may be lengthened or
29 shortened by the commission in its discretion in individual instances
30 pursuant to RCW 34.05.080. The time stated in these rules for action
31 may be lengthened or shortened by the commission in its discretion.
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33 WAC 480-09-135. Under WAC 480-09-135, there are no limitations as to which actions a
34 the Commission may lengthen or shorten. It is clearly within this Commission's discretion to
35 grant PSE's motion and allow late-filing of the Petition for Reconsideration.
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39 In addition, RCW 34.05.080 specifically, allows for an agency to modify the time
40 limits set forth in the Administrative Procedures Act where the rights of persons dealing with
41 the agency are not substantially impaired. RCW 34.05.080. In this case, the rights of the
42 other parties are not substantially impaired, since they will have an opportunity to respond to
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1 PSE's Petition under the Commission's rules. The rights of other persons are not impaired
2 because this Commission by enacting WAC 480-09-135 has already made the determination
3 that justice is best served by retaining discretion to consider the specific circumstances a
4 situation where a party is unable to meet a particular time limit. See, for example, Washington
5 STS, Ltd., v. U S WEST Communications, Inc., Docket No. UT-921213 (June 28, 1993).
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10 At the same time, PSE would be severely harmed by the Commission's determination
11 not to accept its Petition. The majority of the Petition simply seeks clarification of the
12 Commission's Order. If the Commission does not allow the filing of PSE's Petition, PSE
13 would have not a forum in which to address these issues.
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18 **B. The Late Filing Was Inadvertent and PSE Did Not Learn Of the Late**
19 **Filing Until After The Offices of the Commission Had Closed**
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21 To PSE's knowledge, it has used the same filing practices it has used in the past with
22 no problem. Ms. Sifferman used a messenger service that she has used in the past and
23 followed the procedures that the messenger service requires to guarantee delivery by 4:30
24 p.m. Sifferman Aff. ¶ 2. In fact, Ms. Sifferman called the messenger service to arrange for an
25 earlier pickup and the messenger service did not reschedule the job properly. Letter of
26 Fleetfoot. Although Ms. Sifferman spoke with the records department at 4:30 p.m. to check
27 on delivery of the Petition, she had no reason to believe that the Petition would not be filed by
28 5:00 p.m. since Fleetfoot failed to call her to let her know that the messenger had misread the
29 address. Fleetfoot letter; Sifferman Aff. ¶ 5. The filing did arrive at the Commission on
30 March 16, 2000, but unfortunately arrived too late for filing on that day and was stamped on
31 March 17, 2000.
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43 The late filing was completely inadvertent and was no due to the actions of PSE.
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IV. RELIEF REQUESTED


PSE respectfully requests that the Commission accept the late filing of PSE's Petition for Reconsideration in the matter.

V CONCLUSION

For the foregoing reasons, PSE respectfully requests that the Commission grant its requested relief.

DATED: March 17, 2000.

PERKINS COIE LLP

By 
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PUGET SOUND ENERGY, INC.