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Filed Via Web Portal

May 17, 2013

Mr. Steven King
Acting 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 Procedural Rules in WAC 480-07**

Dear Mr. King,

Puget Sound Energy ("PSE") is providing these comments on the rulemaking in the above noted docket pursuant to the Commission's Notice of Opportunity to File Written Comments dated April 16, 2013 and its Notice Extending Time to File Written Comments (collectively "Notice"). PSE appreciates the opportunity to submit comments in this rulemaking, and PSE supports the Commission's review and revision to its procedural rules. PSE believes it would be helpful for Commission Staff to be involved at an early stage in providing comments, given Commission Staff's knowledge and experience regarding the Commission's procedural rules.

PSE's preliminary comments are listed below with the rulemaking topics grouped by category to allow for efficient and consistent review by all parties.

Category I: Adjudicative Proceedings: Filing Requirements and Docket Management

- **Revisions to rate case filing requirements.** PSE supports new requirements for information that must be pre-filed for a general rate case, in order to improve communications, enhance the opportunities for early settlement, reduce later discovery work, and shorten the regulatory proceedings. To this end, PSE supports the pre-filing of a limited number of certain "standard data requests" that would accelerate, but not burden, the discovery process. Requests for hypothetical or speculative responses, or requiring the utility to create documents or perform studies that would otherwise not exist would not be part of this limited list of standard data requests.

- PSE recommends that the Commission establish a rule or amend WAC 480-07-160 to provide for a protective order earlier in the process of an adjudicated proceeding. In cases where a protective order is likely to be issued, as with a general rate case or power cost only rate proceeding, a protective order should be issued within three days of the filing.
- **Filing and distribution of cross-examination exhibits.** The timing of the distribution of cross examination exhibits should allow for sufficient time for parties receiving cross examination exhibits to fully review and suggest supplements if the exhibits are not complete.
- **Exhibit Identification/numbering in adjudicative proceedings.** PSE provides the following example as its recommended exhibit numbering format: **Exhibit No. PSE-1CT**. The filing party should be responsible for avoiding duplicate file names.
- **Creation and maintenance of official service list in adjudications (including courtesy e-mail distribution).** PSE supports this proposal.
- PSE recommends a revision to WAC 480-07-305 (Commencement of an adjudicative proceeding) to clarify that a proceeding is not an adjudicated proceeding unless and until the presiding judge determines that it is an adjudicated proceeding in a pre-hearing conference.
- PSE recommends that a rule be established (or WAC 480-07-510 be revised) to clarify or establish procedures for submitting workpapers outside of a general rate case.

Category II: Settlement

- **Procedures for Commission review of settlement agreements in cases involving suspended tariffs.** PSE has no comments at this time.
- **Possible new or revised rules for settlements, including use of a qualified settlement judge for major cases.** PSE supports the use of settlement judges in appropriate cases. In addition to using Commission ALJs, consideration should be given to using mediators with knowledge of the regulated utility industry who do not currently preside over cases before the Commission.

Category III Preliminary or Expedited Relief; Procedures for Administrative Review

- **Procedures for Commission consideration of expedited rate filings.**
 - PSE supports a rule that establishes a mechanism by which investor-owned utilities may seek expedited treatment of a request for a rate increase that updates test period information on investment (including generation, transmission and distribution facilities), revenues, and expenses since the last formal rate proceeding. The purpose is to hold some elements of rates constant, such as recently determined rate of return and capital structure, and

focus on changes in investment, revenues, and expenses in order to minimize regulatory lag. The rule should include the prerequisites for such a request, limitations on its use, and the process by which it will be considered.

- PSE supports a rule establishing "ratemaking principles" – to reduce repetitive litigation, and to increase predictability and consistency of rate decisions, with an initial focus on:
 - Methods for determining capital structure.
 - Separate accounting of energy conservation costs (e.g., "decoupling")
 - The use of attrition, pro forma and other adjustments to better match up investment and recovery.
- **Procedures for requesting preliminary relief in adjudicative proceedings.**
PSE has no comments at this time.
- **Clarification or revision of initial orders before seeking administrative review.**
PSE has no comments at this time.

Category IV: Complaints, Penalties, and Fees

- **Procedures for initial evaluation of complaints filed against regulated companies.** PSE looks forward to more discussion on this issue as the proceeding progresses.
- **Procedures for penalty assessments.** PSE has no comments at this time.
- **Procedures for enforcing annual report filing and regulatory fee payment.** PSE supports a rule that requires the current fees paid by regulated electric companies to the state be directed to ensuring that the system function properly, and not be redirected to other state programs.

Category V: Other Procedures

- **Interested party access to confidential documents in non-adjudicative cases.**
PSE recommends no changes to the procedural rules in this regard.
- **Procedures for Commission consideration of dockets at Open Public Meetings, including filing deadlines.** PSE has no comment at this time.
- **Procedures for Commission review of company Integrated Resource Plans, Requests for Proposals, Conservation Plans, and other I-937 filings.** The filings required by the Energy Independence Act (RCW 19.285) already have rules in place for how the Commission will review the combined conservation and renewable energy targets report for the preceding year, namely WAC 480-109-040(2):

(2) Commission staff and other interested persons may file written comments regarding a utility's report within thirty days of the utility's filing.

- (a) After reviewing any written comments, the commission will decide whether to hear oral comments regarding the utility's filing at a subsequent open meeting.
- (b) The commission, considering any written or oral comments, may determine that additional scrutiny of the report is warranted. If the commission determines that additional review is needed, the commission will establish an adjudicative proceeding or other process to fully consider appropriate revisions.
- (c) Upon conclusion of the commission review of the utility's report, the commission will issue a decision determining whether the utility complied with its conservation and renewable resource targets. If the utility is not in compliance, the commission will determine the amount in megawatt-hours by which the utility was deficient in meeting those targets.

These rules appear adequate to the task of Commission review of the report for the preceding year results.

For the Integrated Resource Plans ("IRP"), the post-filing, process, however, is not defined. The following are specific elements of a process the Commission may wish to consider that will provide clarity for all stakeholders:

1. Public Comment Period: The Commission will take public comment on a utility's IRP for a period of 60 days from the time an IRP is filed, though interested parties are encouraged to file comments earlier rather than later.
2. Open Meeting Schedule: Within 30 days of the close of the formal public comment period, the utility's IRP docket(s) will be scheduled for an Open Meeting consideration. This can be scheduled during a regular open meeting or in a recessed open meeting.
3. Open Meeting Process: WUTC Staff Recommendation: WUTC Staff will issue an open meeting memo at least 7 days prior to the open meeting. The memo will introduce the utility's IRP and make a recommendation to the Commission with respect to whether the IRP complies with WAC 480-100-238 or 480-90-238, for electric or gas utilities, as applicable, along with any actions WUTC Staff recommends the Commission issue in its acceptance letter.
 - Recommendation to Accept: If the WUTC Staff recommends the Commission accept the IRP as meeting requirements of rule, Staff may choose to include a list of recommendations for the Commission to suggest the utility to consider in its next IRP. Having these suggestions identified at the Open meeting will facilitate the ability to have dialogue about whether the Commission should make the recommendations, rather than such suggestions being issued without any dialogue with utilities or stakeholders.

- Recommendation Not to Accept: If the WUTC Staff finds the IRP does not comply with the IRP rules, it may either recommend the docket(s) be addressed in an adjudicative process under WAC 480-07-300, *et al.* or rejected on its evidence of the filing. In either case, the WUTC Staff will provide justification for its recommendation.
4. Open Meeting Decisions Alternatives: At the Open Meeting, the Commission will
- Accept IRP: To accept the IRP, the Commission will decide whether to accept the IRP. If so, within 30 days, the Commission sends an acceptance letter to the utility, possibly including actions for the utility to consider in the next planning cycle based on recommendations by WUTC Staff and other parties.
 - Reject IRP: If the Commission finds evidence sufficient to determine the IRP filing failed to comply with WAC 480-100-238/480-90-238, the Commission may reject the filing and issue an Order detailing what will be necessary for the IRP to be in compliance with the rules.
 - Set for Hearing: If the Commission is unable to determine whether the IRP complies with the rules, and believes a formal adjudicative process is needed to either determine compliance or to determine how to remedy non-compliance, the Commission may implement and adjudicative process under WAC 480-07-300, *et al.*
- PSE recommends that WAC 480-07-140(1)(a) be revised to allow for electronic filing in all proceedings, including adjudicative proceedings.

Thank you for the opportunity to file these initial comments. PSE looks forward to working with parties and providing additional comments as this proceeding progresses. If you have any questions regarding these comments, or if we can be of any other assistance, please contact me at 425-456-2110.

Sincerely,

/s/ Kenneth S. Johnson

Ken Johnson
Director, State Regulatory Affairs