

Exhibit ___ T (KLE-16T)
Docket U-072375
Witness: Kenneth L. Elgin

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

In the Matter of the Joint Application of

DOCKET U-072375

**PUGET HOLDINGS LLC AND PUGET
SOUND ENERGY, INC.,**

**For an Order Authorizing Proposed
Transaction**

CROSS-ANSWERING TESTIMONY OF

Kenneth L. Elgin

**STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

July 2, 2008

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3 **I. INTRODUCTION**

4 **Q. Please state your name and business address.**

5 A. My name is Kenneth L. Elgin. My business address is Chandler Plaza Building,
6 1300 South Evergreen Park Drive SW, Olympia, Washington, 98504-7250.

7 **Q. Have you previously presented testimony in this docket?**

8 A. Yes.

9
10 **Q. Please explain the purpose of your cross answering testimony.**

11 A. I answer the testimony offered by the Northwest Energy Coalition (“Coalition”), as
12 well as the testimony of Ms. Barbara Alexander, a witness for Public Counsel and
13 The Energy Project.

14
15 **II. DISCUSSION**

16
17 **A. Response to the Northwest Energy Coalition**

18
19 **Q. Who are the Coalition’s witnesses in this case and in general, what do they**
20 **discuss?**

21 A. The Coalition presents two witnesses, Ms. Ann E. Gravatt and Ms. Nancy Hirsch.
22 Ms. Gravatt describes her efforts on renewable energy issues in prior acquisition or
23 merger cases. Ms. Hirsch addresses specific commitments by the Joint Applicants

1 on issues of energy efficiency, renewable energy resources, greenhouse gas
2 emissions and low income programs.

3
4 **Q. Please summarize the testimony of Coalition witness Ms. Gravatt.**

5 A. Ms. Gravatt gives examples of how renewables issues were addressed in three other
6 merger-type dockets. In two of these dockets, the agency denied the transaction.
7 The third docket involved the MEHC acquisition of PacifiCorp, which was resolved
8 via settlements in the various PacifiCorp states. *Exhibit ___ (AEG-IT), pages 4 to*
9 *15, lines 4-5.* Ms. Gravatt recommends that these issues also be worked out in a
10 settlement in this case. *Id., page 16, lines 13-14.*

11
12 **Q. What is Staff's response?**

13 A. Whether a settlement will be achieved in this case or not is not known at this time.
14 Therefore, Staff will address the Coalition's litigation position that the Commission
15 must impose the conditions proposed by Coalition witness Ms. Hirsch before
16 approving the Application in this case.

17
18 **Q. Please summarize the testimony of Coalition witness Ms. Hirsch in this docket.**

19 A. Ms. Hirsch's testimony deals with very limited issues in this case: conservation,
20 renewable resources, greenhouse gas emissions and low-income services. She
21 focuses on how the Joint Applicants address these issues in their Commitments 4, 5,
22 6, 7, 23 and 24.

1 Ms. Hirsch challenges the Joint Applicants' characterization of these
2 commitments as "benefits," and states that each of these commitments lacks specific
3 performance targets and a timeline for achievement. As a result, the Coalition
4 perceives that the, "... vision the Consortium will outline on clean and affordable
5 energy issues...creates multiple uncertainties for the proposed acquisition, which
6 greatly concern the Coalition." *Id. page 5, lines 20-23.* According to the Coalition,
7 this added risk is a negative. *Id. page 6, line 16.* As a result, she concludes that the
8 proposed transaction may represent harm to the public. *Exhibit ___ (NEH-1T), page*
9 *3, lines 5-7 (emphasis added).*

10 Ms. Hirsch proposes several specific commitments the Coalition wants PSE
11 to make in these areas, including not only specific resource acquisition targets, but
12 also proposals that PSE commit to take certain positions before the Washington State
13 Legislature, and to adopt an Oregon PUC Staff recommendation on the use of carbon
14 neutrality for use in PSE's Integrated Resource Planning process. *Id. page 16, line*
15 *18 to page 17, line 5 (energy efficiency); page 24, lines 1-8 (renewables); page 27,*
16 *line 12 to page 28, line 16 (greenhouse gas emissions); and page 33, lines 8-16 (low*
17 *income).*

18
19 **Q. Does Staff agree that the Joint Applicants' commitments on energy efficiency,**
20 **renewable energy, greenhouse gases and low income issues lack specificity and**
21 **timelines for performance and are not truly "benefits"?**

22 **A. Yes. These commitments are largely recitations of PSE's existing obligations.**
23

1 **Q. Did the Joint Applicants intend these commitments to go beyond existing**
2 **obligations?**

3 A. No. As I explained in my direct testimony at page 32, lines 4-20, with minor
4 exceptions, the Joint Applicants did not intend their commitments in these areas to
5 go beyond exiting requirements. The Joint Applicants offer these commitments to
6 reassure the public that they would continue to honor PSE's existing obligations in
7 these areas, if the Commission approved the transaction.

8

9 **Q. Does Ms. Hirsch identify some of the statutory and other policy requirements**
10 **currently applicable to PSE in the areas of conservation, renewables,**
11 **greenhouse gases and low income programs?**

12 A. Yes. *See Exhibit ___ (NEH-1T), page 8, line 13 to page 9, line 8 (conservation); page*
13 *17, lines 8-21 (renewables); page 24, line 20 to page 25, line 14 (greenhouse gases);*
14 *page 28, line 18 to page 29, line 3 (low income), and the exhibits referenced therein.*

15

16 **Q. Do you know any reason why these statutes and other policies will no longer**
17 **apply to PSE if the Commission grants the Application?**

18 A. No, I do not. That is why the Coalition has not demonstrated how the public's
19 interests are harmed by the status quo, or how such harm will occur if the
20 Commission does not adopt the commitments proposed by the Coalition.

21 In other words, because the same requirements apply both before and after
22 the transaction is approved, the Coalition fails to make a connection between the
23 specific commitments it proposes and any specific demonstrable harm imposed by

1 the transaction. Moreover, at least one of the Coalition's proposed commitments,
2 relating to PSE's legislative advocacy, appears to me to be outside the Commission's
3 regulatory purview. The Coalition should not use this transaction as a means to
4 impose a legislative agenda upon a public service company.

5 Furthermore, it is important to recognize there are many processes currently
6 in place for the Coalition to address the resource acquisition decisions of PSE.
7 Indeed, these processes, such as the Commission's IRP requirements, are required of
8 all energy companies irrespective of their ownership structure.

9 Finally, from a policy perspective, it is not wise to develop any specific
10 performance target for the types of resources advocated by the Coalition in its
11 testimony. The future is uncertain. The amounts and types of resources PSE should
12 acquire must be evaluated under the facts and circumstances as they change from
13 time to time. We do not need rigid performance targets for these resources. It is
14 more reasonable to address these issues under the Commission's existing processes
15 to evaluate the specific actions PSE should take on these issues, irrespective of who
16 owns PSE.

17
18 **B. Response to Public Counsel and The Energy Project (Ms. Alexander)**

19
20 **Q. Please summarize Ms. Alexander's testimony for Public Counsel and The**
21 **Energy Project in this docket.**

22 **A.** Ms. Alexander addresses service quality issues, low income bill assistance and low
23 income energy efficiency. She reviews the Joint Applicants' commitments in these

1 areas and concludes they are “vague,” and mostly reiterate requirements already in
2 effect. *Exhibit ___ (BRA-IT), page 9, lines 10-15.* She proposes, “... specific
3 conditions with respect to service quality, customer service and low income
4 programs if the Commission chooses to approve this transaction.” *Id., page 3, lines*
5 *21-23.*

6
7 **Q. Does Staff agree with Ms. Alexander that, for the most part, the Joint**
8 **Applicants’ commitments on service quality and low income issues are vague**
9 **and reiterate requirements to which PSE is already subject?**

10 A. Yes.

11
12 **Q, Do the commitments on service quality offered by the Joint Applicants pose**
13 **additional risks and harm the public?**

14 A. No. The service quality commitments offered by the Joint Applicants acknowledge
15 PSE’s obligations as a public service company to provide adequate service consistent
16 with the statute.

17
18 **Q. Are the service quality and low income commitments offered by the Joint**
19 **Applicants and Ms. Alexander necessary to offset harm imposed by the**
20 **transaction?**

21 A. No. Similar to my testimony regarding the Coalition, the same service quality and
22 low income requirements applicable today will apply if the transaction is approved.
23 That is why Public Counsel and The Energy Project have not demonstrated how the

1 public's interests are harmed by the status quo, or how such harm will occur if the
2 Commission does not adopt the commitments proposed by Ms Alexander. In my
3 direct testimony, I identify the harms to the public interest associated with the
4 proposed transaction. However, harm to the public interest does not arise from the
5 requirements currently applicable to PSE regarding the issues identified by the
6 Coalition or Ms. Alexander.

7 Again, the Commission should evaluate performance standards of this sort
8 under the facts and circumstances that arise over time, in a proper proceeding.
9

10 **Q. In fact, are Public Counsel and The Energy Project raising these same service**
11 **quality and low income issues in the PSE general rate case currently pending**
12 **before the Commission?**

13 A. Yes. In her testimony, Ms. Alexander acknowledges as much, stating "...I
14 recommend that all of the proposals that I have made in the GRC (general rate case)
15 should be adhered to as a condition of this proposed sale of PSE." *Id.*, page 4, lines
16 5-7.

17
18 **Q. Is the rate case an appropriate proceeding to raise those issues?**

19 A. Yes. As Ms. Alexander states in her testimony in this docket, the Joint Applicants'
20 commitments on service quality and low income issues simply "[continue] current
21 programs and policies that are in effect and that the Commission has plenary
22 authority to oversee, continue, terminate, or make additional changes as
23 circumstances warrant." *Id.*, page 11, lines 12-16. Staff's point is that the

1 Commission should exercise that plenary authority in a proper proceeding.
2 However, the Commission should not condition approval of a transaction on
3 implementation of a new service quality or low income requirement unless that
4 requirement is shown to be necessary to offset a specific, identifiable harm imposed
5 by that transaction.

6 Moreover, unnecessary problems can be created when new requirements are
7 mandated without proof of a demonstrable harm those requirements are needed to
8 offset. For example, if the Commission imposed new service quality requirements as
9 a condition of transaction approval, there may be opposition to any effort to reopen
10 this docket in order to later change and improve those requirements for the benefit of
11 ratepayers. If there is no demonstrable harm to address by such new requirements,
12 then there is no need to invite such problems.

13
14 **Q. Does that conclude your cross answering testimony?**

15 **A. Yes, it does.**