

December 14, 2007

VIA E-MAIL AND FIRST CLASS MAIL

Carole Washburn
Executive Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Pk. Dr. S.W.
PO Box 47250
Olympia, WA 98504-7250

Re: PSE's Motion for Amended Protective Order with Highly Confidential Provisions in
Docket Nos. UE-072300 and UG-072301

Dear Ms. Washburn:

On December 3, 2007, Puget Sound Energy (PSE) filed a Motion for an Amended Protective Order with Highly Confidential Provisions. Shortly thereafter, PSE contacted the parties and asked whether anyone objected to the order. Public Counsel has no objections to the insertion of RCW 42.56.330 in place of RCW 42.17.310 in paragraph 33. We also do not object to PSE's request for an amended protective order, with the understandings below.

We recognize the importance of protecting valuable, commercial information and the necessity of protective orders in UTC proceedings. Yet we remain concerned about the over-designation of information as confidential and lack of compliance with WAC 480-07-160(3) and 480-07-423. WAC 480-07-160(3) states that parties "may claim the protection of this rule only by strict compliance with [its] requirements." WAC 480-07-423 requires parties to "*strictly limit* the amount of information they designate as confidential or highly confidential," and states that "the 'highly confidential' designation is reserved for information the dissemination of which . . . imposes a *highly significant* risk of competitive harm to the disclosing party" (emphases added). Public Counsel agrees to the issuance of the amended protective order with the expectation that PSE will carefully adhere to these requirements. Public Counsel's lack of objection does not waive our right under WAC 480-07-160(4) to challenge the designation of any material filed in this case.

We also have concerns about the non-compete clause that appears in the Highly Confidential Information Agreement for outside consultants (Exhibit C). As we have argued previously, such restrictions may unduly and unnecessarily limit a consultant's future employment. As in previous cases, we have again heard from our consultants and potential consultants that these

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restrictions are problematic and more restrictive than those in many other jurisdictions. We have not yet completed our search for consultants in this matter. Accordingly, Public Counsel reserves the right to file a motion to amend the protective order should problems arise.

Sincerely,

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