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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CITY OF KENT,  
  
Petitioner,  
  
v.  
  
PUGET SOUND ENERGY, INC.,  
  
Respondent.

DOCKET NO. UE-010778  
(Consolidated)

.....  
CITY OF AUBURN, CITY OF  
BREMERTON, CITY OF DES MOINES,  
CITY OF FEDERAL WAY, CITY OF  
LAKEWOOD, CITY OF REDMOND, CITY  
OF RENTON, CITY OF SEATAC, AND  
CITY OF TUKWILA,

DOCKET NO. UE-010911  
(Consolidated)

Petitioners,  
  
v.  
  
PUGET SOUND ENERGY, INC.,  
  
Respondent.

STIPULATION OF FACTS AND LAW

The City of Auburn, City of Bremerton, City of Des Moines, City of Federal Way, City of  
Lakewood, City of Redmond, City of Renton, City of SeaTac, and City of Tukwila and the City of  
Kent, (“Cities”), Puget Sound Energy (“PSE”), and the Commission Staff hereby submit the

1 following Stipulation of Facts. The Parties will identify contested material facts in their motions and  
2 responses.

3  
4 **Stipulated Facts Related To Easements:**

5 1. Under PSE's Tariff Schedule 71, the City requesting undergrounding of utilities must  
6 provide all trenching and restoration for ducts and vault systems.

7 2. Under PSE's Tariff Schedule 71, the City requesting undergrounding of overhead  
8 facilities must provide surveying for alignment and grades of vaults and ducts.

9 3. Schedule 71 does not obligate PSE to locate all of its equipment within the city's  
10 right of way.

11 4. The criteria of PSE's Tariff G, Schedule 71, Section 2, are met by the Pacific  
12 Highway Projects of the Cities of Des Moines, Kent, SeaTac, and Federal Way. These criteria are

- 13 • Material and equipment are available;
- 14 • Existing overhead electric distribution lines are 15,000 volts or less;
- 15 • The location is a portion of a municipality which is zoned and used for commercial  
16 purposes;
- 17 • PSE has a right to render service in the municipality pursuant to a franchise in a form  
18 satisfactory to the company; and
- 19 • The conversion area is at least 2 contiguous city blocks in length, with all real property  
20 on both sides of each public street to receive electric service from the Main Distribution  
21 System.

22 5. The Cities plan to undertake street improvement projects, some of which necessitate  
23 relocation of PSE's overhead facilities that are currently located in city rights-of-way.

24 6. The Cities have requested pursuant to Schedule 71 that PSE convert its overhead  
25 facilities in the Pacific Highway project areas and other planned project areas to underground  
26 facilities.

7. As a condition of performing conversion of its overhead facilities to underground for  
the Pacific Highway projects and other planned projects, PSE requires that easements in PSE's name  
and in PSE's standard form be provided on private property for placement of underground facilities  
(other than cable and conduit) and pad-mounted facilities, such as vaults for junctions, vaults for  
pulling cable, transformers and associated vaults, and switches and associated vaults in the  
conversion area.

8. The property rights PSE requires for the Pacific Highway projects and other planned  
projects are easements granting PSE the right to construct, operate, maintain, repair, replace,  
improve, remove, enlarge, and use the easement area for its facilities, and preventing inconsistent  
encroachments into the easement area; PSE does not require that it be provided with fee ownership  
of property on which to locate its facilities.

1           9.       If a municipality refuses to execute PSE's current form Underground Conversion  
2 Agreement and current form Engineering Agreement, PSE refuses to convert its overhead facilities  
3 to underground. In such situations, PSE takes the position that it is only required to relocate its  
overhead facilities to new overhead locations within rights-of-way in the conversion area to  
accommodate the street improvement.

4           10.       PSE is requiring, as a condition of performing the Pacific Highway project and other  
5 planned conversions of its overhead facilities to underground, that the requesting municipality  
6 provide easements for placement of PSE's facilities and/or reimburse PSE for PSE's costs to obtain  
such easements.

7           11.       The relevant provisions of PSE's Schedule 71 have been in effect since at least 1970.

8           **Stipulated Facts Related To Federal Way Issue Re: Existing Overhead Facilities Located On  
Private Property**

9           12.       The City of Federal Way is undertaking street improvement projects along South  
10 320th Street from 20th Avenue South to 25th Avenue South. Federal Way has requested that PSE  
convert its overhead facilities to underground.

11          13.       Most of PSE's existing overhead facilities in the area of the improvements are  
12 located on PSE easements outside of Federal Way's right-of-way. Federal Way's street  
improvements will not encroach into PSE's easement areas.

13          14.       PSE has refused to convert the overhead facilities that are located on PSE's easements  
14 to underground under Schedule 71 because PSE interprets Schedule 71 to apply only to overhead  
facilities that are located in public rights-of-way, and not on private property.

15          15.       PSE has offered to convert the overhead facilities to underground if Federal Way  
16 pays PSE for 100% of the cost of the conversion.

17          **Stipulated Facts Related To SeaTac 30%/70% Issue :**

18          16.       SeaTac claims that in the event PSE prevails on its contention in Docket No. UE-  
19 010891 that Schedule 71 applies to its street improvement project, SeaTac must pay 30% of the costs  
20 of the conversion rather than 70% because, under Section 3(b)(1) of Schedule 71, the existing  
overhead system is "required to be relocated due to addition of one full lane or more to an arterial  
street or road."

21          17.       PSE claims that in the event it prevails on its contention in Docket No. UE-010891  
22 that Schedule 71 applies to the SeaTac street improvement project, PSE agrees that SeaTac must pay  
30% of one quarter of the total cost of the conversion because one quarter of the poles of the existing  
23 overhead system are "required to be relocated due to addition of one full lane or more to an arterial  
street or road" under Section 3(b)(1) of Schedule 71. However, PSE claims that SeaTac must pay  
24 70% of three quarters of the total cost of the conversion because three quarters of the poles of the  
existing overhead system are *not* "required to be relocated due to addition of one full lane or more to  
an arterial street or road" under Section 3(b)(1) of Schedule 71.

25          18.       At a minimum, the street improvement project in SeaTac will widen the existing 2-  
26 lane street from approximately 24' to 36', replace gravel shoulder and drainage ditches with bicycle  
lanes on both sides of the street that are contiguous to the driven lanes and add new curbs and gutters

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behind the bicycle lanes, new sidewalks behind the curbs, and new planter strips behind the sidewalks.

19. Under the current design for the street improvement project, if PSE's existing poles were not converted to underground, two of PSE's existing poles would be located in the new roadway and six would be located in the new sidewalk more than 6" from the street side of the curb.

20. PSE agrees that SeaTac is adding "one full lane" to an arterial street or road, but claims that its poles are not "required to be relocated due to" the addition of this lane, within the meaning of Schedule 71.

DATED this 1<sup>st</sup> day of August, 2001.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the STIPULATION OF FACTS AND LAW, filed by all parties, upon all parties of record in this proceeding, via facsimile, followed by U.S. mail, as follows:

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DATED at Seattle, Washington, this 1st day of August, 2001.

\_\_\_\_\_  
Jo Ann Sunderlage  
Secretary to Carol S. Arnold