



PUGET SOUND ENERGY

Puget Sound Energy, Inc.
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January 19, 2005

Ms. Carole J. Washburn
Executive Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

RE: Docket A-021178

Dear Ms. Washburn,

This filing is to convey the concerns of Puget Sound Energy, Inc. ("PSE") with respect to the Supplemental Notice of Proposed Rulemaking dated December 22, 2004, in the above-noted docket (Supplemental CR-102).

PSE appreciates that the Supplemental CR-102, unlike the original CR-102 dated September 3, 2004, no longer proposes to require investment grade utilities to file a description of proposed debt and equity issuances at least five business days *before* issuing. However, the Supplemental CR-102 continues to propose to impose such a requirement on utilities that are not rated investment grade. PSE is concerned about this requirement on its own behalf, and as a broader policy matter.

Proposed new **WAC 480-90-242(2)** and **480-100-242(2)** would require gas and electric utilities that are not rated investment grade to file a description of a proposed issuance, including estimated terms of financing, "[a]t least five business days...*before*" issuing the stocks, bonds, notes, or other evidences of indebtedness. PSE opposes any expansion of the current rule to a five business day *advance notice* requirement because of the business and market realities associated with making the decision to issue equity or debt and implementing such a decision.

Speed and timing are critical to the most effective execution of capital market transactions such as issuing debt, entering into an interest rate hedge and issuing equity. A utility may be planning to issue equity or debt, but will wait for the right moment of market opportunity to undertake such an issuance. The decision whether to proceed or not typically depends upon market circumstances that may become evident very suddenly. If utility staff and officers responsible for undertaking such analysis and making such decisions believe the timing is right for an issuance, they must then obtain internal approval and, in the case of PSE, Board approval. Such approval is typically

sought and provided within 24 hours of a staff and officer recommendation to proceed. From that moment on, delay in implementing the decision increases the risk that market conditions will change before the transaction can be completed, such that the terms are not as favorable as intended at the time the issuance was recommended and approved. The five business day advance notice requirement in the proposed new rule could well result in missing a market window that was the basis for going forward with an issuance.

Under the Commission's current reporting rule, PSE typically has notified the Commission of its intent to issue debt on the same day as PSE receives Board approval of a proposed transaction. When the terms of the transaction are finalized and the issuance executed, PSE then has notified the WUTC of the final terms of such issuance. For example, PSE's most recent capital market transaction, a treasury lock, was approved by its Board, through the Board's Securities Pricing Committee ("SPC"), on August 16, 2004, and PSE notified the Commission of the intended transaction on the same day. The recommendation included splitting the \$250 million lock in two and pricing on separate days. PSE priced the first half the next day, August 17, 2004, and the final half on August 19, 2004. Prior to the foregoing example, PSE's recent \$200 million two-year note issuance was approved by the SPC on Friday, July 9, 2004. PSE filed notice of the issuance with the Commission that day, and finalized the terms of the issuance the following Monday, July 12, 2004.

Although PSE is not required to file advance notice of equity issuances with the Commission given its current corporate structure, PSE also sets forth here some of its concerns about advance notice of equity issuances, generally, for the Commission's information. In the case of an equity issuance, an underwriter might offer to pay a less attractive price for a utility's stock if the issuance will be delayed five days rather than occurring within 24 hours of the underwriting offer and acceptance because of the additional risk such delay imposes on the underwriter.

In addition, there are significant confidentiality concerns associated with intended capital market transactions. If hedge funds or other market players become aware of a potential equity issuance prior to the time of issuance, they can short the stock in anticipation of the issuance. This would place downward pressure on the stock price and increase the cost of funding. If the downward pressure is too severe and the cost of issuance too high, the company might be in a position where it must withdraw the transaction. A five-day advance filing rule would provide that much more opportunity for such market players to monitor utility filings and act on them ahead of an issuance. With respect to debt issuances, a five-day advance filing requirement could potentially permit others to rush to the markets ahead of PSE and absorb demand, leading to less advantageous pricing for PSE's debt when it enters the market. Designating a filing as "confidential" under the Commission's rules would not cure that problem, as even an isolated filing with the Commission that is entirely designated as "confidential" would tip off persons who might be monitoring utility filings that an issuance is likely imminent.

As against these significant business and market concerns and risk of increasing capital costs for utilities and their ratepayers, there does not appear to be any reason to require anything more than filing information about an issuance "before such issuance," as

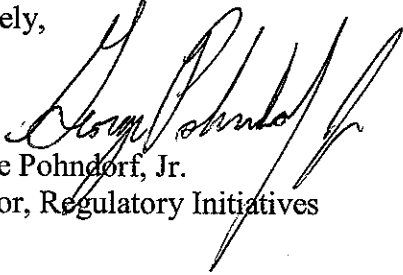
required in RCW 80.08.040. Such filings are purely notification filings that do not call for any Commission action prior to issuance unless requested by the filing utility.

The Supplemental CR-102 now proposes to impose the advance notice requirement only on utilities that have a corporate credit/issuer rating that is not investment grade. At the present time, PSE is rated investment grade, thus would not be currently subject to these requirements. However, PSE's Standard & Poor's corporate credit/issuer credit rating is BBB-, just one notch above non-investment grade. Depending on the outcome of PSE's pending general rate case and/or company or industry events beyond PSE's control, it is possible that PSE's credit rating could drop below investment grade.

Moreover, as a general matter, PSE questions the advisability of applying the proposed new requirements to non-investment grade utilities. A utility that has such a rating will also likely have more difficulty accessing capital markets than a stronger utility. While these requirements are consistent with the Commission's objective to "focus on those companies most likely to experience financial difficulties" (Supplemental CR-102), the proposed requirements would likely be counterproductive. As described above, the market for debt issuances is competitive, and timing typically impacts term and pricing. Erecting additional hurdles to accessing these markets seems likely to compound the financial difficulties of non-investment grade companies, presenting risks and higher costs to customers.

If you have any questions regarding these comments or if we can be of any other assistance, please contact me at 425-462-3272.

Sincerely,



George Pohndorf, Jr.
Director, Regulatory Initiatives