SERVICE DATE

DEC 15 1993

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PETITION OF PUGET SOUND POWER & LIGHT COMPANY FOR AN ORDER REGARDING THE ACCOUNTING TREATMENT OF RESIDENTIAL EXCHANGE BENEFITS	)	DOCKET NO. UE-920433
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, vs. PUGET SOUND POWER & LIGHT COMPANY, Respondent.	)	DOCKET NO. UE-920499
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, vs. PUGET SOUND POWER & LIGHT COMPANY, Respondent.	)	DOCKET NO. UE-921262 FIFTEENTH SUPPLEMENTAL ORDER ON CLARIFICATION AND RECONSIDERATION

NATURE OF PROCEEDING: This is a proceeding in which Puget Sound Power & Light Company (Puget), respondent, requested an accounting order regarding residential exchange benefits, a new rate design, and an increase in rates.

PROCEDURAL STATUS: The Commission entered its Eleventh Supplemental Order on residential exchange benefits and the rate increase request, a final order, on September 21, 1993.[1] Puget petitioned for clarification and reconsideration of the Order. Commission Staff petitioned for clarification and/or reconsideration. Public Counsel petitioned for clarification and/or reconsideration. Intervenors the Washington Industrial

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[1] The Commission entered its Ninth Supplemental Order on Rate Design Issues, a final order, on August 17, 1993. The Commission entered its Tenth Supplemental Order Clarifying Commission Order on Rate Design on September 8, 1993.

Committee for Fair Utility Rates (WICFUR) petitioned for reconsideration and clarification[2], the Skagit Whatcom Area Processors (SWAP) petitioned for reconsideration of the Order, and the Building Owners and Managers Association (BOMA) petitioned for rehearing or reconsideration of the Order.[3] WICFUR also filed a motion for expedited consideration and motion for oral argument.

The Commission issued Bench Request 515 in order to clarify certain issues raised by the motions for reconsideration. The Commission called for and received answers to the motions. The Commission also indicated it would strike certain materials in and attached to Puget's motion which are not of record in this proceeding. Puget filed an untimely motion seeking permission to reply to a portion of the Commission Staff's answer to Puget's petition. Permission was denied.

COMMISSION: The Commission determines that, overall, the Eleventh and Twelfth Supplemental Orders achieve the results the Commission intended. The Commission will make the following corrections to the Eleventh Supplemental Order: a mathematical error in the calculation of the retirement plan adjustment will be corrected; the Commission will clarify that the company has authority to defer costs associated with storms classified as catastrophic; the Commission will clarify that the company may record debit deferrals and accrue interest on these debit balances of the BPA exchange account; Commission Staff's petition regarding the calculation of working capital will be granted; and the temporary power rates granted pending prudence review of Puget's power supply contracts and four year BPA contract will be moved to general rates. These rates will still be spread in the same manner as PRAM rates and recovered through Schedule 100.

APPEARANCES: Respondent Puget was represented by James M. Van Nostrand and Steven C. Marshall, attorneys, Bellevue. The Commission was represented by Donald T. Trotter and Sally G. Brown, assistant attorneys general, Olympia. Charles F. Adams, assistant attorney general, Seattle, appeared

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[2] WICFUR and SWAP filed petitions under the three docket numbers of this proceeding and under the docket number of Puget's PRAM-3 proceeding, Docket No. UE-930622. The Commission is entering its Third Supplemental Order on Clarification and Reconsideration in the PRAM-3 docket contemporaneously with this order; WICFUR and SWAP's arguments regarding PRAM-3 will be addressed in that order.

[3] BOMA's petition indicates it is seeking rehearing and/or reconsideration of the Commission's Ninth, Eleventh and Twelfth Supplemental Orders in these proceedings.

as Public Counsel. Intervenor Washington Industrial Committee for Fair Utility Rates (WICFUR) was represented by Grant E. Tanner, Peter J. Richardson, Mark P. Trinchero and Aviva Groner, attorneys, Portland, Oregon. Intervenor Skagit Whatcom Area Processors (SWAP) was represented by Carol S. Arnold, attorney, Seattle. Intervenor Building Owners & Managers Association of Seattle and King County (BOMA) was represented by John Cameron, Jr., attorney, Portland, Oregon.

MEMORANDUM

This is a rate proceeding initiated by a request of Puget for a general increase in rates. Consolidated with the rate increase request were a proceeding on rate design and an accounting petition regarding residential exchange benefits provided by the Bonneville Power Administration. The Commission heard the evidence and entered a final order on the rate design proceeding in August 1993 in the Ninth Supplemental Order. The Commission heard the evidence and entered a final order disposing of the remaining issues in September 1993 in the Eleventh Supplemental Order.[4]

Intervenor BOMA moved to reopen the rate design and general rate proceedings. Intervenor WICFUR moved for expedited hearing and oral argument. The company, Commission Staff, Public Counsel, and intervenors WICFUR, SWAP, and BOMA moved for clarification and/or reconsideration of the Order.

This order will rule on the motions for reopening, expedited treatment and oral argument. It will specify certain portions of Puget's motion and attachments which are to be stricken on the Commission's own motion. Finally, it will identify the issues presented in the motions for clarification and/or reconsideration, will identify arguments presented for and against them, and will decide them.

I. Preliminary Matters

A. Bench Request 515.

The Commission issued Bench Request 515 in order to clarify certain issues raised by the motions for reconsideration. The parties were given leave to raise any objections to the responses in their answers to the petitions; no objections were made. The responses to Bench Request 515 should be admitted.

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[4] Throughout this order the Commission will refer to the Eleventh Supplemental Order as "the Order". Other Commission orders in this proceeding will be identified by their number.

The initial response will be admitted as Exhibit 1021; the revised response will be admitted as Exhibit 1021-A.

B. Motion to Strike.

The Commission also indicated it would strike certain materials in and attached to Puget's petition for clarification and reconsideration which are not of record in this proceeding. Puget did not move to have this new evidence admitted. An affidavit attached to a petition for reconsideration which attempts to introduce new evidence will not be considered. RCW 34.05.470; RCW 80.04.120; WAC 480-09-810. WUTC v. Puget Sound Power & Light Co., Docket Nos. U-89-2688-T and U-89-2955-T, Fifth Supplemental Order (March 1990). Events happening after the hearing will not, generally, support reopening or reconsideration. Order M. V. No. 139227, In re Parker Refrigerated Service, Inc., App. No. P-71514 (March 1989).

Much of the objectionable material was included in or attached to a declaration of William S. Weaver, former counsel to Puget and now a Vice-President of the company. Information regarding recently granted rates of return provided by Public Counsel throws questions on the veracity of Puget's extra-record allegations. Both Mr. Weaver and the current counsel to the company are surely aware of the impropriety of submitting extra-record material with a petition. The Commission expects a higher standard of practice from counsel appearing before it. It expects that such questionable conduct will not be repeated.

The Commission asked the parties to indicate, in their answers to Puget's petition, which portions of the petition and attachments were extra-record. Public Counsel, WICFUR, and Commission Staff complied with this request.

Following is a complete list of the "evidence" presented for the first time in Puget's petition. This material does not appear in the record, and should be stricken. After listing the pertinent attachments to the petition, the items are listed in the order in which they appear in Puget's petition.

1. Attachment to Puget Petition: Strike Exhibit A to Puget's petition in its entirety.

2. Attachment to Puget Petition: Strike the Weaver declaration in its entirety.

3. Attachment to Puget Petition: Strike all exhibits to the Weaver declaration in their entirety.

4. Page 1, 2nd paragraph, last sentence, including the indented quote: Strike this reference to, and a selected quote from, a Commission press release.

5. Page 2, the entirety of the 2nd new paragraph: Strike this "evidence" on Puget's stock price.

6. Page 2, 3rd new paragraph, phrase beginning with "more than...": Strike the phrase comparing Puget's sharing its planning processes "more than perhaps any electric utility in the country..."

7. page 3, 2nd new paragraph, 2nd sentence: Strike this sentence which is based on the Weaver declaration, and strike the reference to the Weaver declaration.

8. Page 5, 1st paragraph, all of item 1), except the material in fn. 3: Strike all of item 1) except the footnote; this item refers to the "evidence" that 10.5% is the lowest return on equity of any major utility, and draws a conclusion therefrom.

9. Page 5, 1st paragraph, all of item 4): Strike item 4) in its entirety, which refers to the "study in New York" and what it may or may not have addressed.

10. Pages 5-6, Part III.A.1. in its entirety: Strike all of this sub-Part, which refers to "evidence" in Exhibit A; contains a statement comparing a 10.5% return on equity to all other U.S. utilities; refers to an "average" return figure; and results in a conclusion that this impacts Puget as suggested.

11. Page 7, Part III.b. second sentence: Strike this sentence regarding "The message..." since its basis is the Weaver declaration, and strike the reference to the Weaver declaration.

12. Pages 9-10, Part II.A.2.b.ii. in its entirety: Strike this discussion/argument regarding the Commission's press release.

13. Pages 11-12, Part III.A.4 in its entirety: Strike this discussion/argument regarding the "study" in New York.

14. Page 14, second and third new sentences in the paragraph which carriers forward from page 13. Strike these two sentences which discuss the substance of a pleading Puget filed in 1992 in another docket.

15. Page 14, Table 1: Strike "August 1993 92.0."

16. Page 14, last paragraph: Strike second sentence which begins "As a result..."

17. Pages 26-27, Part III.I. second and third sentences: Strike this reference to the Weaver declaration, and the conclusion derived therefrom.

The Commission will strike all of the foregoing "evidence" consistent with the Commission's letter of October 6, 1993.

C. WICFUR's Motions for Expedited Consideration and Oral Argument.

Accompanying WICFUR's petition for reconsideration and clarification was a request for expedited consideration and for oral argument. The Commission determined that it wished to receive the responses to Bench Request 515 and other parties' answers to WICFUR's petition for reconsideration and clarification before considering the questions raised therein. It was not, thus, able to expedite consideration of the petition. After reviewing the materials submitted by all of the parties, the Commission determined that oral argument would not be helpful. The petitions for expedited consideration and oral argument are denied.

D. BOMA's Application for Rehearing.

BOMA styled its pleading an "Application of the Building Owners and Managers Association for Rehearing or Reconsideration of Decisions Concerning Puget's Commercial Classes of Service." Nothing in the application discusses the standards for reopening, nor does BOMA identify any evidence which is not already of record which it needs in order to argue its petition for reconsideration. A petition for rehearing must show changed circumstances or injurious results not anticipated by the Commission at the time the final order was entered. RCW 80.04.200; WAC 480-09-820(1). Order M. V. No. 141271, In re Becker Trucking, Inc. d/b/a Becker Trucking: Becker Express, App. No. 19787 (April 1990).

A portion of BOMA's petition is addressed to the final order in the Rate Design portion of this proceeding. BOMA contends that Schedule 26 customers with loads at or above 500,000 kWh per month (3% of Schedule 26 customers) will face serious rate increases due to the formulation of the new rate. They will now pay 20-25% more than Schedule 31 customers of the same size. It claims this result was unexpected and that it contradicts the language "[no] customer class should get a rate increase above the U-89-2688-T plus PRAM 1 and PRAM 2 levels" in the Order. BOMA asks that either (1) the availability requirements of Schedule 31 be modified to allow its application

to these customers until the next general rate case; or (2) Puget be allowed to incorporate the same gradual elimination of the declining rate tail block as Puget did for Schedule 25 customers.

Puget answers that it agrees with BOMA, and that the second remedy suggested is the more reasonable. If this solution is adopted, Puget will add this topic to the collaborative process. It would discuss the modification of both schedules 25 and 26 in order to move both rates to a single block energy and demand schedule in the next general rate case.

Commission Staff answers: (1) BOMA is too late to ask reconsideration of matters determined in the Rate Design Order. (2) The Commission expressly resolved the issues about which BOMA complains in its Rate Design Order. (3) The language to which BOMA refers does not apply to above-parity classes or to rates after the addition of PRAM-3; it applies only to the spread of general rates for below-parity classes. (4) BOMA's temporary class-switching remedy would be unfair to the primary customers now served under Schedule 31, because the switched customers would have a different service voltage and have transformation costs and energy losses that primary service customers don't have, yet get the same rate. (5) BOMA's second remedy is clearly improper because the Commission has expressed concern about the apparently declining rates for Schedules 25 and 26.

Public Counsel answers that BOMA's petition is untimely, and is without merit. Prior to the Order, these large users were paying declining block rates which did not recover the cost of serving them. BOMA's request that Schedule 31 be opened up to these customers is unwise and unfair. Schedule 31 rates would not cover their costs of service.

The Commission concludes that BOMA has not shown changed circumstances or injurious results not anticipated by the Commission at the time the final rate design (Ninth Supplemental) order was entered. The parties knew the scope of Puget's general rate request. The parties could and should have analyzed the impact of spreading that rate increase under the proposed rate design. If anything, the lower rate increase approved by the Commission in the Order mitigates what could have been an expected outcome of the Ninth Supplemental Order. BOMA had the information it needed to analyze this issue and make its arguments in the Rate Design phase of this proceeding. The application for rehearing is denied.

The remainder of BOMA's application challenges Puget's compliance filing accepted in the Twelfth Supplemental Order as inconsistent with the Order. This portion of the argument is properly an argument for reconsideration rather than rehearing.

It will be discussed and decided in the following section of this order.

II. The Petitions for Clarification and/or Reconsideration

Puget, Commission Staff, Public Counsel, WICFUR, SWAP, and BOMA petitioned for clarification and/or reconsideration of the Order. Reconsideration is a fairly limited remedy, available only to correct errors of law or factual errors, or to allow consideration of factual evidence that was extant but was not reasonably available to the petitioner at the time of hearing. RCW 34.05.470; WAC 480-09-810(3). Order S. B. C. No. 472, In re Belairco, Inc., App. No. B-313 (August 1990).

The Commission may grant reconsideration to clarify an order. RCW 34.05.470; WAC 480-09-810. WUTC v. Washington Natural Gas Company, Docket Nos. UG-911236 and UG-911270, Fifth Supplemental Order (November 1992). A petition for reconsideration that does not state an error of law or fact in the challenged order, nor state any other basis for granting reconsideration, should be denied. RCW 34.05.470; WAC 480-09-810. WUTC v. Pacific Northwest Bell Telephone Company d/b/a U S WEST Communications, Docket No. U-89-2698-F, Order Denying Reconsideration (September 1991).

The Commission has determined that, overall, its Eleventh and Twelfth Supplemental Orders achieve the results intended. The Commission will make the following corrections to the Order: a mathematical error in the calculation of the retirement plan adjustment will be corrected; the Commission will clarify that the company has authority to defer costs associated with storms classified as catastrophic; the Commission will clarify that the company may record debit deferrals and accrue interest on these debit balances of the BPA exchange account; Commission Staff's petition regarding the calculation of working capital will be granted; and the temporary power rates granted pending prudence review of Puget's power supply contracts and four year BPA contract will be moved to general rates. These rates will still be spread in the same manner as PRAM resource recovery rates and recovered through Schedule 100.

The Commission will discuss and decide the issues raised by each petition in the following sections.

A. Issues Raised by the Company Petition.

1. Return on Common Equity.

The Order permitted a 10.5% return on common equity.

Puget contends that the 10.5% return is based on risk assumptions that are no longer true, and sends a negative message to the Company regarding its implementation of policies encouraged by the Commission.

Puget contends that the permitted return should be increased to a minimum of 11.25% (the figure suggested by Dr. Legler) for five reasons. Two of the arguments were stricken.[5] The remaining arguments are: (1) The Order created significant new risks to the Company equity holders. (2) The Commission in its last order on this issue, the April 1, 1991 decoupling order, reduced Puget's return on rate base, effectively reducing its allowed return on equity, due to alleged potential decreased risk under PRAM's hydro adjuster. The Commission should now increase return on equity to avoid being arbitrary and capricious. (3) The Commission should use this opportunity to send a positive message to Puget to acknowledge the implementation of Commission initiatives in integrated resource planning and demand side management.

Commission Staff answers: (1) Much of Puget's "evidence" is not of record and should be stricken. (2) The Commission's determination of cost of equity is supported by the record, and is not unreasonable, particularly in view of the generous level of equity capitalization granted. Puget does not argue that the 10.5% is not supported by the record, but instead urges the Commission to abandon the record. (3) Puget's current stock price remains a healthy margin above book value, so it must be earning above its investors' required rate of return at 10.5%, so 11.25% is clearly excessive. (4) Puget has taken contradictory positions on discounted cash flow, depending on what position best suits its purpose at the time. It also has adopted different groups of comparable utilities as its position has changed. (5) There is no evidentiary support for Puget's claim that its ability to finance is threatened by the order. The coverage and other ratios necessary to evaluate the claim are lacking. The evidence of record shows that Puget will have ample coverages. Also, Puget's equity ratio is very high, it should have no immediate need to equity finance, and interest rates are at historic lows. (6) The order did not create new risks for Puget. Puget's argument presupposes that the Commission disallowed recovery of legitimate expenses, when in fact Puget

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[5] The two arguments based entirely on extra-record material and stricken are: 10.5% is the lowest allowed ROE of any major utility in the U.S., causing Puget to be unable to compete on reasonable terms with other utilities; and, a 6/2/93 study in New York concluded the DCF model used to determine ROE systematically underestimates ROE in a low interest rate environment such as exists today.

failed to demonstrate that they were prudent. (7) The Commission did not adopt a "new standard" of prudence. Reliance on a press release is wholly unjustified. In the PRAM-2 order, Puget was ordered to address the prudence of the new contracts. Its "prima facie" case contained virtually no analysis, and the supplemental testimony that the Commission ordered it to file made a marginal prudence showing. The company clearly was on notice that a prudence demonstration of the purchased power contracts was expected. (8) The Commission has already sent several "positive financial messages" to Puget (highly favorable treatment of prudent conservation costs; a 45% equity ratio; retaining PRAM; allowing recovery of Creston investment in one year; and not normalizing test year environmental cost levels).

Public Counsel's answer also requests that many portion of this section of Puget's petition be stricken.

Public Counsel makes many of the same substantive points as Commission Staff. It also notes that interest rates and investor required return rates have continually trended downward in recent years, and the experts' studies are historical and therefore tend to overstate current return on equity requirements. The Order appropriately recognized the linkage between return on equity and capital structure. The expert opinions in the record are based on more than just the discounted cash flow methodology. The current market-to-book ratio is still above the 1.1 target ratio and may indicate that the 10.5% return on equity is still above investor requirements. Public Counsel also argues that Puget misstates Washington law in citing Power v. WUTC[6], and that there is no new prudence test. It claims Puget ignored Commission Staff and Public Counsel concerns over the prudence of its resource acquisitions and ignored Commission directives that it demonstrate their prudence.

WICFUR answers that the entire common equity section of the petition must be stricken. The company is offering new evidence, and none of the reasons it offers in support of the petition were presented on the record. Although there are incidental references to the record, the basic arguments on the issue are completely based on assertions that are outside the record of this petition.

The Commission concludes that Puget's authorized return on equity should remain at 10.5%. The Commission has stricken much of Puget's petition because it refers to information which is not part of the record in this proceeding. Puget has not addressed the ample support in the record for the Commission's decision nor challenged any of the factors cited by the

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[6] 104 Wn.2d 798, 711 P.2d 319 (1985).

Commission in support of that decision. The Commission analyzed Puget's overall rate of return and capital structure and determined a fair, just, reasonable and sufficient return on capital.

2. Interest on PRAM deferrals.

The Order does not allow interest on PRAM deferrals. Puget did not ask for interest in its case in chief or on rebuttal.

Puget contends that not allowing interest on the PRAM deferrals means that it must go out and borrow the funds to cover the deferred costs without being allowed to recover in rates the cost of money associated with that borrowing and that this is "clearly unlawful confiscation". It contends that it never proposed to forego interest on PRAM deferrals. It asks the Commission to "restore" the collection of interest on PRAM deferrals.

Commission Staff's answer has three principal arguments: (1) Puget traded off direct interest accrual for a shorter deferral recovery period in the PRAM-2 proceeding. That trade-off remains fair. (2) There is nothing to "restore." The Commission has never granted interest on PRAM deferrals. (3) Allowing Puget to accrue carrying costs on unamortized deferral balances would cause a double recovery. Commission Staff argues that the test year PRAM deferrals were categorized as components of working capital. They are embedded in the historical pro forma rate base as additional investor-supplied working capital allowance and are already earning the authorized rate of return on a prospective basis. Also, the revenue requirement associated with the investor-supplied working capital allowance is classified as base cost under the PRAM, and as such is allowed to grow in proportion to the growth in customers pursuant to the decoupling mechanism.

Public Counsel argues that Puget has never requested interest on PRAM deferrals, and that the Commission explicitly rejected carrying costs in the PRAM-2 order.

WICFUR answers that Puget's request misstates the Commission's prior orders and must be denied; it too quotes the PRAM-2 order.

The Commission concludes that there is nothing to reconsider regarding interest on PRAM deferrals. Puget did not ask for interest on PRAM deferrals in its case in chief or in its rebuttal presentation. In fact, Puget did not ask for interest

on PRAM deferrals in its petition for expedited reconsideration of the PRAM-2 order.[7]

Puget, in it petition for expedited reconsideration of the PRAM-2 order, asked the Commission to accept one of two alternate proposals in place of the three-year amortization the Commission had ordered. The Commission order provides:

> The Commission will adopt the second alternative. The company's petition, in Appendix A, describes the alternative in greater detail. As described therein, the company has not sought to recover interest on the unamortized balance of the accrual. The Commission has not overlooked this change; we concur with Public Counsel that the company is not entitled to earn interest.

The Commission was unaware that PRAM deferrals are included in working capital. The Commission is uncertain whether such treatment is consistent with its order on expedited reconsideration.[8]

The Commission recalls the colloquy between Administrative Law Judge Haenle and Mr. Marshall quoted at page 13 of Puget's petition. It is dismayed to have to conclude that counsel for Puget were unaware of the content of the Second Supplemental Order in PRAM-2. If the company did not agree with that Order, we would expect the company to request changes it desires, such as interest on PRAM deferrals, in its case in chief in this proceeding.

Finally, the Commission must comment on Puget's assertion regarding failure to allow interest on PRAM deferrals: "This is clearly unlawful confiscation." (Petition, page 13). Under the traditional form of regulation in this state, PRAM deferrals would not exist. Cost increases between general rate cases would be absorbed by the company. This traditional form of regulation governs the other two investor-owned electric utilities under this Commission's jurisdiction. The Commission is not required to allow Puget to defer these costs, but has chosen to do so in the context of the PRAM experiment.

The claim of "confiscation" is a serious charge, but in this context is frivolous. The confiscation charge offends the

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[7] WUTC v. Puget Sound Power & Light Company, Docket No. UE-920630, Second Supplemental Order Granting Expedited Reconsideration (October 5, 1992).

[8] "Because no interest will be paid on the unamortized deferral, rates will be lower than they would be otherwise." Id., p. 2.

Commission which assiduously promotes fairness in its proceedings and takes its constitutional duties seriously. Confiscation would not result if the Commission were to decide to no longer allow PRAM deferrals. These deferrals are voluntary. The unsupported allegation that failure to provide interest on these voluntary deferrals constitutes confiscation shows a lack of understanding of regulatory and constitutional law that greatly concerns the Commission and should greatly concern the company. The company should not cry "WOLF" too often if it wishes to retain its credibility with the Commission.

3. Employee Incentive and Pay-at-Risk Compensation Costs.

The Order (pp. 61-62) disallows in revenue Puget's pay-at-risk plan and 73% of its Energy Plus Incentive Program.

Puget contends that these disallowances are unwise and arbitrary because: (1) Puget's total compensation is reasonable; (2) incentive compensation is a necessary tool for modern management; and (3) the Commission's recent Washington Natural Gas (WNG) order allowed incentive compensation costs under a test which Puget satisfies. It argues that denying these legitimate costs is an out-of-date response, based on a false dichotomy between shareholders and customers.

Commission Staff answers: (1) Puget provided insufficient evidence to enable the Commission to determine the reasonableness of its compensation levels. Its compensation already exceeds the industry average. (2) Whether incentive compensation is a necessary management tool is not an issue; the issue is whether ratepayers should be called upon to pay for specific bonus programs. (3) There are fundamental differences between Puget and WNG that justify a difference in treatment; e.g.: there was no concern that WNG's programs might represent payment for charitable service; there is no mention that any WNG program has traditionally been treated as a below-the-line expense or is a profit-sharing plan; there is no mention that WNG made payments when plan goals were not met; WNG is not highly insulated from earnings swings, so a compensation plan based on earnings does not have the characteristics of a giveaway.

Public Counsel's answer makes similar arguments. It argues that the Commission determined that some elements of the company's compensation package were not in customers' favor, and appropriately did not allow these costs to be charged to customers. It argues that the WNG order was quite clear that customer-oriented incentive plans will be allowed and stockholder-oriented incentive plans will face disallowance.

The Commission concludes that the Order correctly establishes the level of pro forma salaries in the test period.

No new arguments have been raised; the Commission considered the factual differences between the Puget and WNG bonuses in reaching its initial decisions.

4. SFAS 106 - Post-Retirement Benefits Other Than Pensions.

The Order would disallow prospectively a portion of the expense for post-retirement benefits other than pensions ("PBOP").

Puget contends that the Commission erred in finding that Puget was imprudent in not acting to limit its liability for PBOPs. It argues that the evidence is to the contrary. It also contends that the Order arbitrarily fails to follow Commission precedent with respect to implementing SFAS 106 for ratemaking purposes.

Commission Staff answers that the Commission thoroughly considered the uncontested facts and reached a decision that is fully supported by the record. It argues that the company misses Commission Staff's argument and the basis for the Order. Neither Commission Staff or the order indicate that FASB 106 should not be implemented, or that prudently incurred costs should not be recovered. The Order does vary from the staff white paper, but only with respect to the period of amortization. This variation is grounded in the intervening EITF statement.

Public Counsel's answer takes no position.

The Commission concludes that the Order correctly establishes the level of post retirement benefits in the test period. The Order is premised on all retirees receiving an equal benefit based on a defined contribution.

5. Retirement Plan Expense.

The Order adopted an adjustment decreasing net operating income.

Puget contends: (1) The Order contains a mathematical error. (2) the Commission reversed the method of treating this expense agreed upon between Commission Staff and the company in the 1989 rate case, and, without explanation, adopted a position Commission Staff took for the first time on brief in this proceeding. Due to the variability of the expense calculations under SFAS 87, Commission Staff in 1989 agreed to the company's proposal that it recognize as pension expense the average of the last four years' actual contribution, and record a deferral to allow actual recovery of pension expenses, thereby allowing it to report the impact of SFAS 87 on the balance sheet as a regulatory

asset and regulatory liability, with no impact on its net operating income.

Commission Staff answers: (1) Puget is right about the mathematical error. Its recalculation is the correct figure. (2) Commission Staff did not agree in the last rate case that Puget could recover deferrals. The treatment of retirement plan expense "agreed upon" by Commission Staff and Company merely allowed Puget to include in the test year expenses a pro forma amount of retirement plan expense equal to the average of the most recent four years of Puget's actual contributions to this plan. Nor did the Commission allow Puget to recover "deferrals" accrued in its retirement reserve account. Company witness Mr. Story admitted in this proceeding that prior orders did not address this issue. (3) Puget's request to recover these deferrals should be denied for additional reasons: the company increased the deferrals by inappropriately recording as pension expense each year only the amounts determined in the last general rate case, rather than the average over the latest four years; it would defeat the intent of the Commission to promote stability in the company's pension expense; the proposal is retroactive (would allow recovery of total actual pension cost calculated retroactively to a number of years in the past) and one-sided.

Public Counsel's answer takes no position.

The Commission concludes that there is a mathematical error and that it should be corrected. An amount of $3,914,859 should be included as a pro forma test year level of retirement plan expenses. The Commission concludes, further, that the accounting treatment of retirement plan expense should remain that which is provided in the Order.

6. Rate Case Expense.

The Order disallowed the consultants' fees paid to Abrams/Dell and Miller, witnesses from the financial community.

Puget contends that: (1) The disallowance is premised upon two fundamental errors of fact. It incorrectly posits that problems with conflict of interest are created by the testimony of witnesses from bond rating and investment agencies, and that shareholders uniquely benefit from the testimony.
(2) Disallowance creates unworkable policy. Its effect is to prevent evidence from being taken on an important issue.
(3) Disallowance is contrary to law. Utilities are consistently allowed to recover their rate case expenses as a necessary cost of doing business, and courts have consistently rejected the notion that rate case costs should be borne primarily by shareholders (citing cases, including Power v. WUTC).

Commission Staff answers that disallowance was proper. The witnesses represented the interests of shareholders, not ratepayers. They were witnesses for Puget, not witnesses for intervening bondholders, were paid by Puget, and clearly were biased. Their expense was not a necessary cost of doing business; Puget has never before presented such witnesses.

Public Counsel answers that the disallowance was appropriate. It argues that Puget spends too much money presenting its cases, which it then attempts to pass on to ratepayers. The disallowance is an appropriate signal that this excessive spending must stop. The record supports the finding that they represented only the interests of the shareholders. It is inappropriate for these witnesses to become involved in rate cases, because it will adversely affect their ability to issue objective future commentary on utilities' finances.

The Commission concludes that the Order correctly establishes the level of pro forma rate case expense in the test period.

7. Clarification of Treatment of Residential Exchange Balances.

The Order adopts Commission Staff's proposed treatment of BPA residential exchange credits. The balance of residential exchange benefits would be treated similarly to customer deposits, by excluding the balance from rate base and treating the interest expense as an operating expense.

Puget contends that while it is clear how this proposal would apply in the case of credit balances in the account, it is unclear how the residential account would be treated if the company pays out more benefits than it has received, which is the current situation. It believes that it should be entitled to recover its interest costs to the extent debit balances exist, and be allowed to capitalize such interest costs between rate cases. It requests clarification and requests specific authorization to capitalize and record deferrals of its interest costs on such debit balances.

Commission Staff answers that the request is unwarranted, since Puget is made whole for the residential exchange under the method approved by the Commission. Interest expense as compensation for use of funds from the undistributed residential exchange credits is already embedded in rates. When the residential exchange account reaches zero or a debit balance, the company does not need to capitalize and record deferrals of its interest costs on debit balances because it continues to collect the interest expense which has been captured in rates.

Public Counsel's answer supports Puget's position. Public Counsel contends that not allowing the interest would give residential customers more benefits than are actually provided by the BPA; doing so would be unfair to other customers. Public Counsel argues that Commission Staff's approach would inappropriately track or true-up a single item of working capital.

The Commission concludes that Puget should be allowed to record deferrals and accrue interest for the residential exchange account in the event the company has paid out more benefits than it has received. Interest is to be calculated on debit balances at the same rate as authorized for credit balances. This treatment is consistent with the use of an average balance in the calculation of rate base and the operating interest expense adjustment adopted by the Commission. The Commission expects, in the future, that fluctuations in the balance of these deferrals (credits & debits) should center around zero.

8. Clarification of Storm Damage Deferrals.

The Order generally adopts Commission Staff's proposed treatment of storm damage expense. It adopts the recommendation to use a normalized level storm damage and adopts Commission Staff's definition of catastrophic.

Puget contends that the Order doesn't expressly adopt Commission Staff's proposal that expenses associated with catastrophic/extraordinary losses be deferred. Puget asks Commission to clarify that it is authorized to record deferrals for damages from events classified as catastrophic/extraordinary.

Commission Staff agrees with the request.

Public Counsel agrees too, but suggests that the Commission make clear that the recording of such a deferral does not commit the Commission to recovery of that amount in rates until the issue has been properly examined in the general rate case.

The Commission will clarify that it is its intention to allow Puget to record deferrals for damages from event that are classified as catastrophic/extraordinary. Such deferrals do not automatically represent recoverable amounts for the next general rate proceeding. The recording of such a deferral does not commit the Commission to recovery of that amount until the particular expenses have been properly examined in the general rate case.

9. Clarification of Prudence Review Procedures and Deadlines.

Puget requests that the prudence review process be completed before year-end 1992. The company argues that it will need to make estimates of revenues subject to refund for year-end reporting, and it is important for it and its auditors that uncertainties regarding the items that are subject to the prudence review be removed before year-end. The company has retrieved and assembled the documentation and is ready to get going on the review.

Commission Staff opposes the request. It does not believe the prudence of Puget's new power supply resources can be adequately evaluated in the short time-frame proposed.

Public Counsel's answer also opposes the request. It is not appropriate for decision in the rate case; the appropriate forum is a pre-hearing conference in the prudence case. Completion by year's end is unnecessary; the amount of money involved is not that large. Conclusion by year's end is not reasonable because of the size and complexity of the case and the inability of the company to provide expedited review of relevant documents.

The schedule for the prudence review is already the subject of a pre-hearing order in the prudence case (the Fourteenth Supplemental Order in this proceeding). The Commission has been asked to review that order, and will do so.

The company persists in its allegation that a "new" test of prudence is being applied by the Commission. As noted in the Order, and in the Fourteenth Supplemental Order, the Commission is applying the same standard of prudence it has consistently applied to the company's resource acquisitions. Furthermore, the company was repeatedly and consistently told to justify the prudence of its resource acquisitions in its general rate proceedings.

When the company failed to make this demonstration in its prefiled general rate case materials, the Commission required it to file supplemental direct testimony on this and other unaddressed issues. The Order adopted the same standard of prudence applied in the Pebble Springs and Skagit/Hanford cases, which relies upon a review of the company's decisions based upon facts reasonably available to it at the time the decisions were made.

Puget's failure to make this demonstration has imposed notable burdens on the Commission, and the parties to this proceeding, who must now dedicate scarce resources to a task which should have been completed much earlier. Counsel for the

company continue to search out obscure, out-of-state "authority" which they claim excuses their failure to present a prima facie case. They have yet to acknowledge the existence of the Washington statute and Commission decisions to which Puget was a party. Other Commission precedent applies the same standard to the other electric utilities in the state.[9] This inadequate legal strategy undermines the company's credibility. Proving the prudence of the company's conduct should be simple and straightforward. The task should be accomplished promptly.

B. Issue Raised by the Commission Staff Petition

1. Correction of Adjustment 2.24, Working Capital, item C:.

The Order accepted Puget's position that accumulated deferred amounts associated with minor work projects represented amounts that belonged in working capital either as inventory or as items that were covered by the accounting Order on remediation, and accepted its proposed adjustment of $2.9 million. It rejected Commission Staff's proposal to remove from the working capital calculation amounts which represent items that have been expensed or are part of ongoing expense programs; Commission Staff had argued that the ratepayer should not be required to pay a return on expense items.

Commission Staff contends that the decision will permit over-recovery of certain expenditures and is inconsistent with the Creston adjustment. The adjustment (inclusion) the Commission approved consisted of environmental remediation costs and utility costs related to transformers and damage repairs. Included in the "environmental remediation costs" are both costs permitted to be deferred under the Accounting Order, and costs ($1,188,141 of the $2,931,381) required to be expensed under the Accounting Order. Commission Staff argues that the costs that are expensed should not be included in working capital. For Creston, the Commission was clear in permitting expense-only recovery and did not increase the rate base for this item. Commission Staff recommends that the Commission remove $1,188,141 from total working capital, reducing rate base by $1,109,000, and order that this decrease be offset against the revenue per customer allowance in subsequent PRAM proceedings, together with any impacts on deferrals.

Puget answers that the Commission's calculation is appropriate. Mr. Story's rebuttal testimony explained why the costs are properly included in working capital.

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[9] See, for example, WUTC v. The Washington Water Power Company, Docket No.U-83-26, Fifth Supplemental Order, (January 1984), pages 11-16.

Public Counsel's answer takes no position.

The Commission concludes that the Commission Staff's position on the working capital calculation should be adopted. The Commission Staff's petition clarified the Commission's understanding of this issue. Typically it is inappropriate to allow rate base inclusion of a deferred item if it should have been more appropriately expensed at the time it was incurred.

C. Issue Raised by Both Commission Staff and Public Counsel

1. Additional Disallowances for Conservation Advertising.

The Order disallowed $652,000 of the $4.1 million in conservation advertising expenses that Puget sought to include in rate base, required that conservation advertising expense be expensed in the future, and adopted a pro forma expense level of $2.1 million.

Commission Staff and Public Counsel contend: (1) The rate base disallowance should be increased from $652,000. Commission Staff recommends increase to $2,057,000, as it initially recommended, and Public Counsel recommends an increase between that amount and its initial recommendation of a $3.5 million disallowance. This would more accurately reflect the Order's finding that the company has not merely shifted its image boosting to the conservation account but has increased the level of that effort. A greater disallowance would reflect both the shift and the increase. (2) The approved pro forma level of expense is inconsistent with the policy and findings the Commission adopted. The Commission adopted as a pro forma expense amount the company's actual test year conservation advertising expenditure level after finding that level to be inappropriate for the test year. Public Counsel argues that after finding that the current system of capitalizing all conservation advertising gives inappropriate incentive to the company to increase costs, the Commission should not adopt a pro forma expense level that builds into rates the effects of that negative incentive. Commission Staff now support's Public Counsel's original recommendation of $185,272 (the 1990 spending level) as an appropriate pro forma level. Public Counsel says it would be okay to go as high as the average level from 1983-1990, $402,392.

Puget answers that: (1) The rate base disallowance was wrong to begin with; there was no support in the record for the assumption that the company shifted advertising to the conservation account. Commission Staff's proposal relies not on any analysis of particular advertisements, but arbitrarily chooses one-half for disallowance. (2) Slashing the pro forma expense level to $200,000 would cripple the company's

conservation program. The level the Order approved presumably recognizes the link between conservation advertising and program participation.

The Commission concludes that the rate base and pro forma test year expense level it established for conservation advertising are appropriate. No specific advertisements were identified as appropriate for disallowance. In future, however, the Commission will rigorously scrutinize conservation advertising expenditures. It will evaluate the goals and effectiveness of conservation advertising in setting the appropriate pro forma levels. Moving these costs out of rate base, as the Order required, should also serve to minimize any inappropriate incentive to increase them.

D. Issues Raised by WICFUR and SWAP

1. Was It Proper for the Commission to Place the $86 Million of New Power Costs into PRAM Rates Pending the Prudence Review.

The Order (pp. 23-24) provided that Puget may collect approximately $86 million in new resource acquisition costs through the PRAM mechanism pending a prudence review rather than collecting those costs in base rates. The shift of the $86 million to PRAM affects rates because base rates are spread according to the cost of service study, whereas PRAM rates are spread on a kWh usage basis.

WICFUR contends that the Commission should not allow in rates the costs associated with Puget's new resource contracts until such time as Puget proves they were prudently incurred. The Commission cannot flow these costs into rates through the PRAM-3 filing, even on a temporary, subject to refund basis. The attempt to reflect these costs in rates through the PRAM constitutes legal error and violates WICFUR's due process rights.

WICFUR states several grounds for the petition: (1) The Commission failed to provide proper and adequate notice of the change to Puget's Schedule 100 rates. Procedural due process requires that notice be reasonably calculated to apprise interested parties of the pendency of the action. (2) The Commission has unlawfully denied WICFUR and other parties an opportunity to be heard. No opportunity was given to debate the effects and the reasonableness of the action. (3) The Order violates the Administrative Procedures Act because there is no record on which the Commission can base its decision to put $86 million into PRAM-3. (4) The Commission committed legal error by failing to disallow the costs. The prudence of costs is not proven; including them in rates violates RCW 80.28.020's directive to the Commission to ensure that rates are just, reasonable and fair. (5) The attempted transfer of costs to

PRAM-3 is inherently unfair and inequitable and creates rates and charges that are unfair, unjust, and inequitable. It creates a rate spread for the associated revenue requirement that is different from the rate spread that would have applied to the same revenue requirement had the costs of the resource contracts been approved in the general rate case. At a minimum, the Commission should require Puget to spread the increase associated with the $86 million as if it had allowed this amount in the general rate case.

SWAP's argument is limited to the lack of notice and opportunity to offer testimony or comment on the transfer, and does not expressly claim a due process violation.

Puget answers that WICFUR's petition should be denied for two reasons: (1) Procedural due process notice requirements do not preclude the Commission from shifting a portion of power costs from general rates to PRAM rates. Due process requirements relate to the overall level of rate relief, not the amounts recovered from particular rate schedules. Notice was given to customers in both the general rate case and the PRAM proceeding. The two cases, although not formally consolidated, moved sufficiently in tandem so as to put customers on notice of the overall magnitude of rate increases between the two cases. The shift of power supply costs between the two does not change the overall amount recovered from customers, although the impact among customer classes may be different. (2) The proposed disallowance is unsupported by the record, and would be arbitrary and capricious.

Commission Staff answers: (1) WICFUR is wrong in its claim that the Commission cannot legally permit recovery prior to a prudence determination. The courts have upheld prior recovery on a temporary basis. (2) Like Puget, Commission Staff argues that there was adequate notice. The Commission could have fashioned the same recovery in the rate case itself; it was just more convenient to do it in PRAM. Although the proceedings were not consolidated and the separate PRAM notice did not mention the $86 million, the propriety of PRAM was an issue in the rate case.

Commission Staff recommends that the prudent course would be for the Commission to remove the $86 million from PRAM, and grant temporary relief in the context of the tariffs that are approved in the rate case. This could be accomplished through a separately tariffed, temporary surcharge, subject to refund. The Commission Staff argues that WICFUR is wrong about the transfer of costs to PRAM-3 creating rates and charges that are unfair, unjust, and inequitable. The difference in rates under the PRAM approach vs. the cost of service study approach is slight.

Public Counsel answers that the Commission's approach is reasonable and fair to all parties. WICFUR's true purpose is to reallocate the rate spread of the $86 million away from large users and onto small users. WICFUR has not demonstrated any real harm from the rates that were implemented. The rates currently in effect, with the $86 million under PRAM, are more reasonable than applying the rate case allocators to the $86 million; they move the high voltage class and the primary voltage class closer to parity. If the Commission accepts WICFUR's petition to reconsider the transfer of purchased power expenses to PRAM, it should reconsider other aspects of its rate spread decision.

The Commission concludes that it may be more appropriate to grant temporary relief in the context of tariffs that are approved in the general rate case rather than the PRAM. The Commission will order that the $86,051,449 in temporary rates, subject to refund, previously ordered in the Second Supplemental Order in Docket No. 930622 be instead ordered in this Docket. Those rates should be a separately tariffed surcharge in Schedule 100 and should be spread in the same manner as PRAM rates. By a contemporaneously issued order, the Commission will remove these rates from the PRAM.

The Commission has the authority to order temporary rates prior to conclusion of its prudence review. State ex rel. Puget Sound Navigation v. Dept.of Transp., 33 Wn.2d 448, 206 P. 2d 456 (1949). The temporary rates are not unfair, unjust or unreasonable.

2. How Should the $86 Million in Resource Costs Be Spread If They Are Prudent? Clarify Now or at End of Prudence Review?

The Order does not address the manner in which any prudently incurred new resource costs will be spread in rates at the conclusion of the prudence review. Should they be spread using rate case allocators (spread through the cost of service study, with one-third movement of below-parity classes toward parity), or using PRAM allocators (spread on a kWh basis)?

WICFUR asks the Commission to clarify now the manner in which any prudently incurred portion of the $86 million in new resource costs will be reflected in permanent rates at the end of the prudence review. It asks that they be treated in the same manner as the permanent rate increase approved in the Order.

SWAP also asks that the Commission now, rather than after the prudence review, direct how any portion of the $86 million that is found prudent will be spread, and asks that it be ordered spread according to base rate allocators rather than PRAM allocators.

Puget answers that the Commission can clarify this now or in the prudence proceeding.

Commission Staff answers that the Commission should clarify the matter. After the prudence proceeding is completed, a new cost of service run should be made, "and the results spread in a manner consistent with the intent of the Eleventh Supplemental Order."

Public Counsel answers that these matters should be addressed in the prudence proceeding. Public counsel argues that WICFUR's members are not being harmed. The rates currently in effect, with the $86 million under PRAM, are more reasonable than applying the rate case allocators to the $86 million; they move the high voltage class and the primary voltage class closer to parity. If the Commission accepts WICFUR's petition to reconsider the transfer of purchased power expenses to PRAM, it should reconsider other aspects of its rate spread decision.

The Commission concludes that any portion of the $86 million that is found to be prudent should continue to have the PRAM rate spread allocators applied until the next general rate proceeding. As discussed in the following section, the Commission considered the overall impact of general rate and PRAM increases in making its rate spread determinations in the general case. Its review of the resulting rate spread has confirmed its opinion that such a rate spread is fair, just and reasonable.

3. WICFUR & SWAP: Appropriate Spread of the $86 Million During Pendency of Prudence Determination

The shift of the $86 million in resource costs to PRAM could have affected rates because rates in the general case were spread to classes with the intent to move only one-third of the way to parity, parity being based on the cost of service revenue requirement, while rates for PRAM resource costs were spread to classes based on the adopted Peak Credit method per the cost-of-service order (Ninth Supplemental). Further, the difference between the general and PRAM rate design within a class may impact customers differently.

WICFUR contends that if the Commission does not disallow the costs pending a pendency determination, and allows Puget to recover them through PRAM, it should at a minimum require Puget to spread the increase as if it had allowed the $86 million in the general rate case. Recovering the resource costs in PRAM places a greater burden on industrial customers than would be the case if the costs were placed into general rates.

SWAP contends that during the pendency the $86 million may be left in the PRAM, but should be spread in the same manner

as base rates. SWAP contends that the transfer of over $86 million from base revenues to PRAM-3 causes industrial customers to bear a greater burden of the rate increase associated with Puget's new resource contracts.

Puget answers with the suggestion that the Commission could treat the $86 million in PRAM now with the same rate design effect as the $86 million would have if it were in general rates.

Commission Staff answers that temporary recovery of the $86 million on a kWh basis pending the prudence proceeding does not result in an unreasonable rate spread. The difference between the approach adopted in the Order (spread on a kWh basis) and the approach advocated by WICFUR and SWAP (spread through the cost of service study) makes only a slight difference in rates. Indeed, SWAP's customers who are served under Primary Schedules 31 and 43 receive less of an increase when the $86 million is left in PRAM.

Public Counsel answers that the rates currently in effect, with the $86 million under PRAM, are more reasonable than applying the rate case allocators to the $86 million; they move the high voltage class and the primary voltage class closer to parity.

The Commission considered the appropriate manner of spreading these rates in its initial deliberations. It had considered moving 100% to parity in the general rate proceeding, but determined that a blend of one-third movement to parity in general rates with a PRAM rate spread of PRAM rates and temporary rates would move rates in the proper direction without rate shock. Review of the responses to Bench Request 515 (Exhibits 1021 and 1021-A) has confirmed that the rate spread effects of the Commission's Orders are appropriate.

F. Issues Raised by Public Counsel

1. Can Parties Discuss, In the Prudence Proceeding, the Impact on Residential Rate Design of the $86 million.

Public Counsel asks that the Commission indicate if the impact on residential rate design of the shift of the $86 million to PRAM can be addressed in the prudence proceeding. It contends that the shift affected some of the Commission's earlier rate design decisions. The Order ruled that no increases above U-89-2688-T would be applied to the initial residential block, but by shifting the $86 million to PRAM rates the Commission has caused the initial block rates to increase above that level, because PRAM allocates new resources to both the initial block and the tail block. The initial block rate is about 14% higher because of the shift to PRAM.

Puget answers that if the $86 million in PRAM rates are clarified to be similar in rate design impact to general rates, the Commission "may also wish to direct the application of the increase to the first block in the residential class rate, as requested by Public Counsel." If the first block is to remain the same as the rates set in U-89-2688-T, as the Order states, the rate increase will have a disproportionate effect.

Commission Staff answers that it takes no position, but points out that there are competing considerations: On the one hand, applying the PRAM increases only to the tail block would force only space and water heating customers to pay for the PRAM increases attributed to the entire class. On the other hand, the application of PRAM increases to the tail block up to marginal cost would send a proper price signal regarding conservation and efficiency.

The Commission concludes that the residential rate spread should remain as provided in the Order. Moving the $86 million in resource costs into general rates should not change the rate spread, since they are still to be spread as PRAM rates are spread. This is another rate spread decision the Commission considered in the Order and the PRAM order. The rate spread to the residential class moves toward a marginal price signal to tail block customers without unfairly burdening them with the entire impact of the cost of new resources.

2. Appropriate Level for Irrigation Rates (Schedules 29 & 35).

The Order directed Puget to spread the $35 million increase among rate classes by first bringing those rate classes which are below parity one-third of the way to parity (Pg. 96).

Public Counsel contends that in its compliance filing, Puget failed to adjust irrigation rates in accordance with the Order. Its original cost-of-service study separately stated the parity level of the irrigation customer class. Later studies included the irrigation customers in the secondary class. As a result, irrigators have moved even further below parity. It asks the Commission to direct Puget to comply with the Order by spreading a sufficient increase to the irrigation customers to accomplish a one-third movement toward full parity.

Puget answers that the compliance filing explicitly followed the Commission's direction. The result, when combined with PRAM increases, is a larger increase for irrigators than for their classes as a whole.

Commission Staff answers that the concerns about Schedule 29 irrigators have merit, but Public Counsel's recommendation would cause rate shock. The cost of service study

filed with the compliance filing indicates that Schedule 29 customers are at 66% parity while the remainder of the secondary class is above parity. The impact of the rate spread order is to treat these below-parity class members like the rest of the class, i.e., as if they were above parity, which moves them even farther below parity. Commission Staff recommends that irrigation customers get a greater share of the general increase, but that the Commission mitigate rate shock by giving them the system average increase of 5.3%.

Commission Staff notes that recommendations for parity movement were based on customer classes, not on rate schedules. Public Counsel's concern is based on the premise that it is appropriate to examine rate spread by class and by rate schedule within a class.

The Commission concludes that irrigation customers should not receive a greater rate increase than that provided in the Twelfth Supplemental Order. The Commission Rate Design Order (Ninth Supplemental) established an appropriate methodology to determine parity of rate classes. The parties proposed moving those classes toward parity. The company properly moved the secondary class toward parity. If a party wishes to propose that the individual schedules within rate classes are to be examined and moved toward parity, the Commission expects to receive that proposal earlier in the proceeding than reconsideration, so that all of the ramifications may be studied and commented upon by all parties.

Puget did not spread the increases from PRAM-1 and PRAM-2 to the irrigators. As a result, these ratepayers are already paying a far greater percentage increase than any other Puget customers. To increase this even further would cause rate shock. Irrigators will have to continue to move toward parity and the Commission expects to see future proposals to continue to move them along; if this requires that they be treated as a separate class, the parties should propose this in future testimony.

G. Issue Raised by BOMA

1. The (Second) Compliance Filing Deprives the Commercial Class of the Benefits of the Order.

BOMA contends that Puget's September 27, 1993, compliance filing moved the commercial class, which was above parity, about one-third toward parity, but that the 9/30 compliance filing reduced the movement to "a startling one-sixth." It claims there is nothing in the record to account for this dramatic change. Through discussions with Puget, BOMA has learned that Commission Staff objected to Puget allocating the

difference in revenue requirement to all classes other than commercial, and demanded that Puget allocate the difference in revenue requirement to all classes, resulting in the change. Commercial customers will now be paying rates that patently do not comply with the Commission's parity-ratio decision. BOMA asks that the Commission reinstate the remedy it ordered.

Puget answers that it is satisfied that its revised compliance filing reasonably implements the Order. As indicated in its response to Bench Request 515, the revised filing was prepared in response to concerns raised by Commission Staff. The main difference between the initial and revised filings is whether the movement toward parity is calculated before the general rate increase has been allocated (as in the revised filing) or after the general rate case increase has been allocated (as in the original).

Commission Staff answers that BOMA's position on rate spread is not supported by any rational interpretation of the Order. For above-parity customers, the Order does not recite any specific percentage move at all. Instead, it refers to an "equal percentage move" based on the amount of the "remainder of the decrease."

Public Counsel answers that BOMA's request that the commercial class -- Puget's fastest growing class with loads growing seven times as fast as residential loads -- receive a rate decrease in the context of an overall rate increase simply ignores all principles of rate design to which the Commission has traditionally adhered. Nothing in the Eleventh Order suggested that a mechanical application of the cost of service study be implemented, or that this class receive a rate reduction in the context of an overall rate increase.

The Commission concludes that the Twelfth Supplemental Order properly implements its decisions regarding rate spread. Rate spread is the allocation of the revenue deficiency among various customer classes. In a proceeding which results in an increase in rates, no rate class should receive a rate decrease. As shown in Exhibits 1021 and 1021-A, the company's September 27, 1993 compliance filing would have resulted in a rate decrease for commercial customers. The revised filing, which was approved in the Twelfth Supplemental Order, is a better result.

ORDER

THE COMMISSION HEREBY ORDERS:

1. The request for rehearing of the Building Owners and Managers Association is denied.

2. The motion of the Washington Industrial Committee for Fair Utility Rates for expedited consideration and oral argument is denied.

3. The petitions for reconsideration/clarification of the Eleventh Supplemental Order are granted in part, as follows:

a. Certain materials in and attached to the company's petition for clarification and reconsideration are stricken, as set out in the body of this order.

b. The company's proposed mathematical correction in the calculation of pro forma retirement plan expenses is adopted. An amount of $3,914,859 should be included as a pro forma test year level of retirement plan expense, increasing the revenue requirement by $615,197 over the rates files in compliance with the Eleventh Supplemental Order.

c. Commission Staff's proposed correction of Adjustment 2.24, Working Capital, item C, is adopted. The $1,188,141 required to be expensed under the Accounting Order on environmental remediation costs shall be removed from working capital, reducing rate base by $1,109,000 and the revenue requirement by $137,244.

d. The company's proposal that it be allowed to record deferrals for damages from events that are classified as catastrophic/extraordinary is adopted. Such deferrals shall not automatically represent recoverable amounts for the next general rate proceeding, and the recording of such deferrals shall not commit the Commission to recovery of any amount until the particular expenses have been properly examined in the next general rate case.

e. The costs of new resource contracts that are already providing power, which the Eleventh Supplemental Order allows the company to recover in temporary rates subject to refund, pending a prudence review, shall be recovered in the context of tariffs approved in the general rate case rather than the PRAM. Those rates shall be a separately tariffed surcharge in Schedule 100, and shall be spread in the same manner as PRAM rates.

f. Any portion of the costs of new resource contracts that the Commission finds prudent in the prudence review filing ordered in the Eleventh Supplemental Order shall continue to be spread in the same manner as PRAM rates until the next general rate proceeding.

g. The Commission authorizes the company to capitalize and record deferrals on its interest costs on any debit balances in the BPA residential exchange account.

h. The company is not entitled to earn interest on the unamortized balance of PRAM deferrals.

4. The following revised findings are made to supplement the Findings of Fact of the Eleventh Supplemental Order:

8(a). Respondent's rate base adjusted for its Washington electric operations is $2,001,371,268.

12(a). A deficiency exists in adjusted test period gross annual revenues in the amount of $480,953 above the rates approved in the Twelfth Supplemental Order.

5. The company is authorized to either:

a. File tariff revisions to implement the Eleventh Supplemental Order as modified herein; or

b. Defer recovery of the additional revenue requirement found in this order until the next PRAM, and include them as PRAM-recoverable revenue on the base side.

6. If the company elects to file tariff revisions authorized herein, the revisions shall be filed no later than fifteen days following the entry of this order. The filing shall bear the notation on each sheet: "By Authority of Order of the Washington Utilities and Transportation Commission, Docket Nos. UE-920433, UE-920499, and UE-921262", and shall bear an effective date which provides the Commission Staff with five working days to review the filing prior to its becoming effective.

7. The Commission retains jurisdiction to effectuate the provisions of this order.

DATED at Olympia, Washington, and effective this 15th day of December 1993.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Sharon L. Nelson

SHARON L. NELSON, Chairman

Richard Hemstad

RICHARD HEMSTAD, Commissioner