

WUTC v. Puget Sound Energy

Docket No. UE-240087 - Vol. I

July 24, 2024



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	
)	
vs.)	DOCKET UE-240087
)	
PUGET SOUND ENERGY,)	
)	
Respondent.)	
)	PAGES 1-24

VIRTUAL SETTLEMENT CONFERENCE - VOLUME I
 July 24, 2024
 BEFORE ADMINISTRATIVE LAW JUDGE
 CONNOR THOMPSON

Washington Utilities and Transportation Commission
 621 Woodland Square Loop SE
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1 July 24, 2024

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4 JUDGE THOMPSON: Let's go ahead and begin.

5 We are now on the record.

6 Good morning. It is Wednesday, July 24,
7 2024. The time is 9:36 a.m. My name is Connor Thompson,
8 and I am an administrative law judge with the Washington
9 Utilities and Transportation Commission, and I will be
10 presiding in this matter this morning.

11 We are here today for a settlement hearing in
12 Docket UE-240087, which is captioned WUTC versus Puget
13 Sound Energy. The commission convened this hearing
14 following the parties' filing of a multiparty settlement
15 that resolves for now all of the issues in this case.

16 Let's go ahead and start by taking short
17 appearances, starting with staff.

18 ATTORNEY STRAUSS: Good morning, your Honor.
19 Josephine Strauss with the Washington State Attorney
20 General's Office representing staff.

21 JUDGE THOMPSON: Thank you.

22 And for Puget Sound Energy?

23 ATTORNEY STEELE: Good morning, your Honor.
24 David Steele with Perkins Coie on behalf of the company,
25 and also my colleague, Byron Starkey, also with Perkins

1 Coie.

2 JUDGE THOMPSON: Thank you very much.

3 And for public counsel.

4 ATTORNEY O'NEILL: Good morning, your Honor.

5 I apologize for being tardy. Tad Robinson O'Neill on
6 behalf of public counsel.

7 JUDGE THOMPSON: It is okay. I understand
8 that things happen.

9 Let's go ahead and talk about our plans for
10 this hearing. First we will touch on the admission of
11 prefiled exhibits and testimony, which should be fairly
12 brief.

13 We'll then allow for brief opening statements
14 if any party has any on the settlement. We'll limit
15 those to ten minutes each before we turn to the
16 cross-examination of witnesses following the parties
17 order presentation, which brings up the order of
18 presentation.

19 Because this is a complaint filed by staff,
20 ordinarily we'd go ahead and have staff give their
21 opening first and present their witness first. However,
22 if the company and staff have talked and would like to
23 change that order, I'm open to being flexible on that.
24 So is there a preferred order for presentation this
25 morning?

1 ATTORNEY STRAUSS: No preferred order from
2 staff, your Honor. We're happy to proceed as normal or
3 on an adjusted basis, whichever is preferable.

4 JUDGE THOMPSON: Okay. Does the company have
5 any preference?

6 ATTORNEY STEELE: Same for us, your Honor.
7 We are fine proceeding as you outlined.

8 JUDGE THOMPSON: Okay. That sounds good. If
9 needed, we will take a short break, though I do not
10 anticipate us going until lunch. We can take a lunch
11 break if needed.

12 And then before we begin, I just want to
13 remind the parties to keep their microphones muted unless
14 they are speaking. I will try to do the same, although I
15 often forget that for myself.

16 And also to only use video for those portions
17 of the hearing when they have a speaking role.

18 If you are having any technical issues, or if
19 you observe a party that drops off, or a representative
20 that drops off the online meeting, please mention that in
21 the chat. And the chat should be used and reserved for
22 technical issues and requests for break.

23 Are there any questions before turning to the
24 admission of exhibits?

25 ATTORNEY STRAUSS: None from staff, your

1 Honor.

2 ATTORNEY STEELE: None from the company.

3 ATTORNEY O'NEILL: None from public counsel.

4 JUDGE THOMPSON: Okay. Thank you.

5 Do the parties stipulate to the admission of
6 all the settlement and supporting testimony filed on
7 April 19, 2024?

8 ATTORNEY STRAUSS: Yes, your Honor.

9 ATTORNEY STEELE: Yes, your Honor.

10 THE WITNESS: Yes, your Honor.

11 JUDGE THOMPSON: Okay. Thank you. The
12 settlement and the supporting testimony will be admitted.

13 And at this time, we will turn to opening
14 statements if there are any.

15 And we'll turn to staff first, if you have an
16 opening statement.

17 ATTORNEY STRAUSS: Staff is comfortable
18 waiving opening statements, your Honor.

19 JUDGE THOMPSON: Okay. And the company?

20 ATTORNEY STEELE: I do have an opening
21 statement.

22 JUDGE THOMPSON: Wonderful. You may proceed.

23

24 OPENING STATEMENT BY THE COMPANY

25 ATTORNEY STEELE: Thank you, your Honor.

1 Good morning, your Honor. Again, my name is
2 David Steele. I'm counsel on behalf of PSE. Thank you
3 for giving me a few minutes to make a short statement.

4 I'd like to make just a few quick points, and
5 then I'm happy to answer any questions, or I can turn the
6 time over to PSE's witness, Mr. Birud Jhaveri, which is
7 here with me.

8 In short, your Honor, your Honor, the
9 settlement is in the public interest because it clearly
10 benefits customers and because it allows the parties and
11 the commission to turn their focus to other matters. But
12 I think some context and perspective is helpful as to why
13 a settlement here makes sense.

14 I want to be clear that PSE accepts
15 responsibility and has accepted responsibility from the
16 start for the underlying issue in this case.

17 In early 2024, PSE learned that approximately
18 a year before, when it was making its final compliance
19 filing in the 2022 general rate case, due to a clerical
20 mistake at filing, a single tariff sheet page was not
21 included in the filing, the 12th version of PSE's
22 electric tariff schedule, 52, Sheet B. This schedule
23 contains a rate for PSE's municipal street lighting
24 customers.

25 Unfortunately, no party who reviewed the

1 compliance filing caught the missing page. The
2 commission had already approved the tariff rate. And the
3 company posted the tariff sheet on its website and
4 updated the applicable rates. No party had a second
5 thought about it.

6 About a year later, as PSE was preparing for
7 its next general rate case, the company discovered the
8 issue and contacted staff for the best way to resolve the
9 missing tariff sheet. PSE fully cooperated with staff
10 and answered staff's questions.

11 Staff proceeded to file the complaint in this
12 matter, alleging that by not filing the tariff sheet, PSE
13 had improperly charged customers over \$900,000 in rates
14 and committed thousands of violations of various statutes
15 and rules.

16 PSE strongly disagrees with the allegations
17 in the complaint for two primary reasons. First, a total
18 dollar amount at issue in this case is actually about
19 \$41,000, not 900,000 as alleged in the complaint.

20 When a company seeks approval of a new tariff
21 sheet, the current version remains in effect until the
22 new version is approved.

23 Here, the 11th version of Schedule 52, Sheet
24 B, was in effect at the time PSE filed its 2022 general
25 rate case, and while the proposed 12th version was

1 pending. Thus, if there's an overcharge as staff
2 alleges, the issue is simply the delta between the 11th
3 and 12th versions, which is about 41,000 or about \$17 per
4 customer.

5 Second, this case is about an inadvertent
6 clerical mistake during a filing, not a rate approval
7 issue.

8 PSE disagrees that it charged customers an
9 unauthorized rate. The proposed 12th version of Sheet B
10 was included in PSE's initial tariff filing at the
11 inception of the 2022 general rate case, and it was
12 included in PSE's first compliance filing following the
13 final order because the updated rate was approved by the
14 commission. During the case, no party objected to the
15 proposed rate change, and it was part of the settlement
16 in that case.

17 Thus, while it is true PSE failed to include
18 the sheet in the final compliance filing, the rate was in
19 fact approved by the parties and the commission, and it
20 was posted on PSE's website so customers were aware. In
21 other words, the rate PSE charged was the rate the
22 commission approved. PSE mistakenly omitted the tariff
23 page.

24 Given that context, the settlement is
25 absolutely in the public interest. First, after it

1 identified the missing sheet, PSE voluntarily alerted
2 staff, seeking their guidance.

3 Second, in the abundance of caution, PSE
4 voluntarily reverted rates to the 11th version of Sheet
5 52-B, even though the parties and the commission had
6 approved the 12th version. The 11th version remains in
7 effect today.

8 Third, PSE refunded the customers the
9 difference between the 11th and 12th versions prior to
10 settlement being reached, plus interest. Between
11 reverting the rates and the refund, customers are
12 effectively getting a net benefit from the filing error.

13 Fourth, PSE literally conducts hundreds of
14 UTC filings every year, and has a highly skilled and
15 experienced regulatory team that makes those filings. PSE
16 prides itself in the quality of its filings.

17 However, we are human. Mistakes happen. As
18 most lawyers, and I certainly can attest, sometimes
19 errors happen with filings, and corrections are then
20 made. This is actually a normal part of the filing
21 process, especially with complex or voluminous filings
22 typical in many rate proceedings. Because of this,
23 usually a party is not sued nor are complaints filed for
24 a clerical mistake.

25 To help prevent future issues, PSE has added

1 an initial layer of internal review before and after
2 filings for the settlement.

3 Lastly, PSE is committed to making sure its
4 compliance filing on both the gas and electric side in
5 the pending general rate case is complete. If a similar
6 situation as in this case happens, PSE is required to pay
7 the \$106,000 suspended penalty.

8 While PSE disagrees that this amount is
9 proportional to the injury and the coverage in this case,
10 which is more than twice the amount at issue, to
11 facilitate a resolution in this matter, PSE agreed to
12 that amount.

13 In conclusion, the settlement is joined by
14 staff and no party opposes. The settlement not only
15 results in a net financial benefit to Schedule 52
16 customers, but all customers will benefit from the
17 additional steps PSE is taking to further improve its
18 tariff filing process. And the resolution of the matter
19 will allow the parties and the commission to focus on the
20 many other pending matters each are addressing.

21 PSE respectfully requests that the commission
22 approve of the settlement. Thank you, your Honor.

23 You may be muted, your Honor.

24 JUDGE THOMPSON: Thank you. I appreciate
25 that.

1 I do have one question before we move on to
2 public counsel's opening statement, and I think that this
3 question, Mr. Steele, is probably better directed to you
4 than Mr. Jhaveri anyway. You mentioned the amount at
5 issue being \$41,000 dollars or close thereto.

6 ATTORNEY STEELE: Correct.

7 JUDGE THOMPSON: Under the filed rate
8 doctrine, generally, the company can only charge to
9 customers those rates properly filed and approved by the
10 commission. And so just to clarify, PSE's position is
11 that in absence of the 12th revision, the 11th revision
12 remains in effect as the filed rate at the time of the
13 compliance, the second compliance filing. And so the
14 amount at issue was \$41,000, not the 900,000; is that
15 correct?

16 ATTORNEY STEELE: That's correct, your Honor.

17 JUDGE THOMPSON: Okay. All right. Thank
18 you.

19 Public counsel, do you have an opening
20 statement?

21 ATTORNEY O'NEILL: I have a very short
22 opening statement, your Honor.

23

24 OPENING STATEMENT BY PUBLIC COUNSEL

25 ATTORNEY O'NEILL: Public counsel

1 participated in the negotiations around this settlement
2 and is aware of the issues. We are not taking any
3 position on the ultimate settlement.

4 We do note, however, that this does result in
5 a refund to customers as well as a process for ensuring
6 that it does not happen in the future, both of which are
7 positive developments that come out of the negotiations.

8 But as I said, public counsel has no position
9 on the settlement itself.

10 JUDGE THOMPSON: Okay. Thank you.

11 At this time, we'll go ahead and move to
12 witnesses. We'll go ahead and start with staff.

13 Staff, if you'd like to introduce the witness
14 and tender them for cross-examination.

15 ATTORNEY STRAUSS: Yes, your Honor. Staff
16 has brought Jacque Hawkins-Jones.

17 JUDGE THOMPSON: Okay. And
18 Ms. Hawkins-Jones, if you could please raise your right
19 hand and I'll swear you in.

20 Do you swear or affirm that the testimony you
21 will give today will be truth, the whole truth, and
22 nothing but the truth?

23 THE WITNESS: Yes.

24 JUDGE THOMPSON: Okay, thank you.

25

1 JACQUE HAWKINS-JONES, witness herein, having been
2 first duly sworn on oath, was
3 examined and testified as
4 follows:

5

6 EXAMINATION

7 BY ATTORNEY STRAUSS:

8 Q Good afternoon. Or good morning, apologies.

9 Good morning, Ms. Hawkins-Jones. Could you please state
10 your name and spell your last for the record.

11 A Yes. My name is Jacque Hawkins-Jones; last
12 name is H-A-W-K-I-N-S-J-O-N-E-S.

13 Q Ms. Jones, in what capacity are you here today?

14 A I am here to represent staff in this complaint
15 investigation.

16 Q And what was your involvement in this
17 investigation?

18 A My section was the lead on the previous general
19 rate case, and I was notified that PSE had alerted staff
20 of the missing tariff sheet.

21 ATTORNEY STRAUSS: Your Honor, the witness
22 is ready for cross.

23 JUDGE THOMPSON: Thank you.

24 At this time, does public counsel have any
25 cross-examination for this witness?

1 ATTORNEY O'NEILL: We do not, your Honor.

2 JUDGE THOMPSON: Okay. Thank you.

3 I do have just a couple of questions
4 regarding the testimony.

5

6 QUESTIONS BY JUDGE THOMPSON

7 JUDGE THOMPSON: So do you have your
8 testimony in front of you?

9 THE WITNESS: I can get it if you just give
10 me one second.

11 JUDGE THOMPSON: Okay.

12 THE WITNESS: Okay. I have it available.

13 JUDGE THOMPSON: Okay. Wonderful. On page 8
14 -- and I'm looking at the first question and the first
15 answer at the top of page 8 -- you discuss that staff
16 recommends the difference between the 11th and 12th
17 revisions be refunded to customers with interest.

18 Has staff confirmed that those funds have
19 been refunded at this time?

20 THE WITNESS: It's been some time. I believe
21 that staff did confirm that the funds were refunded back
22 to customers.

23 JUDGE THOMPSON: Okay. Great. And also on
24 page 8, beginning at line 17, you discuss the
25 recommendation that PSE initiate a process to ensure

1 something like what happened with the second compliance
2 filing does not happen again.

3 Was there any discussion internally for staff
4 as to whether or not a similar process or similar layer
5 of review should be instituted for staff just to ensure
6 that something else does not happen again?

7 THE WITNESS: Yes, we have had internal
8 discussions on staff's end of that as well.

9 JUDGE BONFRISCO: Okay. And has anything
10 been implemented or outlined?

11 THE WITNESS: No, nothing has been formalized
12 yet.

13 JUDGE THOMPSON: Okay. Turning to page 9,
14 again at line 17, you have a brief discussion as to why
15 the settlement is in the public interest. And I just
16 want to ask and give you the opportunity.

17 Do you have anything to add to that as to why
18 this settlement is in the public interest?

19 THE WITNESS: No, I think my testimony covers
20 it.

21 JUDGE THOMPSON: Okay. Thank you. I think
22 that concludes all of the questions that I had for you at
23 this time. So you may go ahead and step down.

24 THE WITNESS: (Inaudible).

25 JUDGE THOMPSON: Thank you.

1 And we will move to Puget Sound's witness,
2 Mr. Jahveri.

3 UNIDENTIFIED SPEAKER: (Inaudible).

4 JUDGE THOMPSON: Go ahead, Mr. Steele.

5 ATTORNEY STEELE: Thank you, your Honor.
6 Byron Starkey with Perkins Coie.

7 PSE presents witness Birud Jhaveri for
8 cross-examination.

9 Mr. Jhaveri, could you please state your name
10 and title, and just spell your name for the court
11 reporter.

12 JUDGE THOMPSON: Before we do that, I'll just
13 swear you in real quick, if that's okay.

14 Mr. Jhaveri, if you would please raise your
15 right hand. Do you swear or affirm that the testimony
16 you will give today will be the truth, the whole truth,
17 and nothing but the truth?

18 THE WITNESS: I do.

19 JUDGE THOMPSON: Okay. Thank you.

20 All right. You may proceed.

21

22 JACQUE HAWKINS-JONES, witness herein, having been
23 first duly sworn on oath, was
24 examined and testified as
25 follows:

1 EXAMINATION

2 BY ATTORNEY STARKEY:

3 Q Thank you, your Honor. Mr. Jhaveri, could you
4 please state your name and title and spell your name for
5 the court reporter.

6 A Sure. My name is Birud Jhaveri. I'm the
7 director for regulatory affairs at PSE. My last name is
8 spelled J-H-A-V-E-R-I.

9 ATTORNEY STARKEY: And your Honor, PSE offers
10 Birud Jhaveri for cross-examination.

11 JUDGE THOMPSON: Thank you.

12 At this time, does public counsel have any
13 cross-examination for Mr. Jhaveri?

14 ATTORNEY O'NEILL: I do not.

15 JUDGE THOMPSON: Okay. Mr. Jhaveri, I do
16 have at least -- well, a couple of questions for you, if
17 that's okay.

18

19 QUESTIONS BY JUDGE THOMPSON

20 JUDGE THOMPSON: You mentioned in your
21 testimony that PSE voluntarily refunded customers prior
22 to the settlement.

23 Was that refunded amount the same as what is
24 contained in the settlement and in your testimony?

25 THE WITNESS: That is correct. PSE, when PSE

1 reached out to staff once we discovered the issue, we had
2 internal discussions to go ahead and revert back to the
3 11th revision of the Tariff Sheet B. And at the time, we
4 had also discussed that we would voluntarily refund
5 customers based on the overcharge between the variance
6 between Sheet 11 -- I'm sorry; Version 11 and Version 12.

7 JUDGE THOMPSON: Okay.

8 THE WITNESS: So we had already refunded the
9 customers. And the refund included an additional
10 interest payment as well.

11 JUDGE THOMPSON: Okay. And was that a
12 one-time refund, or is it being refunded over time?

13 THE WITNESS: It is a one time refund.

14 JUDGE THOMPSON: Okay. You also discuss that
15 internally, another layer of review is going to go in
16 place to ensure that this does not happen again.

17 Could you just expound upon that a little bit
18 and explain what that looks like?

19 THE WITNESS: Sure. And I'd like to
20 reiterate what Mr. Steele had stated earlier, which is
21 Puget Sound Energy files thousands of tariff sheets every
22 year. We do pride ourselves on the fact that most of the
23 time, not 100 percent, but very close to 100 percent, our
24 filings are accurate. Sometimes human errors are made.
25 In this case, an error was made.

1 We typically review the tariff sheets once
2 they are filed. And that process has worked fairly well.

3 We did have an error this time around, and
4 what we have done is we've added another layer of review.
5 The additional review really would consist of PSE
6 downloading the approved compliance sheets from the
7 commission's website, both on the electric side as well
8 as the gas side, and then reviewing the sheets and
9 comparing them to what we have, and uploading the tariff
10 sheets that we've reviewed from the commission's website
11 on to our website; and also add another layer to ensure
12 that the billing system is -- has the same bills that --
13 or has the same rates that are approved on the
14 commission's website version. So that is an extra layer
15 that we've added within our internal process.

16 JUDGE THOMPSON: Okay. Wonderful. And thank
17 you for that.

18 At this time, I think that is all of the
19 questions that I have for you. So you may step down,
20 virtually.

21 THE WITNESS: Thank you.

22 JUDGE THOMPSON: Yes. Thank you.

23 And that brings us to the end of the
24 witnesses and cross-examination.

25

1 CLOSING DISCUSSION

2 I have a few other housekeeping items before
3 we adjourn. I did want to check, did public counsel
4 receive any public comment in this docket?

5 ATTORNEY O'NEILL: We did not receive it
6 directly. I don't know that we verified with staff
7 whether they have public comment.

8 JUDGE THOMPSON: Okay. And does staff know
9 if any public comments were filed with staff?

10 ATTORNEY STRAUSS: I would have to check with
11 Jacque, and we'd have to check the records. I would be
12 surprised if we had, but we'll have to check on that.

13 JUDGE THOMPSON: Okay. I just wanted to
14 double check before we conclude today.

15 I did e-mail the parties before today's
16 hearing, and I believe that all the parties have agreed
17 to forego post-hearing briefs on the settlement. Does
18 that remain the case today? I'll go ahead and start with
19 staff.

20 ATTORNEY STRAUSS: Yes, your Honor.

21 JUDGE THOMPSON: Okay. And for Puget Sound
22 Energy?

23 ATTORNEY STEELE: Yes, your Honor.

24 JUDGE THOMPSON: And for public counsel?

25 ATTORNEY O'NEILL: Yes, your Honor.

1 JUDGE THOMPSON: Okay. Great. I will go
2 ahead and circle back in a couple of days to just check
3 and make sure that we did not have any public comments
4 filed at this docket. And then I will issue an initial
5 order shortly thereafter.

6 Are there any questions from the parties?

7 ATTORNEY STRAUSS: No questions --

8 ATTORNEY O'NEILL: Not from --

9 ATTORNEY STEELE: No, your Honor.

10 JUDGE THOMPSON: Okay. Is there anything
11 else that needs to be addressed today? Staff?

12 ATTORNEY STRAUSS: No, your Honor.

13 JUDGE THOMPSON: Okay. Puget Sound Energy?

14 ATTORNEY STEELE: No. Thank you.

15 JUDGE THOMPSON: Okay. And public counsel?

16 ATTORNEY O'NEILL: No.

17 JUDGE THOMPSON: Okay. Thank you all. And
18 thank you for appearing this morning and for your time.
19 We are adjourned and off the record. Thank you.

20 (Hearing concluded at 9:58 a.m.)

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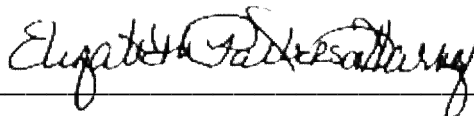

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STATE OF WASHINGTON)
) ss
COUNTY OF KING)

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IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of August, 2024.

Elizabeth Patterson Harvey, CCR 2731