

SERVICE DATE

JAN 28 1997

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Proposal by	)	
	)	
PUGET SOUND POWER & LIGHT	)	
COMPANY	)	DOCKET NO. UE-951270
	)	
to Transfer Revenues from PRAM Rates	)	
to General Rates.	)	
.....	)	
	)	
In the Matter of the Application of	)	
	)	
PUGET SOUND POWER & LIGHT	)	
COMPANY and WASHINGTON NATURAL	)	DOCKET NO. UE-960195
GAS COMPANY	)	
	)	
for an Order Authorizing the Merger of	)	THIRTEENTH
WASHINGTON ENERGY COMPANY and	)	SUPPLEMENTAL ORDER
WASHINGTON NATURAL GAS COMPANY	)	GRANTING MOTIONS OF
with and into PUGET SOUND POWER &	)	JOINT APPLICANTS AND
LIGHT COMPANY, and Authorizing the	)	IBEW LOCAL 77
Issuance of Securities, Assumption of	)	
Obligations, Adoption of Tariffs, and	)	
Authorizations in Connection Therewith.	)	
.....	)	

This is a consolidated proceeding. Docket No. UE-951270 is a proposal by Puget Sound Power & Light Company ("Puget") to transfer to Puget's permanent rate schedules, currently-collected revenue of approximately \$165.5 million authorized in the PRAM ("Periodic Rate Adjustment Mechanism") under Schedule 100. Docket No. UE-960195 is the application of Puget Sound Power & Light Company and Washington Natural Gas Company ("WNG") ("Joint Applicants") for a Commission order authorizing the merger of Washington Energy Company and Washington Natural Gas Company with and into Puget Sound Power & Light Company, and authorizing the issuance of securities, assumption of obligations, adoption of tariffs, and authorizations in connection therewith.

On September 26, 1996, the Commission entered its Seventh Supplemental Order granting a motion of the Joint Applicants and Commission Staff to transfer PRAM rates to general rates. That order resolved the issues in Docket No. UE-951270.

The Commission held hearings in these consolidated proceedings on August 5-9, 1996, October 11 and 14, 1996, and November 4-8 and 12, 1996. Briefs originally were due on December 6, 1996, but the Commission extended that date. After several parties had filed their briefs, the Joint Applicants, Commission Staff, and Public Counsel jointly filed a Stipulation for Commission consideration. The Stipulation sets out those parties' agreement on contested issues. On December 18, 1996, the Commission held a hearing for presentation of the Stipulation, for cross examination of the proponents, and for additional testimony from members of the public. All parties were given until January 3, 1997, to file briefs to address the Stipulation and issues raised in direct testimony.

Subsequent to the close of the record and subsequent to the deadline for filing briefs, the Commission received documents from two parties. The International Brotherhood of Electrical Workers (IBEW) Local 77 has submitted a copy of a Massachusetts Department of Public Utilities Decision relating to the implementation of a performance-based rate making plan for the Boston Gas Company. IBEW Local 77 asks the Commission to accept the document as subsequently decided authority. The Joint Applicants have submitted a document prepared by the Bonneville Power Administration (BPA), dated January 3, 1997, regarding a proposal by BPA and Puget to terminate Puget's participation in the residential exchange program through June 30, 2001. The Joint Applicants move for entry of this document as a late-filed exhibit.

On January 15, 1997, the Commission notified all parties that they could comment upon the motions of IBEW and the Joint Applicants.

No party commented upon the motion of the Joint Applicants. The BPA document is relevant to issues before the Commission in this proceeding. It should be accepted as a late-filed exhibit.

The Joint Applicants respond to IBEW Local 77's motion. They ask the Commission to reject the submission. No other party commented upon IBEW Local 77's motion.

The Joint Applicants argue that the Commission should reject IBEW Local 77's submission for four reasons: (1) The decision is not "subsequently decided" authority, in that it was issued on December 2, 1996, a full month before the January 3, 1997 due date for briefs in this proceeding. Joint Applicants argue that courts in Washington and the Ninth Circuit, applying state and federal court rules, have refused to allow litigants to submit authority that obviously was available before the briefs were filed. (2) The submission appears to contain only selected excerpts from the Massachusetts agency's decision, and it is impossible to put the excerpt in context. (3) The submission is irrelevant to the issues before this Commission, in

that the issue that is before this Commission, whether to include a lost time accident index as a means of measuring service quality, was, as the except clearly shows, not litigated in the Massachusetts proceeding, and also in that there is no suggestion that Massachusetts has defined the "public interest" as courts in Washington have defined the term. (4) The submitted decision is evidence, not authority, and the proper means of entering evidence into the record is to offer it during the proceedings and allow other parties the opportunity to examine and rebut it.

The Commission will accept the IBEW Local 77 submission as a citation to subsequently-decided authority, supplementing IBEW Local 77's brief. The Commission generally treats decisions by similar agencies in other states as case authority rather than evidence. The Commission has allowed other public utility commission decisions to be entered as exhibits, but has done so for administrative convenience, not because that procedure is required. State agency decisions are not disseminated as rapidly or widely as appellate court decisions, and submitting such authority one month after it is issued is not an unreasonable delay. The Joint Applicants' other objections to the submission go to the weight the Commission should give it.

### O R D E R

1. The Motion of the Joint Applicants for entry of a four-page document prepared by the Bonneville Power Administration, dated January 3, 1997, concerning the residential exchange program, is granted. The document is assigned Exhibit No. 292.

2. The Motion of IBEW Local 77 for leave to supplement its brief with a citation to part of a decision of the Massachusetts Department of Public Utilities entered December 2, 1996, in a proceeding involving the Boston Gas Company, is granted. For administrative convenience, the partial decision is assigned Exhibit No. 293.

DATED at Olympia, Washington, and effective this 28th day of January 1997.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



JOHN PRUSIA  
Administrative Law Judge

