

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKETS UE-170033 and  
UG-170034 (*Consolidated*)

**INITIAL POST-HEARING BRIEF  
OF PUBLIC COUNSEL**

October 18, 2017

## TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	CONTESTED ISSUES .....	3
A.	Public Counsel Recommends that Decoupling Continue with Modifications Described by Public Counsel Witness Mr. Michael Brosch, Including Removing Revenue Per Customer and Retaining the Three Percent Soft Rate Cap.....	3
1.	Revenue Per Customer.....	4
2.	Rate Cap.....	8
3.	Earnings Test.....	9
B.	Electric Cost Recovery Mechanism (Contested).....	10
C.	Rate Spread / Rate Design Discussion (Contested).....	11
1.	The Commission should reject PSE’s proposal to increase the electric monthly basic charge.....	12
2.	Residential electric tariff charges should be easier to understand on customer bills.....	13
3.	Natural gas rate spread and rate design is reasonable as proposed by PSE.....	13
III.	SETTLEMENT ISSUES.....	14
A.	Cost of Capital.....	15
B.	Revenue Requirement.....	17
1.	Environmental Remediation (Adjustment 6.19).....	19
2.	Other Adjustments.....	20
C.	Depreciation Other than Colstrip.....	20
D.	Colstrip Issues.....	21
1.	Depreciation – Units 1 and 2.....	22
2.	Use of Steam Production Plant reserve balance is equitable.....	23

3. Units 3 and 4.....	24
4. Creation of statutory account to pay for clean-up costs. ....	25
5. Use of Production Tax Credits. ....	25
6. Reporting requirements, transmission system operational study, and workshop. ....	26
E. Expedited Rate Filing .....	26
F. Decoupling.....	27
G. Service Quality Index and Related Issues.....	28
1. Service Quality Index No. 5. ....	28
2. Get-to-Zero.....	29
3. Outage Credits.....	30
H. The Settlement Provides a Reasonable Outcome with Respect to Low Income Issues.....	30
I. Water Heater Rental Program.....	31
J. Electric Rate Spread and Rate Design .....	33
1. The rate spread provided for under the settlement is incomplete.....	33
2. The Commission should approve the Settlement provisions regarding PSE's Schedule 40 and discontinuance in the next rate case. ....	35
IV. PUBLIC COMMENT .....	36
V. CONCLUSION .....	37

## TABLE OF AUTHORITIES

### Cases

<i>Application of the United Illuminating Co. to Increase its Rates and Charges,</i> Docket No. 16-06-04, Decision (Conn. Pub. Utils. Regulatory Authority Dec. 14, 2016) .....	22
<i>In re Potomac Electric Power Co.,</i> Case No. 9092, Order No. 81517 (Md. Pub. Serv. Comm'n Jul. 19, 2007).....	22
<i>In re Potomac Electric Power Company,</i> Case No. 1076, Order No. 15710 (Dist. of Columbia Pub. Serv. Comm'n Mar. 2, 2010). .....	22
<i>In re Zia Natural Gas Co.,</i> 128 N.M. 728, 731, 998 P.2d 564, 567 (2000). .....	16
<i>U.S. W. Comm. v. Wash. Utils. &amp; Transp. Comm'n,</i> 134 Wn.2d 74, 949 P.2d 1337 (1997).....	38
<i>Wash. St. Atty. Gen. Off. v. Wash. Utils. &amp; Transp. Comm'n,</i> 128 Wn. App. 826 (2005) .....	38

### State Regulations

WAC 480-07-730(1) and (2). .....	14
WAC 480-07-730(3). .....	15
WAC 480-07-740(2)(c). .....	15

### UTC Decisions

<i>In re Petition of Puget Sound Energy to Update Methodology Used to Allocate Electric Cost of Serv. and For Electric Rate Design Purposes,</i> Docket UE-141368, Order 03 (Jan. 29, 2015).....	34
<i>In re Proposal by Puget Sound Power &amp; Light Co. to Transfer Revenue from PRAM Rates to General Rates, In re Application of Puget Sound Power &amp; Light Co. and Wash. Nat. Gas Co. for an Order Authorizing the Merger of Wash. Energy Co. and Wash. Nat. Gas Co. with and into Puget Sound Power &amp; Light Co., and Authorizing the Issuance of Securities, Assumption of Obligations, Adoption of Tariffs, and</i>	

*Authorizations in Connection Therewith,*  
Dockets UE-951270 & UE-960195, Fourteenth Supplemental Order Accepting  
Stipulation; Approving Merger at 30 (Feb. 5, 1997) ..... 29

*In re Puget Sound Energy,*  
Dockets UE-121373, UE-121697 and UG-121705, and UE-130137 and UG-130138,  
Order 06 and 07, Order Rejecting Multiparty Settlement (Jun. 25, 2013). ..... 14, 15

*In re Puget Sound Energy,*  
Dockets UE-121697 and UG-121705, UE-130137, and UG-130138, Order 07, Final  
Order (Jun. 25, 2013)..... 1

*In re WUTC’s Investigation into Energy Conservation Incentives,*  
Docket U-100522, 2010 Decoupling Policy Statement (Nov. 4, 2010). ..... 6, 17, 18

*WUTC v. Avista Corp.,*  
Dockets UE-140188 & UG-140189, Order 05 (Nov. 25, 2014)..... 31

*WUTC v. Pacific Power & Light Co.,*  
Docket 100749, Final Order No. 06 (Mar. 25, 2011). ..... 14, 35

*WUTC v. Pacific Power & Light Co.,*  
Docket UE-140762, Final Order No. 08 (Mar. 25, 2015). ..... 12

*WUTC v. Puget Sound Energy,*  
Dockets UE-151871 and UG-151872 (*Consolidated*), Order 06 (Nov. 16, 2016). ..... 33

*WUTC v. Puget Sound Energy, Inc.,*  
Docket UE-111048, Order 08 (May 7, 2012). ..... 16

*WUTC v. Wash. Nat. Gas Co.,*  
Docket UG-920840, Order 04, Final Order (Sept. 27, 1993). ..... 32

## I. INTRODUCTION

1. This case is the first opportunity for the Commission to review Puget Sound Energy's (PSE or Company) performance under its experimental multi-year rate plan. The rate plan was controversial when adopted, but the Commission viewed the proposal as an innovative approach to addressing the pattern of frequent rate cases filed by utilities.<sup>1</sup> In evaluating the parties positions, the Commission noted, "What these arguments miss is that, with the possible exception of Public Counsel's alternative, a failure to grant comprehensive relief in these dockets most likely will frustrate the Commission's goal to entertain, consider fairly and adopt ratemaking alternatives that can 'break the current pattern of almost continuous rate cases'."<sup>2</sup>
2. This case demonstrates that the rate plan and its K-Factor, coupled with decoupling, posed certain challenges, particularly with decoupling's deferral balances and soft caps.<sup>3</sup> In this case, PSE is not requesting a new rate plan or a continuation of its prior rate plan, but rather seeks a one-time adjustment to rates using the Commission's long-standing modified historic test year methodology. PSE, after rebuttal testimony, sought a base rate increase of \$143 million, or 7.3 percent, for electric and a base rate increase for natural gas of \$22.8 million, or 2.5 percent.<sup>4</sup>

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<sup>1</sup> See, *In re Puget Sound Energy*, Dockets UE-121697 and UG-121705, UE-130137, and UG-130138, Order 07, Final Order (Jun. 25, 2013) (Case synopsis notes that the Commission implements several innovative ratemaking mechanisms that fulfill the Commission's policy goal of breaking the cycle of almost continuous rate cases for PSE).

<sup>2</sup> See, *In re Puget Sound Energy*, Dockets UE-121697 and UG-121705, UE-130137, and UG-130138, Order 07, Final Order ¶ 32.

<sup>3</sup> Piliaris, TR. 343:2-11.

<sup>4</sup> Prefiled Supplemental Direct Testimony of Katherine J. Barnard, Exh. KJB-10T at 1:19 – 2:4; Prefiled Supplemental Direct Testimony of Susan E. Free, Exh. SEF-8T at 1:16-22. The revenue requirement impact of each request is found in Mr. Piliaris' materials, which incorporates the impact of various riders. For electric, the revenue requirement impact of PSE's proposal is \$63 million, or 3.2 percent. Piliaris, Exh. JAP-44, Cell Z37 and AB37. For natural gas, the revenue requirement impact of PSE's proposal is a decrease of \$22.8 million or 3.2 percent. Piliaris, Exh. JAP-45, Cell Z26 and AB26.

3. Public Counsel's revenue requirement analysis resulted in a base rate recommendation for electric of \$70 million increase, or 3.4 percent, which would result in a revenue requirement impact of (\$5.4 million).<sup>5</sup> For natural gas, Public Counsel's revenue requirement analysis resulting in a base rate resulted in a decrease of \$13.5 million, or 1.6 percent, with a revenue requirement impact of (\$65.6 million).<sup>6</sup>
4. The Public Counsel Unit of the Attorney General's Office submits its opening brief to address the Multiparty Settlement Stipulation and Agreement (Settlement) and the contested issues in the above-captioned matter. The Settlement addresses some, but not all of the issues presented in this case, and the Commission held hearings on the four contested issues on August 30, 2017. The contested issues are (1) decoupling, except one narrow issue subject to the Settlement, (2) Puget Sound Energy's Electric Cost Recovery Mechanism (ECRM), (3) portions of electric rate spread and rate design, and (4) all issues regarding natural gas rate spread and rate design. The Commission held hearings on September 29, 2017, to consider the Settlement.
5. With respect to the contested issues, Public Counsel recommends that the Commission allow decoupling to continue, but only with certain modifications to the mechanism. Additionally, Public Counsel urges the Commission to reject the ECRM proposal. Finally, Public Counsel presents its rate spread and rate design proposal with respect to natural gas service and certain electric rate design proposals.
6. With respect to the Settlement, Public Counsel is not a Settling Party. While we do support discrete components of the settlement, the Commission only allows binary positions with

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<sup>5</sup> Public Counsel Response to Bench Request No. 1A-Exh RCS-3 3r at Sheet A at Cell I19 and Cell I27.

<sup>6</sup> Public Counsel Response to Bench Request No. 1A-Exh RCS-3 3r at Sheet A at Cell I17 and Cell D13.

respect to settlements: support or opposition. As a result, Public Counsel is in an opposition stance to the Settlement because we present our litigation position as an alternative, along with certain common sense modifications, to the components which are not in the public interest.<sup>7</sup>

7. Public Counsel recommends that the Commission adopt certain terms and modify other terms of the Settlement in setting Puget Sound Energy's (PSE or Company) rates in this proceeding. In particular, the Commission should adopt the settlement terms on (1) decoupling with respect to PSE's fixed production costs, (2) elimination of Schedule 40 in PSE's next general rate case, (3) terms addressing low income issues, and (4) certain components of the Colstrip agreement, as will be addressed in further detail in this brief. Public Counsel recommends modification with respect to (1) certain components of the Colstrip agreement, (2) cost of capital, (3) electric rate spread, (4) issues relating to Expedited Rate Filing, (5) PSE's Service Quality Index No. 5 and related issues, and (6) PSE's overall revenue requirement for electric and natural gas services.

## II. CONTESTED ISSUES

### A. **Public Counsel Recommends that Decoupling Continue with Modifications Described by Public Counsel Witness Mr. Michael Brosch, Including Removing Revenue Per Customer and Retaining the Three Percent Soft Rate Cap**

8. With the exception of fixed production costs, decoupling is a contested issue.<sup>8</sup> PSE proposes to continue decoupling for both electric and natural gas service with modifications. PSE proposes to increase the soft cap from three percent to five percent, and to modify the earnings test by removing normalizing adjustments when calculating PSE's earnings.

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<sup>7</sup> Parties may also take no position with respect to settlements, in which case they neither support nor oppose.

<sup>8</sup> Settlement ¶¶ 113 – 114.



9. Public Counsel recommends certain modifications to allow decoupling to continue. First, the Commission should remove the Revenue Per Customer (RPC) feature of PSE's existing decoupling mechanisms that currently grants automatic revenue increases as new customers are connected and served.<sup>9</sup> Second, the rate cap should be maintained at three percent, and not increased to five percent, because the current soft cap protects ratepayers from larger annual rate fluctuations under the mechanisms. Third, the earnings test should not be modified to remove normalizing adjustments, as proposed by PSE, because retention of the current earnings test as designed appropriately protects ratepayer interests. Public Counsel takes no position with respect to non-residential decoupling rate groups.<sup>10</sup>

10. A properly designed decoupling mechanism should stabilize revenues from variables that are outside the utility management's control, use a methodology that is straightforward, and properly captures revenue changes in a balanced manner.<sup>11</sup> PSE's current decoupling mechanisms are unduly complex and they have not been reasonably balanced in application.<sup>12</sup> As a result, modifications are required to bring the mechanisms in line with their intended purpose.

**1. Revenue Per Customer.**

11. The intent of decoupling is to break the link between sales volumes and utility revenues. To effectively do this, the decoupling mechanism must account for all drivers of revenue change, which typically fall into three categories, as explained by Public Counsel witness Michael

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<sup>9</sup> Response Testimony of Michael L. Brosch, Exh. MLB-1T at 3:17-20.

<sup>10</sup> Brosch, Exh. MLB-1T at 3:21-22.

<sup>11</sup> Brosch, Exh. MLB-1T at 11:17 - 12:19.

<sup>12</sup> Brosch, Exh. MLB-1T at 12:20-21.

Brosch. Mr. Brosch describes the three categories as (1) fluctuations in sales caused by weather, changers in economic conditions, and shifts in large customer demand, (2) systematic reductions in sales caused by conservation and energy efficiency, and (3) systematic growth in sales caused by addition of new customers.<sup>13</sup> PSE's RPC decoupling accounts for the first two categories, which allows PSE to retain earnings associated with the third category while charging ratepayers for the combined effect of the first two categories.<sup>14</sup>

12. As a result, PSE's decoupling mechanisms currently allow PSE to collect and retain revenue resulting from customer growth.<sup>15</sup> Over the course of PSE's rate plan, the Company's electric revenue increases totaled \$197 million, and \$14.5 million of the increases were associated with RPC decoupling revenues.<sup>16</sup> The RPC decoupling revenues would have been higher, except PSE's Jefferson County customers left PSE's electric system and began taking service from Jefferson County Public Utility District (PUD).<sup>17</sup> PSE's natural gas revenues increased by \$128 million, and \$39.9 million were associated with RPC decoupling revenues.<sup>18</sup> Revenue growth under RPC decoupling is compounding; thus, revenues grow in subsequent years with cumulative impact.<sup>19</sup>

13. As PSE's revenues increased over the rate plan, the Company's ROE results steadily improved. The strong, steady improvement in ROE was a result of PSE's ability to manage its expenses and capital investments within the boundaries of the K-Factor and RPC decoupling

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<sup>13</sup> Brosch, Exh. MLB-1T at 30:1-12.

<sup>14</sup> Brosch, Exh. MLB-1T at 30:13-17.

<sup>15</sup> Brosch, Exh. MLB-1T at 16:17-21.

<sup>16</sup> Brosch, Exh. MLB-1T at 17, Figure 1; Exh. MLB-3.

<sup>17</sup> Brosch, Exh. MLB-1T, 17:6 – 18:1.

<sup>18</sup> Brosch, Exh. MLB-1T at 17, Figure 1; Exh. MLB-3.

<sup>19</sup> Brosch, Exh. MLB-1T at 18:4-9.

revenue growth.<sup>20</sup> This was done through a combination of management efforts and favorable conditions.<sup>21</sup> While PSE's control of its costs during the rate plan had positive results, it is questionable whether PSE was able to obtain permanent and ongoing improvements in its cost structure given its as-filed rate request.

14. Most of PSE's fixed costs do not vary with the number of customers being served.<sup>22</sup> Therefore, increasing PSE's revenue with the number of customers does not serve to cover PSE's fixed costs. Rather, it functions as a way to increase PSE's revenues, and this is inconsistent with the goal of breaking the link between sales volume and revenue.

15. Additionally, the increased revenue generated by the increasing numbers of new customers also contributes to the issue of "found margin," as identified in the Commission's Decoupling Policy Statement. The Commission recognized that a properly designed decoupling mechanism balances both lost and found margins as a tool to benefit both the utility and the ratepayers.<sup>23</sup> Found margins include increased revenue associated with growth in customer count, and PSE has continued to experience customer growth in its service territories for both electric and natural gas services.<sup>24</sup> The increased revenue associated with growth in customer count is an important offset to the reduction in volumetric sales due to conservation, energy efficiency, or conditions outside the utility's control. This offset is wholly consistent with the matching principle, which is a centerpiece of ratemaking policy.<sup>25</sup>

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<sup>20</sup> Brosch, Exh. MLB-1T at 18:12-15, 19:9-13.

<sup>21</sup> Brosch, Exh. MLB-1T at 19:12-13.

<sup>22</sup> Brosch, Exh. MLB-1T at 21:7-12.

<sup>23</sup> *In re WUTC's Investigation into Energy Conservation Incentives*, Docket U-100522, 2010 Decoupling Policy Statement ¶¶ 25-29 (Nov. 4, 2010).

<sup>24</sup> Brosch, Exh. MLB-1T at 32:4 – 34:3.

<sup>25</sup> Brosch, Exh. MLB-1T at 34:4 – 35:9.

16. To make PSE's decoupling mechanisms less lopsided, Public Counsel recommends that PSE's decoupling mechanisms be modified to discontinue revenue per customer decoupling and adopt a "complete" form of decoupling that tracks all forms of revenue fluctuations. Under complete decoupling, the utility is assured recovery of electric and gas revenues explicitly approved by the Commission.<sup>26</sup> This is appropriate because most costs are fairly fixed and do not vary with customer counts. This is true with PSE. Only limited categories of costs are classified as "customer-related" and allocated based on customer count.<sup>27</sup>

17. PSE asserted at hearing that Public Counsel's proposal would harm the Company's ability to earn its return.<sup>28</sup> This assertion appears to be based on a misunderstanding of Public Counsel's recommendation.<sup>29</sup> In calculating expenses under Revenue Per Customer Decoupling, PSE factors down its power cost expenses to account for increases in future customer count. Under Public Counsel's proposal, PSE's expenses would not be factored down, but rather would be determined at the appropriate level and allowed under the decoupling mechanism.<sup>30</sup> As a result, there would be no degradation to PSE's ability to earn its return. Additionally, because PSE's expenses would not need to be factored down if the RPC feature is removed, the decoupling mechanisms would be less complex and easier to administer.

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<sup>26</sup> Brosch, Exh. MLB-1T at 35:11-17.

<sup>27</sup> Brosch, Exh. MLB-1T at 37:19 – 38:1.

<sup>28</sup> Piliaris, TR. 336:5 – 338:19.

<sup>29</sup> See Piliaris, TR. 336:19-25; 338:13-19.

<sup>30</sup> See Piliaris, TR. 327:14 – 328:9 (example of eliminating the production factoring for costs in determining the allowed revenue under the decoupling mechanism).

## 2. Rate Cap.

18. PSE's decoupling mechanisms have a "soft cap" rate increase limit of three percent, which limits the amount rates will be increased by the mechanisms during a single year. If the deferral balance exceeds the soft cap, the deferral balance is not fully amortized and the excess amount carries over into future years. Over the time PSE's decoupling mechanisms have operated, the soft cap was triggered three times.<sup>31</sup>
19. PSE requests in this case that the rate cap be increased from three percent to five percent, citing Generally Accepted Accounting Principles that require revenue to be recovered within 24 months of deferral.<sup>32</sup> Because the three percent rate cap provides meaningful limits on the amount of increases ratepayers can experience annually through decoupling, the Commission should decline PSE's request to increase the cap.<sup>33</sup> The balance lies with the ratepayers on this issue because the benefit of being able to collect the deferral balances accrues to shareholders.
20. Leaving the rate cap unchanged is not unreasonable because one factor that caused the excessive deferrals was the K-Factor increase of PSE's rate plan that was layered onto the annual increases. The K-Factor increases coupled with the decoupling deferrals exceeded the soft cap, causing the cap to be triggered. Mr. Piliaris noted that, "absent the rate plan increases, the issues would not have been as great."<sup>34</sup> Because the K-Factor is retiring, this compounding factor will be eliminated going forward.<sup>35</sup>

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<sup>31</sup> Brosch, Exh. MLB-1T at 44:16-45:3.

<sup>32</sup> Prefiled Direct Testimony of Jon A. Piliaris, Exh. JAP-1T at 116; Brosch, Exh. MLB-1T at 45:4-8.

<sup>33</sup> Brosch, Exh. MLB-1T at 46:8-13.

<sup>34</sup> Piliaris, TR. 343:10-11.

<sup>35</sup> Brosch, Exh. MLB-1T at 46:13-21.

21. Public Counsel supports one modification to the soft cap as proposed by PSE. PSE proposes that the rate test be calculated using billing determinant data and current rate levels.<sup>36</sup> This proposal appears to be reasonable, and the proposal's reliability can be tested by evaluating the currently-existing procedures and the newly-proposed procedures to ensure that no unintended variations occur.<sup>37</sup>

### 3. Earnings Test.

22. PSE proposes to remove all normalizing adjustments from the Earnings Test when calculating PSE's earnings to determine whether earnings sharing is triggered.<sup>38</sup> By applying normalizing adjustments, the Company bears the same risk of variability as when base rates are established in rate cases.<sup>39</sup> The Earnings Test provides a significant incentive to PSE to control its costs while also providing protections to ratepayers by ensuring that some realized savings are passed to them.<sup>40</sup> Removing the Earnings Test would expose ratepayers to risk they do not currently bear and have no control over.<sup>41</sup>

23. Additionally, the risks involved that are subject to normalization are generally risks that utility management has no control over. One example is weather and power supply.<sup>42</sup> Sharing these risks does not advance the stated goal of incenting cost-control from the Company's management.<sup>43</sup>

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<sup>36</sup> Piliaris, Exh. JAP-1T at 134.

<sup>37</sup> Brosch, Exh. MLB-1T at 47:6-13.

<sup>38</sup> Prefiled Direct Testimony of Daniel A. Doyle, Exh. DAD-1T at 16-21.

<sup>39</sup> Brosch, Exh. MLB-1T at 47:14 – 48:1.

<sup>40</sup> Brosch, Exh. MLB-1T at 48:7-8.

<sup>41</sup> Brosch, Exh. MLB-1T at 49:14-21.

<sup>42</sup> Brosch, Exh. MLB-1T at 49:22 – 50:7.

<sup>43</sup> Brosch, Exh. MLB-1T at 50:1-3.

24. PSE also argues that the asymmetry in the earnings test is biased and that instituting a 25-point deadband would resolve the issue.<sup>44</sup> The Company's proposal believes that the asymmetry was intentional to reflect the control over costs and the ability of utility management to determine when to request rate relief. The asymmetry recognizes that the utility controls its information and determines how rate requests are structured, and provides a "crude but effective backstop when regulation is not able to accurately foresee and quickly react to changing future conditions that may cause PSE's earnings to grow above authorized levels."<sup>45</sup> PSE's proposals weaken the customer protections instituted by the Earnings Test, and the Commission should leave the Earnings Test in place unmodified.<sup>46</sup>

**B. Electric Cost Recovery Mechanism (Contested)**

25. The Commission should reject PSE's Electric Cost Recovery Mechanism (ECRM) because it would provide improper piecemeal revenue increases to PSE to fund its proposed Electric Reliability Plan. PSE witness Booga Gilbertson testified that the ECRM focuses on, "(i) accelerated replacement of underground distribution HMW cable, and (ii) aggressively addressing the worst performing circuits."<sup>47</sup> The importance of ECRM is simply that PSE would elect to spend more and sooner with additional cost recovery than without an ECRM. Essentially, this means that PSE is willing to delay "replacing HMW cable" and "addressing the worst performing circuits." PSE management can earn higher future returns by limiting

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<sup>44</sup> Doyle, Exh. DAD-1T at 16-21.

<sup>45</sup> Brosch, Exh. MLB-1T at 50:8 – 51:6.

<sup>46</sup> Brosch, Exh. MLB-1T at 51:7-21.

<sup>47</sup> Prefiled Direct Testimony of Booga K. Gilbertson, Exh. BKG-1T at 30-32.

spending on discretionary capital and expense projects between rate cases, and in this instance the trade-off is between service quality and earnings.

26. Additionally, PSE is able to deduct accelerated and bonus tax depreciation on its federal income tax returns for all newly installed qualifying Plant in Service, providing internally generated cash flows to help fund new construction, while reducing Rate Base for the growth in Accumulated Deferred Income Taxes. PSE's ECRM request places better service quality and reliability at risk unless the Commission approves higher rates through an ECRM, which are not refundable to ratepayers. This is not reasonable because PSE has a duty to provide safe and reliable service, and the Commission should reject PSE's ECRM request.

**C. Rate Spread / Rate Design Discussion (Contested)**

27. Rate spread and rate design are split issues in these dockets in that some portions are contested and some are subject to the Settlement. All issues regarding natural gas service are contested.<sup>48</sup> However, certain issues regarding electric rate spread and rate design are agreed to by the Settling Parties, including the allocation to some but not all rate classes, demand charges, and continuation of rate schedules. This section will address natural gas rate design and rate spread issues. This section will also address electric rate design issues that fall outside of the Settlement. All other electric rate spread and rate design issues, as well as general cost of service issues, will be addressed in the Settlement section of this brief.

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<sup>48</sup> Settlement ¶ 100.



**1. The Commission should reject PSE's proposal to increase the electric monthly basic charge.**

28. PSE proposes to increase the electric basic charge to \$9.00, supported in part by the argument that the residential customer cost exceeds \$11.00 per month. A closer evaluation of what costs are included in PSE's analysis suggests that \$11.00 is not reasonable, leaving \$9.00 unsupported.

29. PSE included four capital costs in its calculation of residential costs, including gross plant investment in meters,<sup>49</sup> services, distribution line transformers, and an allocated portion of general plant.<sup>50</sup> Inclusion of these items is not consistent with accepted industry practice or Commission policy.<sup>51</sup> In response to a similar approach presented by Pacific Power, the Commission stated, "The Commission is not prepared to move away from the long-accepted principle that basic charges should reflect on the 'direct customer costs' such as meter reading and billing."<sup>52</sup>

30. Mr. Watkins conducted an analysis of customer cost for Public Counsel and presented his findings to the Commission in Exhibit GAW-11. The results do not support increasing PSE's existing basic charge. Mr. Watkins's studies indicate a monthly basic charge ranging from \$4.02 to \$5.61.<sup>53</sup> While the study results would support reducing PSE's basic charge from \$7.49 to \$6.00, Public Counsel recommends retaining the basic charge at \$7.50 for rate continuity.<sup>54</sup>

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<sup>49</sup> While meters are usually included, PSE's customer connection fees include a provision for service line improvements. Response Testimony of Glenn A. Watkins, Exh. GAW-1T at 43:20-21.

<sup>50</sup> Watkins, Exh. GAW-1T at 43:13-17.

<sup>51</sup> Watkins, Exh. GAW-1T at 43:13-48:21.

<sup>52</sup> *WUTC v. Pacific Power & Light Co.*, Docket UE-140762, Final Order No. 08 ¶¶ 86-88 (Mar. 25, 2015).

<sup>53</sup> Watkins, Exh. GAW-1T at 48:23 – 49:9; 51:13-19.

<sup>54</sup> Watkins, Exh. GAW-1T at 51:17-19.

**2. Residential electric tariff charges should be easier to understand on customer bills.**

31. Mr. Watkins provides certain recommendations on behalf of Public Counsel that would make electric residential customers' bills easier to read and comprehend.<sup>55</sup> Doing so would allow customers to have better information about their energy usage, which could positively affect conservation efforts.<sup>56</sup>

**3. Natural gas rate spread and rate design is reasonable as proposed by PSE.**

32. Public Counsel reviewed PSE's natural gas cost of service study. Mr. Watkins stated, "While I do not agree with many aspects of the PSE methodology, and I am reluctant to fully endorse the Company's approach to assign mains cost responsibility, I can inform the Commission that PSE's study is not inherently biased against any customer class."<sup>57</sup>

33. In evaluating PSE's proposed rate spread, Public Counsel finds PSE's approach reasonable.<sup>58</sup> The proposed rate spread distributes the increase across the customer classes to reflect the proper weight and consideration given to the cost of service study in light of the Commission's practices and policies.<sup>59</sup>

34. With respect to the natural gas basic charge, PSE proposes increasing the basic charge to \$11.00. Public Counsel witness Mr. Watkins performed a residential customer cost analysis to evaluate whether PSE's natural gas basic charge was reasonable. The results of Mr. Watkins's analysis are presented in Exhibit GAW-12. Because PSE's proposal is lower than the results of

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<sup>55</sup> Watkins, Exh. GAW-1T at 51:20 – 64:2.

<sup>56</sup> Watkins, Exh. GAW-1T at 51:20 – 64:2.

<sup>57</sup> Watkins, Exh. GAW-1T at 66:15-18.

<sup>58</sup> Watkins, Exh. GAW-1T at 67:2 – 68:9.

<sup>59</sup> See, *WUTC v. Pacific Power & Light Co.*, Docket 100749, Final Order No. 06 ¶¶ 315, 316 (Mar. 25, 2011).

Mr. Watkins's analysis, Public Counsel accepts PSE's proposed \$11.00 residential basic monthly charge.<sup>60</sup>

### III. SETTLEMENT ISSUES

35. The Settlement in this case is a multiparty settlement that addresses some, but not all, of the issues presented in this docket. The Commission's procedural rules recognize different types of settlements and distinguish a multiparty settlement from a full settlement or a partial settlement.<sup>61</sup> Under a full settlement or a partial settlement, all parties agree to resolution of some or all of the issues.<sup>62</sup> Thus, the Commission evaluates uncontested issues, and full or partial settlements may be approved so long as the proposed resolutions are supported by substantial competent evidence.<sup>63</sup>

36. Under a multiparty settlement, however, some but not all of the parties have agreed to the resolution of one or more issues.<sup>64</sup> Non-settling parties, such as Public Counsel in this case, may offer evidence and argument in opposition, and opponents retain certain expressed rights, including cross examination and the right to present evidence.<sup>65</sup> As a result, the Commission must resolve the issues in this case as contested matters on the basis of the record before it while determining whether it will accept, reject, or modify the multiparty settlement.<sup>66</sup>

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<sup>60</sup> Watkins, Exh. GAW-1T at 69:8-23.

<sup>61</sup> WAC 480-07-730.

<sup>62</sup> WAC 480-07-730(1) and (2).

<sup>63</sup> *In re Puget Sound Energy*, Dockets UE-121373, UE-121697 and UG-121705, and UE-130137 and UG-130138, Order 06 and 07, Order Rejecting Multiparty Settlement ¶ 18 (Jun. 25, 2013).

<sup>64</sup> WAC 480-07-730(3).

<sup>65</sup> WAC 480-07-740(2)(c).

<sup>66</sup> *In re Puget Sound Energy*, Dockets UE-121373, UE-121697 and UG-121705, and UE-130137 and UG-130138, Order 06 and 07, Order Rejecting Multiparty Settlement ¶ 17 (Jun. 25, 2013).

37. To do this, the Commission “weighs the evidence offered in support of the common positions advocated by the Settling Parties against the evidence opposing the results advocated by the Settling Parties, and the evidence offered by the non-settling parties in support of the alternative results that they advocate.”<sup>67</sup> The Commission decides each contested issue on its merits considering the full record.<sup>68</sup> Although unaddressed in the rule, it would be consistent with the intent of the Commission’s rules on settlement, that a non-settling party’s presentation could include evidence and argument both in support and in opposition of settlement terms. This is true in a complex settlement with several terms, such as the multiparty settlement before the Commission in this case.

**A. Cost of Capital**

38. Capital structure used for ratemaking purposes should present an optimal mix of equity and debt to balance capital costs with financial risk.<sup>69</sup> The Commission requires an appropriately balanced capital structure of the regulated utilities that balances debt and equity.<sup>70</sup>

39. Even though the Settling Parties testimony regarding the cost of capital relies on the direct testimony of the Settling Parties’ witnesses, Public Counsel was prohibited from questioning the witnesses on that direct testimony. The primary reason provided in Commission Staff’s joint testimony of Thomas E. Schooley and Melissa C. Cheesman for supporting the Return on Equity (ROE) of 9.50 percent is that this figure is within the ROE ranges of PSE

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<sup>67</sup> *In re Puget Sound Energy*, Dockets UE-121373, UE-121697 and UG-121705, and UE-130137 and UG-130138, Order 06 and 07, Order Rejecting Multiparty Settlement ¶ 20 (Jun. 25, 2013).

<sup>68</sup> *In re Puget Sound Energy*, Dockets UE-121373, UE-121697 and UG-121705, and UE-130137 and UG-130138, Order 06 and 07, Order Rejecting Multiparty Settlement ¶ 20 (Jun. 25, 2013).

<sup>69</sup> *In re Zia Natural Gas Co.*, 128 N.M. 728, 731, 998 P.2d 564, 567 (2000).

<sup>70</sup> *WUTC v. Puget Sound Energy, Inc.*, Docket UE-111048, Order 08 ¶ 35 (May 7, 2012).

witness Dr. Roger Morin, Commission Staff witness Mr. David Parcell, and ICNU witness Mr. Michael Gorman.<sup>71</sup>

40. Public Counsel witness Dr. J. Randall Woolridge established a ROE range of 7.60 percent to 8.90 percent using DCF and CAPM models.<sup>72</sup> His rate of return recommendation uses an ROE of 8.85 percent for PSE.<sup>73</sup> PSE witness Dr. Morin established a ROE range of 9.30 percent to 10.7 percent using DCF, CAPM, and risk premium models.<sup>74</sup> Staff witness Mr. Parcell reported a ROE range of 8.85 percent to 9.50 percent using his DCF and Certainty Equivalent (CE) models.<sup>75</sup> ICNU witness Mr. Gorman indicates an ROE range of 8.6 percent to 9.6 percent.<sup>76</sup>

41. Public Counsel's ROE recommendation is 8.85, Commission Staff's recommends 9.2, ICNU recommends 9.1, and PSE recommends 9.8. There simply is no settlement testimony supporting an ROE of 9.5, well above ICNU and Commission Staffs recommendations; the Settlement testimony offers no rationale for why they chose this figure. Additionally, the witnesses who submitted direct testimony on the ROE recommendation were not the parties who submitted the Settlement testimony on the ROE. The testifying witnesses at the Settlement Hearing did not demonstrate the requisite knowledge to offer Settlement testimony on the methodologies, analysis, and conclusions of the ROE recommendations they submitted.

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<sup>71</sup> Joint Testimony of Thomas E. Schooley and Melissa C. Cheesman in Support of Settlement, Exh. TES-4T at 6:10-12.

<sup>72</sup> Woolridge, Exh. JRW-18T at 3:5-6.

<sup>73</sup> Response Testimony of J. Randall Woolridge, Exh. JRW-1T at 3-4; Exh. JRW-3; Exh. JRW-19.

<sup>74</sup> Prefiled Direct Testimony of Roger A. Morin, Exh. RAM-1T at 55: 14-5.

<sup>75</sup> Testimony of David C. Parcell, Exh. DCP-1T at 4:2-5.

<sup>76</sup> Response Testimony of Michael P. Gorman, Exh. MPG-1T at 12:1.

42. Although the Settlement uses a return on equity of 9.5 percent, which is lower than the 9.8 percent requested by PSE, it is higher than the ROE recommended by all of the other expert witnesses who filed testimony concerning ROE.

43. Even if the Commission accepts the lack of any substantive testimony regarding the Settling Parties' ROE recommendation, the Commission should reject PSE's proposed ROE because PSE's decoupling mechanism reduced "risk of volatility of revenue based on customer usage."<sup>77</sup> The Decoupling Policy Statement states the, "reduction in costs would flow through to ratepayers in the form of rates that would be lower than they otherwise would be, as the rates would be set to reflect the assumption of more risk by ratepayers."<sup>78</sup> In this case, the reduction in costs may be reflected in the lower ROE recommendations of each of the non-company parties. Staff, Public Counsel, and ICNU each arrived at recommendations lower than the Settlement ROE. In light of the reduction of risk to PSE through decoupling, and the lower recommendations of the majority of the parties in the case addressing ROE, it is reasonable to conclude that the Settlement ROE is too generous.

## **B. Revenue Requirement**

44. The Settlement provides an overall annual increase to electric revenues of \$20 million and a decrease to natural gas revenues of \$35 million.<sup>79</sup> In light of the potential reasonable outcomes in the case, the revenue requirement provided under the Settlement is too generous and not in the public interest. The Settling Parties point to a relatively small rate increase in

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<sup>77</sup> *In re WUTC's Investigation into Energy Conservation Incentives*, Docket U-100522, Report and Policy Statement on Regulatory Mechanisms, Including Decoupling, to Encourage Utilities to Meet or Exceed Their Conservation Targets ¶ 27 (Nov. 4, 2010).

<sup>78</sup> *Id.*

<sup>79</sup> Public Counsel believes these numbers refer to the revenue requirement impact, which is the impact after riders and other adjustment have been made to base rates.

exchange for accelerating depreciation for PSE's Colstrip coal-fired electric generation plant. This issue cannot be viewed in a vacuum, however, and in weighing other components of the settlement, the overall revenue provided under the settlement exceeds what PSE needs to reasonably and fairly run its utility business.

45. Five parties addressed revenue requirement in their litigation cases: PSE, Commission Staff, Public Counsel, ICNU (electric only), and NWIGU (natural gas only). The table below shows each parties' positions prior to the Settlement.

**Table 1: Parties Revenue Requirement Recommendations**

<b>Party</b>	<b>Electric</b>	<b>Natural Gas</b>
PSE	\$143 million (base rates) <sup>80</sup> \$63.3 million (revenue requirement impact) <sup>81</sup>	\$22.8 million (base rates) <sup>82</sup> (\$29.3 million) (revenue requirement impact) <sup>83</sup>
Staff <sup>84</sup>	\$51.6 million (base rates) (\$34.6 million) (revenue requirement impact)	\$3.9 million (base rates) (\$48.2 million) (revenue requirement impact)
Public Counsel	\$70.3 million (base rates) <sup>85</sup> (\$5.4 million) (revenue requirement impact) <sup>86</sup>	(\$13.5 million) (base rates) <sup>87</sup> (\$65.6 million) (revenue requirement impact) <sup>88</sup>
ICNU	\$7.6 million (base rates) <sup>89</sup>  (\$33.6 million) (revenue requirement impact) <sup>90</sup>	
NWIGU		\$2.1 million (base rates) <sup>91</sup>

<sup>80</sup> Barnard, Exh. KJB-10T at 1:19 – 2:4.

<sup>81</sup> Piliaris, Exh. JAP-44, Cell Z37.

<sup>82</sup> Free, Exh. SEF-8T at 1:16-22.

<sup>83</sup> Piliaris, Exh. JAP-45, Cell Z26.

<sup>84</sup> Revised Testimony of Melissa C. Cheeseman, Exh. MCC-1Tr at 4 (Table 1).

<sup>85</sup> PC Response to Bench Request 1A-Exh RCS-3 3r at Sheet A at Cell I19.

<sup>86</sup> PC Response to Bench Request 1C at Bench 1-C Electric at Cell D15).

<sup>87</sup> PC Response to Bench Request 1A Exh RCS 4r at Sheet A at Cell I17.

<sup>88</sup> PC Response to Bench Request 1C at Sheet Bench 1-C Gas at Cell D13.

<sup>89</sup> Mullins, Exh. BGM-12T at 1:17-19.

<sup>90</sup> Mullins, Exh. BGM-13 at (1) Lead, Cell T57.

<sup>91</sup> Mullins, Exh. BGM-12T at 1:17-19.

46. The parties presented a wide range of revenue requirement positions, as demonstrated in Table 1 above. On the electric side, the revenue requirement impact numbers are consistently negative for the non-company parties. Commission Staff and ICNU in particular present substantially negative numbers in their recommendations, but Public Counsel's revenue requirement impact number is a decrease also. In light of the record presented to the Commission, the evidence strongly indicates that a rate decrease, not a rate increase, is warranted for electric service. The argument is similar for natural gas service.

**1. Environmental Remediation (Adjustment 6.19).**

47. In his direct testimony, Public Counsel witness Ralph Smith recommended that PSE use 100 percent of the proceeds received from insurance carriers and third parties through the test year to offset the actual deferred environmental remediation costs as of September 30, 2016. Under the Settlement, PSE and the Settling Parties do not propose to use any of the electric or gas related proceeds to offset environmental remediation costs. Instead, they promise to, "Commence a process to determine a methodology for assigning insurance recoveries received by PSE in a manner that does not potentially compromise PSE's litigation position associated with such insurance recoveries."<sup>92</sup> PSE's initial proposal was to only use 46 percent of the electric related proceeds and 58 percent of the gas related proceeds to offset environmental remediation costs through the end of the test year.<sup>93</sup> Public Counsel's recommendation provides

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<sup>92</sup> Joint Testimony of Katherine J. Barnard, Susan E. Free, and Jon A Piliaris, Exh. PSE-1JT at 10:6-9.

<sup>93</sup> Free, Exh. SEF-1T at 26:1-2, *see* Table 2.



the proper matching between when the deferred environmental remediation costs and the proceeds are known and measurable.<sup>94</sup>

## 2. Other Adjustments.

48. Public Counsel witness Ralph Smith provided testimony on specific adjustments. Public Counsel asks the Commission to consider the entirety of Mr. Smith's presentation on revenue requirement. Those adjustments include Pension Expense, Storm Damage, and Plant Held for Future Use. By this reference, Public Counsel incorporates Mr. Smith's evidentiary presentation for the Commission's consideration.

## C. Depreciation Other than Colstrip

49. Public Counsel reviewed PSE's depreciation study beyond just what the Company proposes to do with its Colstrip, Montana coal-fired electric generation plant.<sup>95</sup> Under the Settlement, the Parties propose simply to use PSE's depreciation schedule.<sup>96</sup> Public Counsel recommends certain modifications to PSE's depreciation schedule, including the collection of estimated terminal net salvage costs,<sup>97</sup> natural gas distribution plant future net salvage,<sup>98</sup> and electric distribution plant future net salvage.<sup>99</sup> Public Counsel reviewed, but has no changes to, PSE's projected average service life.<sup>100</sup>

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<sup>94</sup> Response Testimony of Ralph C. Smith, Exh. RCS-1CT at 64:5 – 65:3.

<sup>95</sup> See Prefiled Rebuttal Testimony of John J. Spanos, Exh. JJS-4T at 2:18-20 (notes that the only party to address non-Colstrip depreciation is Public Counsel).

<sup>96</sup> Settlement ¶¶ 24 and 28; Spanos, Exh. JJS-3r.

<sup>97</sup> Response Testimony of Roxie M. McCullar, Exh. RMM-1T at 14:17 - 17:12.

<sup>98</sup> McCullar, Exh. RMM-1T at 18:1 - 25:3.

<sup>99</sup> McCullar, Exh. RMM-1T at 25:4 – 29:16.

<sup>100</sup> McCullar, Exh. RMM-1T at 30:2-8.

50. With respect to estimating terminal net salvage, Public Counsel recommends that PSE collect the future inflated estimated costs in Year-2018 dollars instead of the more valuable current-day dollars.<sup>101</sup> Terminal net salvage costs are the costs of closing a production plant that has ceased operations.<sup>102</sup> Calculating the estimated terminal net salvage cost in the end-year amount, but charging customers for the present-day value is not reasonable.<sup>103</sup> Instead, PSE should collect the estimated terminal net salvage cost in Year-2018 dollars to match the rate effective year.<sup>104</sup> “Fairness and equity require that the Commission adopt a methodology that, to the extent possible, balances the interest of current and future ratepayers.”<sup>105</sup> Public Counsel’s recommendation does this.

51. Public Counsel also recommends adjustments to proposed future net salvage for both electric and natural gas distribution plant that are not addressed by the Settlement. In particular, adjustments should be made to Electric Accounts 355, 356, 362, 367, and 369. Adjustments should be made to Natural Gas Accounts 376.20, 376.40, 378.00, 380.20, and 380.30. Public Counsel continues to recommend the adoption of those adjustments.

#### D. Colstrip Issues

52. Public Counsel’s position overlaps in part and departs in part with the Settlement with respect to Colstrip issues. Colstrip is an important, major issue in this case, and issues involving coal-fire generated electricity will likely come before this Commission in other utility cases as

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<sup>101</sup> McCullar, Exh. RMM-1T at 14:19 – 15:3.

<sup>102</sup> McCullar, Exh. RMM-1T at 15:6-7.

<sup>103</sup> McCullar, Exh. RMM-1T at 16:12-20; *Application of the United Illuminating Co. to Increase its Rates and Charges*, Docket No. 16-06-04, Decision at 46 (Conn. Pub. Utils. Regulatory Authority Dec. 14, 2016); *In re Potomac Electric Power Co.*, Case No. 9092, Order No. 81517 at 30 (Md. Pub. Serv. Comm’n Jul. 19, 2007).

<sup>104</sup> McCullar, Exh. RMM-1T at 17:1-12.

<sup>105</sup> *In re Potomac Electric Power Company*, Case No. 1076, Order No. 15710 ¶ 252 (Dist. of Columbia Pub. Serv. Comm’n Mar. 2, 2010).

well. The issues that relate to Colstrip deserve close attention and careful, measured thought. Public Counsel appreciates the thought and hard work that the Settling Parties put into their Settlement, but we offer an alternative with respect to certain components of their agreement. We urge the Commission to consider and adopt our alternatives because Public Counsel offers a resolution to the Colstrip issues that is in the public interest.

**1. Depreciation – Units 1 and 2.**

53. Depreciation is included in rates to allow utilities to earn a return of their investment. Depreciation is recovered over time pursuant to a depreciation schedule approved by the Commission. Currently, Units 1 through 4 for PSE's Colstrip plant are depreciated on a schedule that ends in 2045, which was set through a settlement in PSE's general rate case in 2007. In hindsight, the current depreciation schedule was set too long, but depreciation schedules are often reset with new information and changing circumstances. New depreciation studies sometimes reveal new information that alters the depreciation schedules of a utility's assets. That is the case with PSE's Colstrip generation plant.

54. Units 1 and 2 are scheduled for early closure due to litigation and will close no later than mid-2022. Public Counsel witness Roxie McCullar agreed that accelerating depreciation for Units 1 and 2 to reflect the realities of the litigation settlement and the impending closure was reasonable. Where Public Counsel differs from the Settlement is in the impact on ratepayers. The Settlement places the full brunt of accelerating cost recovery on ratepayers whereas Public Counsel adopts a less onerous approach.

**2. Use of Steam Production Plant reserve balance is equitable.**

55. PSE's Steam Production Plant carries a reserve balance even though there is a significant deficiency for Colstrip Units 1 and 2.<sup>106</sup> The reserve surplus indicates that a decrease in PSE's annual depreciation accrual is needed, not an annual increase.<sup>107</sup> By reallocating the reserve within the Steam Production Plant account, the imbalance is addressed while maintaining the overall book amount and complying with appropriate accounting principles.<sup>108</sup> Furthermore, it is reasonable to use remaining life depreciation rates to address the reserve imbalances.<sup>109</sup>

56. Using the reserve balance offsets the revenue requirement impact of the deficiency for Colstrip Units 1 and 2. Mr. Spanos for PSE asserts that there is a calculation error in Ms. McCullar's determination of the reserve balance, stating that the imbalance was \$20 million less than Ms. McCullar calculated.<sup>110</sup> However, even assuming that Mr. Spanos is correct in this regard, the account still shows a significant surplus.<sup>111</sup>

57. Use of the reserve balance is equitable. Accelerating the depreciation schedule can give rise to intergenerational inequities. The reserve balance was created over the same or substantially similar time period as the depreciation accruals for Colstrip Units 1 and 2. Thus the same ratepayers are affected by both the reserve balance and the deficiency.<sup>112</sup> Using that surplus to offset the stranded costs is equitable while providing PSE with the appropriate cost recovery. Indeed, reallocating the surplus is reasonable because "it addresses both the reserve

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<sup>106</sup> McCullar, Exh. RMM-1T at 8:8-11.

<sup>107</sup> McCullar, Exh. RMM-1T at 11:4-10 and 11:17-19.

<sup>108</sup> McCullar, Exh. RMM-1T at 11:11 – 13:26.

<sup>109</sup> McCullar, Exh. RMM-1T at 14:1-6.

<sup>110</sup> McCullar, Exh. RMM-12T at 5:11-14.

<sup>111</sup> McCullar, Exh. RMM-12T at 5:11-19.

<sup>112</sup> McCullar, Exh. RMM-12T at 4:1-12.

deficiency in Colstrip Units 1 and 2, due to the earlier-than-expected retirement, and the excess reserve that has been collected from ratepayers for longer living production units over the last decade.”<sup>113</sup> Using the book reserve also softens the rate impact on ratepayers of accelerating cost recovery, and in that regard, avoids rate shock and is consistent with the regulatory theory of gradualism.

58. The difference between the Settlement and Public Counsel’s treatment of depreciation for Units 1 and 2 is approximately \$10 million annually. Under the Settlement, PSE would collect \$18.5 million annually from ratepayers.<sup>114</sup> Public Counsel’s recommendation is that the annual depreciation expense for Units 1 and 2 be \$8.7 million, which includes reallocation of PSE’s book reserve. This difference is significant and worthy of consideration.

### 3. Units 3 and 4.

59. Units 3 and 4 are not scheduled for closure, but the current depreciation schedule is too long. Public Counsel agrees that shortening the depreciation schedule is appropriate, but accelerating cost recovery to 2027 is too aggressive based on the information available in this proceeding. Public Counsel witness Roxie McCullar concluded that 2035 was reasonable for calculating depreciation rates based on the information available. In addition to having no closure date for Units 3 and 4, the early retirement of Units 1 and 2 provides a “more certain future for Colstrip Units 3 and 4.”<sup>115</sup> As a result, Ms. McCullar concludes that 2035 is fair for ratepayers and the Company.<sup>116</sup>

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<sup>113</sup> McCullar, Exh. RMM-12T at 6:4-8.

<sup>114</sup> McCullar, Exh. RMM-12T, 3:9-11; Settlement ¶ 25.

<sup>115</sup> McCullar, Exh. RMM-12T at 7:9-11.

<sup>116</sup> McCullar, Exh. RMM-12T at 7:12-13.

60. However, Ms. McCullar also considered the Settling Parties' testimony, and in particular the testimony of ICNU. ICNU points to depreciable life for Colstrip being set to 2030 in Oregon. Ms. McCullar reasoned that 2030 is more reasonable given the position of parties.<sup>117</sup>

**4. Creation of statutory account to pay for clean-up costs.**

61. The Settlement provides that PSE will deposit Treasury Grants totaling \$95 million into an account created pursuant to RCW 80.84. Public Counsel has no objection to this term and was supportive of creating and funding the statutory account. This account is authorized by the Legislature and is designed to provide funds when the time comes to engage in decommissioning and remediation.

62. It is important to note that the funds are not a guarantee that any specific decommissioning or remediation activity will be deemed prudent and recoverable in rates. PSE must still show that its decommission and remediation efforts are prudent and eligible for cost recovery. The Commission should expressly require that PSE demonstrate that its decommission and remediation expenses are prudent and eligible for cost recovery before being permitted to apply funds from the account in its order approving the account under RCW 80.84.

**5. Use of Production Tax Credits.**

63. The Settlement allows for use of Production Tax Credits (PTCs) to address Colstrip expenses at a later date. It appears that the balance of the PTCs is large enough for all of the planned usages. Public Counsel has some concerns about the prioritization given to the various usages. Under the Settlement, community transition of Colstrip, Montana is listed as number

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<sup>117</sup> McCullar, Exh. RMM-12T at 7:5-8:10.

one in the priorities. Second is offsetting unrecovered plant, and third is to pay for remediation and decommissioning costs. Public Counsel believes that community planning is important, and we have no objections to using shareholder dollars for such purposes. If the balance of PTCs is not sufficient, then shareholders should reimburse the Company with the amount of PTCs used for community planning.<sup>118</sup> This will ensure that the funds are available for cleanup measures once the site is ready for decommissioning and remediation.

64. With respect to PSE's acceptance of the risk of monetization of the PTCs with respect to Colstrip Units 1 and 2, Public Counsel supports PSE's acceptance of risk. The Settlement provides that PTCs may be used to offset unrecovered plant for Units 3 and 4 as well.<sup>119</sup> Public Counsel recommends that the same assumption of risk that PSE accepted for Units 1 and 2 be applied to Units 3 and 4.

**6. Reporting requirements, transmission system operational study, and workshop.**

65. The Settlement provides for certain reporting, a study, and a workshop.<sup>120</sup> Public Counsel has no objection to these terms and generally supports their adoption.<sup>121</sup>

**E. Expedited Rate Filing**

66. As described in the testimony of Public Counsel witness Mr. Brosch, Public Counsel has concerns with using the Expedited Rate Filing (ERF) mechanism, particularly when a company

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<sup>118</sup> Testimony in Response to Proposed Settlement of Carla A. Colamonici, Exh. CAC-1T at 14:3-18.

<sup>119</sup> Settlement ¶ 117.

<sup>120</sup> Settlement ¶¶ 118 – 121.

<sup>121</sup> Colamonici, Exh. CAC-1T at 13:2-6.

has not demonstrated a particular need for expedited treatment.<sup>122</sup> While there may be circumstances under which expedited treatment is warranted, the procedures agreed to in the Settlement as they relate to ERF affect the non-company parties' ability to effectively participate. The Settlement provides 120 days for the agreed-to ERF process. One hundred, twenty days does not provide adequate time to retain experts, independently review the company's filing, or conduct meaningful discovery. Even when a case is anticipated to be "routine," parties have questions and must do their due diligence. The agreed-to ERF process does not allow parties to conduct their due diligence with respect to the filing, which ultimately reduces the value of evidence for the Commission.

67. Public Counsel is also concerned with the number of ERFs that may be anticipated between rate cases. The Settlement is silent in this regard, simply providing PSE the ability to file one ERF pursuant to the Settling Parties' agreement. The Settlement also provides that if the Commission provides guidance in rule or order, PSE will file subsequent ERFs pursuant to that guidance. If ROE is set too high in the general rate case, the ROE will carry through the ERF until the next GRC filing.

#### **F. Decoupling**

68. The Settlement adopts Staff's (and Public Counsel's) proposal to cease using Revenue Per Customer for fixed power costs under decoupling.<sup>123</sup> Public Counsel supports the term on decoupling, and the Commission should adopt the Settlement term on decoupling.

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<sup>122</sup> Brosch, Exh. MLB-1T and Exh. MLB-11T.

<sup>123</sup> Brosch, Exh. MLB-11T at 2:4-14; Settlement ¶ 113; Exh. MLB-1T at 26:6 – 40:12.



69. The same mechanism used to remove Revenue Per Customer for fixed production costs can be used to expand the cessation of Revenue Per Customer across the decoupling mechanism.<sup>124</sup>

**G. Service Quality Index and Related Issues**

70. The Commission should not allow the proposed provision in the Settlement that provides PSE twice as long as currently authorized to answer only five percent more calls. No party has submitted any evidence in this proceeding justifying why SQI No. 5 needs changing. When accompanied by PSE's proposal to weaken its call center performance standard and the lack of any commitment to actually improve customer service, the Commission is left with no choice but to deny the Settlement terms on these issues.

**1. Service Quality Index No. 5.**

71. The Settlement requests the Commission weaken the Service Quality Index ("SQI") No. 5 metric by requiring PSE to answer 80 percent of calls within 60 seconds rather than answering 75 percent of calls within 30 seconds. This gives PSE twice as much time to answer only five percent more calls. In addition to requesting the Commission grant PSE a weaker call-answering standard, neither PSE nor Commission Staff offer any legal cognizable justifications for adopting a weakened standard. This position erodes the foundation for which the Commission initially adopted the Service Quality Index. The SQI program is a product of the merger of Washington Natural Gas Company and Puget Sound Power & Light Company. The Commission adopted it

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<sup>124</sup> Brosch, Exh. MLB-11T at 2:15 – 3:1.

to “provide a specific mechanism to assure customers that they will not experience deterioration in quality of service” and “to protect customers of PSE from poorly-targeted cost cutting.”<sup>125</sup>

72. If adopted, the Settlement proposal would lead directly to “a deterioration in quality of service” by making customers wait twice as long before speaking to a customer service representative for no appreciable benefit. PSE and Commission Staff’s proposed change to SQI No. 5 is even more puzzling when one considers that PSE’s “Get-to-Zero” program seeks to, “reduce call volume by as much as 300,000 calls by the end of 2017, with similar results in future years.”<sup>126</sup> With call volumes expected to decrease significantly in the next several years, it appears counter-intuitive that PSE would need twice as much time to answer only five percent more calls. As mentioned previously, neither PSE nor Commission Staff offered any testimony explaining their reasoning for requesting the change.

## 2. Get-to-Zero.

73. During the Settlement Hearing, PSE counsel Sheree Carson stated on the record that PSE intends to move forward with its Get-to-Zero initiative.<sup>127</sup> However, neither PSE nor any other party to the Settlement submitted any Settlement testimony supporting the Get-to-Zero program. As a result, the Settling Parties have not established why they believe the Get-to-Zero program is in the public’s interest. Public Counsel, Commission Staff, and The Energy Project all expressed concerns with PSE’s Get-to-Zero program in PSE’s direct case. Mr. Mills submitted Rebuttal

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<sup>125</sup> *In re Proposal by Puget Sound Power & Light Co. to Transfer Revenue from PRAM Rates to General Rates, In re Application of Puget Sound Power & Light Co. and Wash. Nat. Gas Co. for an Order Authorizing the Merger of Wash. Energy Co. and Wash. Nat. Gas Co. with and into Puget Sound Power & Light Co., and Authorizing the Issuance of Securities, Assumption of Obligations, Adoption of Tariffs, and Authorizations in Connection Therewith*, Dockets UE-951270 & UE-960195, Fourteenth Supplemental Order Accepting Stipulation; Approving Merger at 30 (Feb. 5, 1997) (internal citations omitted); *id.* at 32.

<sup>126</sup> Prefiled Direct Testimony of David E. Mills, Exh. DEM-1T at 24: 15-17.

<sup>127</sup> Barnard, TR. at 584:21-25 and 585:1-10.

Testimony but did not note any changes to the program. Due to the Settling Parties' failure to address the Get-to-Zero program in their Settlement testimony, Public Counsel raises the concerns detailed by Public Counsel witness Barbara Alexander.<sup>128</sup> Specifically, the Commission should require PSE to inform customers of their right to speak with a customer service representative when they are connected to the IVR menu, and require PSE to inform customers of their right to explore the potential for a different payment plan based on their exigent circumstances.

**3. Outage Credits.**

74. Although not addressed in their direct, rebuttal, or settlement testimony, PSE's Outage Credits program has substantial room for improvement. PSE does not automatically credit customers who otherwise qualify for the Outage Credit even though they have the ability to do so. It is reasonable for customers to assume that PSE knows where and when outages occur without having to report them to receive the credit. Customers who qualify for the credit do not receive it due to PSE's failure to effectively communicate the program's requirements to customers.

**H. The Settlement Provides a Reasonable Outcome with Respect to Low Income Issues**

75. Issues impacting low income customers are important and have been recognized by the Commission as worthwhile for the parties to spend resources and time solving.<sup>129</sup> In this case, the Parties provide meaningful terms on low income, and Public Counsel supports those terms.

76. The Settlement includes several terms that benefit low income customers. In particular, annual low income assistance funding for PSE's Home Energy Lifeline Program (HELP) will

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<sup>128</sup> Response Testimony of Barbara R. Alexander, Exh. BRA-1T and Exh. BRA-26T.

<sup>129</sup> *WUTC v. Avista Corp.*, Dockets UE-140188 & UG-140189, Order 05 ¶¶ 35-47 (Nov. 25, 2014).

increase by double the corresponding overall percentage rate increase to residential customers, Parties agreed to modify the allocation of assistance funding to 80 percent electric and 20 percent gas, certain qualifying participants will be able to certify eligibility for two years, an Advisory Committee on PSE's bill assistance program will be formed, PSE will provide \$2 million through June 2019 to cover low income weatherization expenses, PSE will provide \$500,000 for low income weatherization, and PSE shareholders will contribute \$100,000 annually to low income weatherization.

77. Public Counsel supports the terms on low income issues and recommends that the Commission adopt the settlement terms.<sup>130</sup>

#### **I. Water Heater Rental Program**

78. The Settling Parties stipulated to participating in a collaborative with PSE, Commission Staff, and any other interested party to discuss the future of Schedules 71, 72, and 74.<sup>131</sup> Public Counsel does not believe a collaborative is warranted and believes the Commission should order PSE's program termination. In fact, Commission Staff proposed a "phase out" of these schedules due to (1) rate design issues, (2) overearnings,<sup>132</sup> and (3) no longer serving a state policy purpose.<sup>133</sup>

79. The Company during the discovery process admits to the first two of Staff's concerns:

Rental customers are currently paying in excess of their cost of service under existing rates. So, while the rates charged to rental customers include depreciation in their development, there is only a weak relationship given the wide gap

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<sup>130</sup> Colamonic, Exh. CAC-1T at 13:7-9.

<sup>131</sup> Settlement ¶ 123.

<sup>132</sup> Confidential Testimony of Elizabeth C. O'Connell, Exh. ECO-1CT at 27.

<sup>133</sup> O'Connell, Exh. ECO-1CT at 29.

between the rates charged to this class of customers and their estimated cost of service.<sup>134</sup>

Thus, the Company is aware of the rate design and overearning problems with this program.

80. As was noted in Order 04 of Docket UG-920840, the Commission was aware of the flaws of the leasing program and directed the program be closed to new customers, but continued the program for attaining conservation benefits.<sup>135</sup> However, these ‘flaws’ have been exacerbated since this Commission Order was issued. For example, 18,544 of appliances in this program are fully depreciated, and many of the appliances have an origination date of 2009 or older.<sup>136</sup> Additionally, the promotion of conservation through the use of natural gas is no longer the purpose of this program. Thus, the Company is overearning by providing this service and no longer promoting conservation.

81. Furthermore, as stated in Order 06 in Dockets No. UE-151871 & UG-151872 (*Consolidated*), “The Commission did not authorize guaranteed cost recovery when it approved the existing water heater rental program, and we decline to do so here.”<sup>137</sup> With the current program no longer serving a state conservation policy, the water heater program is not only providing the Company with guaranteed cost recovery, but also increasing earnings. This is not what the program is designed to do. As noted by Commission Staff, “There is no longer a legitimate policy reason for the program to exist.”<sup>138</sup> Given this, no amount of collaboration will cure this defect, and it would be most efficient to follow Staff’s recommendation in its response testimony.<sup>139</sup>

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<sup>134</sup> O’Connell, Exh. No. ECO-19; PSE Response to Staff Data Request 364, section C.

<sup>135</sup> *WUTC v. Wash. Nat. Gas Co.*, Docket UG-920840, Order 04, Final Order at 16-17 (Sept. 27, 1993).

<sup>136</sup> O’Connell, Exh. ECO-1CT at 27:15-19.

<sup>137</sup> *WUTC v. Puget Sound Energy*, Dockets UE-151871 and UG-151872 (*Consolidated*), Order 06 ¶ 105 (Nov. 16, 2016).

<sup>138</sup> O’Connell, Exh. ECO-1CT at 29:2.

<sup>139</sup> Colamonic, Exh. CAC-1T at 15:3-7.

**J. Electric Rate Spread and Rate Design**

82. This section addresses the electric rate spread and rate design issues subject to the Settlement, as well as general cost of service issues. The Settlement defines allocation of PSE's electric rates to only some of its electric rate schedules, but does not define the allocation to PSE's largest rate schedules.<sup>140</sup> The Settlement also provides that PSE will discontinue Schedule 40 in its next rate case.<sup>141</sup>

**1. The rate spread provided for under the settlement is incomplete.**

83. To set rates, the Commission will be required to determine the complete rate spread for PSE's electric service. In their litigation cases, parties including PSE, Staff, Public Counsel, ICNU, Kroger, and the Federal Executive Agencies provide analysis regarding their recommendations on electric rate spread. PSE, Staff, ICNU, Kroger, and FEA now present their position on electric rate spread through the Settlement. The Settling Parties now ambiguously address only certain rate schedules in the Settlement by carving out lower percentage increases to Large Commercial and Industrial rate classes. The Settlement is silent on how the proposed rate increase is to be assigned to Residential and several other rate classes.<sup>142</sup>

84. In determining how rates should be spread across rate schedules, several criteria are considered. Class cost allocation is considered through cost of service studies. Since the early 1990s, the accepted electric cost allocation methodology in Washington has been the Peak Credit method, and parties were directed to rely on the Peak Credit methodology in PSE's Cost of

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<sup>140</sup> Settlement ¶ 94; Testimony in Response to Proposed Settlement of Glenn A. Watkins, Exh. GAW-14T at 3:15 – 4:13.

<sup>141</sup> Settlement ¶ 96. Public Counsel does not address the non-residential electric rate design terms in Paragraphs 95, 97, and 99 of the Settlement. Public Counsel takes no position with respect to Paragraph 98.

<sup>142</sup> Watkins, Exh. GAW-14T at 4:1-7.

Service Collaborative, Docket UE-141368.<sup>143</sup> Public Counsel witness Mr. Watkins performed a cost of service study using the Peak Credit method.<sup>144</sup> He also performed cost of service studies using the Base-Intermediate-Peak method and Probability of Dispatch method.<sup>145</sup>

85. In addition to the results of cost of service studies, the Commission considers gradualism, rate stability, affordability, and current economic conditions in determining rate spread.<sup>146</sup> Considerations outside the mathematical results of a cost of service study are considered because cost of service studies are “not surgically precise” and “should only be used as a guide and as one of many tools in evaluating class revenue responsibility.”<sup>147</sup>

86. Public Counsel’s analysis of PSE’s electric rate spread demonstrates that all classes, with the exception of three, are within 10 percent of parity.<sup>148</sup> Indeed, the parity ratios were consistent across each of the cost of service study methodologies used by Public Counsel witness Mr. Watkins.<sup>149</sup> The Commission has recognized that adjustments to move parity ratios within 10 percent closer to parity is unnecessary considering gradualism, rate stability, avoidance of rate shock, and economic conditions.<sup>150</sup>

87. Three of PSE’s rate classes are significantly below parity: Irrigation, Retail Wheeling, and Non-Jurisdictional Resale. Public Counsel recommends that Irrigation and Retail Wheeling receive increases of 150 percent of the jurisdictional system average percentage increase because

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<sup>143</sup> *In re Petition of Puget Sound Energy to Update Methodology Used to Allocate Electric Cost of Serv. and For Electric Rate Design Purposes*, Docket UE-141368, Order 03 (Jan. 29, 2015).

<sup>144</sup> Watkins, Exh. GAW-1T at 17: 1-9.

<sup>145</sup> Watkins, Exh. GAW-1T at 25:11 - 27:2, 27:3 – 29:2; Exh. GAW-6; Exh. GAW-7; Exh. GAW-8.

<sup>146</sup> Watkins, Exh. GAW-1T at 34:4-15.

<sup>147</sup> Watkins, Exh. GAW-1T at 34:6-8.

<sup>148</sup> Watkins, Exh. GAW-1T at 37:9-11.

<sup>149</sup> Watkins, Exh. GAW-1T at 33:10-21; Exh. GAW-10.

<sup>150</sup> *WUTC v. Pacific Power & Light Co.*, Docket 100749, Final Order No. 06 ¶¶ 315, 316 (Mar. 25, 2011).

these classes are so substantially revenue deficient.<sup>151</sup> Non-Jurisdictional Resale should be priced at full cost of service, as proposed by the Company in its original filing.<sup>152</sup>

88. The Settlement treats Large Commercial and Industrial rate classes similarly to how witnesses for Kroger and FEA proposed electric rate spread be resolved in this case. Witnesses for each of those parties proposed rate spread allocations that mathematically followed their cost of service studies and imposed greater percentage rate increases on the Residential class.<sup>153</sup> Because the Commission does not simply base rate spread on the arithmetic of cost of service study results, the Commission should determine the overall electric rate spread in a manner that is consistent with its practices and policies.

89. Adopting Public Counsel's proposed electric rate spread is consistent with the Commission's practices and policies and is fair to all ratepayers. With the exception of the two rate schedules receiving a higher than system average increase under Public Counsel's proposal, all other rate classes would receive 99.8 percent of the jurisdictional average of the rate increase.<sup>154</sup> The Settlement provides an unduly preferential rate spread treatment to rate schedules that are within 10 percent of parity. Approving the Settlement would unnecessarily contravene the Commission's long standing practices.<sup>155</sup>

**2. The Commission should approve the Settlement provisions regarding PSE's Schedule 40 and discontinuance in the next rate case.**

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<sup>151</sup> Watkins, Exh. GAW-1T at 37:9-20.

<sup>152</sup> Watkins, Exh. GAW-1T at 37:14-17.

<sup>153</sup> Watkins, Exh. GAW-1T at 6:7 – 7:25.

<sup>154</sup> Watkins, Exh. GAW-1T at 38, Table 6.

<sup>155</sup> Watkins, Exh. GAW-14T at 4:14 – 5:4.



90. Public Counsel supports the Settlement term in Paragraph 96 of the Settlement providing for Schedule 40 to be discontinued in PSE's next rate case. If Schedule 40 is closed to new customers, and if the schedule is to be eliminated at the next general rate case, Public Counsel agrees to the ratemaking methodology advocated by Mr. Piliaris.<sup>156</sup>

#### IV. PUBLIC COMMENT

91. The Commission held public hearings in Bellevue and Olympia, taking hours of comments from concerned ratepayers. Many of these ratepayers commented on their legitimate desire to see a reduction in fossil fuel usage, and many of the ratepayers who attended the public comment hearings presented one particular viewpoint that increased costs were welcome in order to move away from fossil fuels. While certainly a valid ratepayer viewpoint that Public Counsel hears clearly, and that the Commission is certain to take into consideration, other ratepayer viewpoints also exist within the written comments that should be highlighted.

92. The Commission takes into consideration the practical impact on ratepayers. In considering whether rates are fair, the Commission considers both the shareholder and ratepayer interests,<sup>157</sup> and one key ratepayer interest is the day-to-day impact that a rate impact would have. In addition to the hours of oral testimony taken from the public, 505 written comments have been submitted. "I am like many other parents in this state, I am a single mother who only makes \$15,000 a year, these rate increases on power kill me," stated one customer.<sup>158</sup>

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<sup>156</sup> Watkins, Exh. GAW-14T at 5:5-21.

<sup>157</sup> *Wash. St. Atty. Gen. Off. v. Wash. Utils. & Transp. Comm'n*, 128 Wn. App. 826 (2005) (citing *U.S. W. Comm. v. Wash. Utils. & Transp. Comm'n*, 134 Wn.2d 74, 121, 949 P.2d 1337 (1997)).

<sup>158</sup> Bench Request No. 5, Stephanie Semro at 12 of UTC Comment Matrix.

93. Another ratepayer commented, "People cannot continue to pay for increases in utility rates, taxes, and the like when their income does not increase. I retired last year and have a fixed income which does not allow for increases in utilities, taxes, etc."<sup>159</sup>


94. Ratepayers are not a homogenous group with one interest, but rather a diverse group with many needs and priorities. The resulting rates from these dockets must be fair, just, reasonable, and sufficient, and in making the determinations required in this case, the viewpoints of all ratepayers should be weighed.

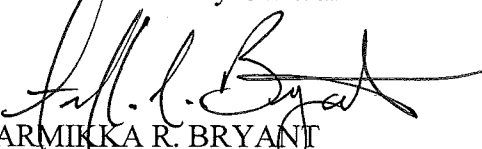
## V. CONCLUSION

95. For the reasons stated above and as presented in testimony and through exhibits, Public Counsel requests that the Commission modify the Settlement to be consistent with Public Counsel's arguments. Doing so will provide fair, just, reasonable, and sufficient rates that will allow PSE to operate its utility business fairly and efficiently while providing safe and reliable service to its customers.

DATED this 18th day of October, 2017.

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<sup>159</sup> Bench Request No. 5, Deborah Dolman at 13 of UTC Comment Matrix.