BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PUGET SOUND ENERGY, Respondent.	)	DOCKET NOS. UE-170033 and UG-170034 (*Consolidated*)

REPLY BRIEF OF

THE INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES

October 27, 2017

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I. INTRODUCTION

1 The Industrial Customers of Northwest Utilities ("ICNU") files this Reply Brief to respond to Puget Sound Energy, Inc.'s ("PSE" or "the Company") proposals to make permanent its decoupling program and request for approval of its Electric Cost Recovery Mechanism ("ECRM"). ICNU's Initial Brief thoroughly addressed the sound legal and policy reasons why the Washington Utilities and Transportation Commission ("Commission") should either discontinue the Company's decoupling mechanism or modify it to exclude Schedules 40, 46, and 49, as well as why the Commission should reject PSE's proposed ECRM. This brief will address two issues raised by PSE in its Initial Brief, namely the Company's opposition to several parties' proposals to exempt certain customer classes from its decoupling mechanism and its continued support for its ECRM. ICNU's decision not to address other issues related to the Company's decoupling or ECRM proposals should not be construed as agreement with PSE as to those issues.

II. ARGUMENT

A. PSE's Arguments Against Exempting Customers on Schedules 46 and 49 Lack Merit.

2 ICNU, along with Staff and the Federal Executive Agencies, has encouraged the Commission to exempt customers on Schedules 46 and 49 from PSE's decoupling mechanism going forward.[1/] PSE opposes exempting these customers. Its Initial Brief provides three reasons why: (1) it would "undermine[] PSE's decoupling mechanisms by reintroducing the

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1/ ICNU Initial Br. ¶¶ 53-64; Staff Initial Br. ¶¶ 61-71; FEA Initial Br. at 6-7.

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throughput incentive for these customers;" (2) the process for amortizing the decoupling deferral balance without these customers is undefined; and (3) it would be contrary to the settlement agreement that resolved issues related to the Company's power cost adjustment mechanism (the "PCA settlement").[2/] With respect to the throughput incentive, ICNU demonstrated in its Initial Brief that exempting customers on Schedules 46 and 49 would have a *de minimis* impact, affecting, at most, one percent of the Company's total revenues.[3/] Indeed, even calling this a throughput "incentive" is a misnomer, as the Company must actually have an *incentive* to increase throughput. The negligible increase to revenues the Company would realize by actively encouraging additional consumption does not qualify. Certainly, any minimal negative impacts from reintroducing a tiny throughput incentive are more than outweighed by the negative impacts decoupling has on Schedule 46 and 49 customers, particularly if they are disaggregated into their own decoupling group.[4/] As the Company itself acknowledges, "[t]hese customers have significantly different load and service characteristics from the other customers in the existing non-residential group."[5/] These differing characteristics are why exempting them from the mechanism does not result in an undue or unreasonable preference or in rate discrimination,[6/] as is also the case for the vast majority of decoupled utilities that have exempted their largest customers,[7/] including Avista Corp. and Pacific Power in Washington.[8/]

[2/] PSE Initial Br. ¶¶ 68-70.
[3/] ICNU Initial Br. ¶ 56.
[4/] Id. ¶¶ 59-63.
[5/] PSE Initial Br. ¶ 66.
[6/] Staff Initial Br. ¶ 61; Cole v. WUTC, 79 Wash.2d 302, 311 (1971).
[7/] Levin, Exh. AML-21X at 18-19 ("industrial customers are nearly always excluded from the decoupling mechanism").
[8/] Dockets UE-140188/UG-140189, Order 05 ¶ 22 (Nov. 25, 2014); Piliaris, Exh. JAP-57X at 14:6-15:13.

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3 The Company notes that customers on Schedules 40, 46, and 49 have seen the most dramatic reductions to their usage in recent years.[9/] But a throughput incentive does not apply to separate rate schedules. The Company does not disaggregate its electric deliveries to particular customers – all bundled service customers pay for the Company's total cost of service and receive electric deliveries from all of the Company's resources. Thus, whether a throughput incentive exists must be judged based on how throughput impacts the totality of the Company's revenues.

4 Next, PSE asserts that the proposal to exempt Schedules 46 and 49 "lack[s] detail, specifically with regard to how the significant remaining deferral balance would be handled."[10/] Exh. JAP-60X provides ICNU's straightforward recommendation on this issue. PSE should:

> [T]rack decoupling balances over/under collection up until the point where Schedules 40, 46, and 49 are removed from the Schedule 142 decoupling mechanism. At the point these schedules are removed from the decoupling mechanism, any decoupling balance subject to credit or charge to Schedule 40, 46, and 49 customers, would continue to be made until all decoupling amounts for these schedules are fully reconciled.

There may be other reasonable approaches to addressing the remaining deferral balances, and ICNU remains open to other ideas, but the position that the Commission should reject proposals to exempt Schedule 46 and 49 from decoupling simply because ICNU did not provide spreadsheets specifically calculating the amortization of the deferral balances is a poor excuse. For one thing, ICNU (or any other party) does not know what those deferral balances will be when these customers are removed from decoupling. Moreover, PSE complained that Staff and

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9/ PSE Initial Br. ¶ 69. ICNU focuses its advocacy on this issue on Schedules 46 and 49 because the Multiparty Stipulation proposes to phase out Schedule 40 over time. However, if the Commission rejects the Multiparty Stipulation, it should also exempt Schedule 40 from decoupling for the same reasons that it should exempt Schedules 46 and 49.

10/ Id. ¶ 69.

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Public Counsel did not produce exhibits or workpapers to demonstrate their proposals with regard to fixed production costs, yet PSE took the initiative "to address this gap in the record" nonetheless.[11/] Indeed, the Commission provides PSE with direction to prepare tariffs, exhibits, and workpapers all the time, and PSE does not demand that the Commission provide it with spreadsheet calculations demonstrating these requests. PSE is a sophisticated utility, and it acknowledges that exempting Schedule 46 and 49 customers is possible.[12/] Staff states that it "is willing to assist the Company in doing so."[13/] ICNU is happy to provide its support as well, if requested.

5 Finally, PSE's assertion that exempting Schedule 46 and 49 customers from decoupling would "undermine the PCA settlement agreement" is simply wrong.[14/] That settlement agreement clearly states that the "Settling Parties are not bound to any position with respect to the continuation of decoupling or the treatment of Fixed Production Costs within the decoupling mechanism in PSE's next general rate case."[15/] PSE's position that the PCA settlement precludes parties from proposing to exempt customers from decoupling because that settlement allows for the inclusion of fixed production costs in decoupling if the mechanism continues is, in fact, the one that is contrary to that settlement. In any event, ICNU was not a signatory to the PCA settlement.

[11/] Piliaris, Exh. JAP-46CT at 8:9-18.
[12/] Piliaris, TR. 308:4-7.
[13/] Staff Initial Br. ¶ 71.
[14/] PSE Initial Br. ¶ 70.
[15/] Docket UE-130617, Order 11, Appen. A ¶ 9 (Mar. 27, 2015).

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B. The Commission Should Reject Public Counsel's Proposal to Increase Schedule 449 Customer Rates by 150% of the Average.

6 In its Initial Brief, Public Counsel reiterates its rate spread witness' recommendation "that Irrigation and Retail Wheeling receive increases of 150 percent of the jurisdictional system average percentage increase because these classes are so substantially revenue deficient."[16/] Public Counsel's position is based on the results of PSE's cost of service study, which purportedly shows that Retail Wheeling customers taking service under Schedule 449 are priced at 65% of their cost of service.[17/]

7 Both Mr. Gorman for ICNU and Mr. Piliaris for the Company filed testimony in response to Public Counsel's recommendation.[18/] Both stated that this recommendation was based on a "fundamental misunderstanding" of Schedule 449 customers and how the Company recovers its costs from them.[19/] Unlike other PSE customers, Schedule 449 customers take unbundled service from the Company. They purchase their energy commodity from third-party suppliers and pay PSE to deliver that energy over its transmission system. Thus, the costs PSE incurs to serve these customers are directly assigned to them through the Company's FERC-jurisdictional Open Access Transmission Tariff or, in some cases, through tariffs like Schedule 62 that apply specifically to these customers.[20/]

8 Public Counsel did not cross examine Mr. Gorman or Mr. Piliaris on this issue, and provides no rationale for its proposal other than the testimony of its rate spread witness, which ICNU and PSE fully rebutted. As Mr. Gorman testifies, "the cost of service study simply

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[16/] Public Counsel Initial Br. ¶ 87.
[17/] Watkins, Exh. GAW-1T at 36:14-18.
[18/] Gorman, Exh. MPG-7Tr at 5:7-8:19; Piliaris, Exh. JAP-46CT at 38:6-39:2.
[19/] Gorman, Exh. MPG-7Tr at 8:18; Piliaris, Exh. JAP-46CT at 38:8.
[20/] Gorman, Exh. MPG-7Tr at 6:21-8:12; Piliaris, Exh. JAP-1T at 74:19-75:18.

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is not a useful or accurate tool to determine whether or not the charges for Schedules 449/459 are reasonably consistent with PSE's cost of providing service."[21/] PSE collects these costs directly from Schedule 449 customers. Increasing their costs in the manner Public Counsel recommends would simply require them to pay more than their cost of service.

C. PSE's Proposed Electric Cost Recovery Mechanism is Not Needed to Ensure the Reliability of the Company's Distribution System

9 In its Initial Brief, PSE goes on at some length to highlight the need for system improvements that would increase the reliability of high molecular weight facilities and its other worst performing circuits. It then offers to cure these deficiencies if the Commission approves its ECRM, extolling the reliability benefits that would follow the mechanism's approval.[22/] PSE's advocacy highlighting the reliability benefits the mechanism *could* incent raises questions as to why the Company overlooked these benefits when making past capital investment decisions. In fact, PSE's advocacy can be viewed as a tacit admission that the Company has failed over many years to adequately invest in what it now proffers as beneficial distribution system improvements.

10 The Company's excuses for failing to address the circuits included in the ECRM are numerous. It claims that such investments are precluded by the Company's limited capital budget.[23/] It claims that changing the Company's optimization tool could call into question the prudency of the project.[24/] It also claims that traditional ratemaking discourages the Company

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[21/] Gorman, Exh. MPG-7Tr at 6:5-7.

[22/] PSE Initial Br. ¶ 42 ("Thus, without Commission authorization of a mechanism and plan allowing for accelerated spending, PSE would not engage in the level of spending proposed in the ERP.")

[23/] Doyle, TR. 181:11-14 ("I think what we're saying is we have our static capital budget, what it would be going into the future without an ECRM. We'll optimize that and we'll keep spending those dollars.").

[24/] PSE Initial Br. ¶¶ 39-41.

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from making such capital investments.[25/] In the end, the Company alone bears the responsibility to ensure the safety and reliability of its system. It alone bears the burden to prove that the ECRM would be required to ensure the safety and reliability of the system. As pointed out by the Initial Briefs of ICNU and Staff, the Company has failed to carry this burden.

11 Capital investment decisions are the sole province of PSE's management,[26/] and without question, PSE's management is solely responsible for the condition of its distribution system.[27/] It logically follows then that the current condition of its distribution system has been and remains dependent upon management's capital spending decisions. Admittedly, such decisions can be difficult, particularly when there are competing demands for capital. However, the record shows that PSE's management has ignored certain reliability issues "year after year."[28/] As explained by Mr. Daniel Doyle, PSE's Chief Financial Officer, when discussing management's distribution project funding decisions, "we get to it when it's important."[29/] One can logically conclude then that the projects included in the proposed ECRM have not been important enough for management to fund. To this point, PSE claims that, without Commission approval of the mechanism, these projects would have to wait to be funded.[30/] This too undermines the sense of urgency PSE has infused into its advocacy for the mechanism. It

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[25/] Id. ¶ 43.

[26/] Koch, TR. 199:25-200:10.

[27/] Id. at 206:16-19. See also RCW 80.28.010(2).

[28/] Koch, Exh. CAK-1T at 4:12-15 ("PSE's planning process… does not favor projects on circuits that have a lower number of customers, which tend to be in heavily treed areas. As a result these customers experience the worst performance each year and land on the worst performing circuit list year after year.").

[29/] Doyle, TR. 180:20-181:4 ("I believe on the worst-performing circuit side, we've got mostly radio lines, low customer density on those lines. And in the underlying determination of what gets allocated dollars, they don't score as high as some of the other projects that we need to do to enhance reliability and resiliency on the system in more densely populated areas. So it's an issue of, we get to it when it's important but it doesn't always clear the hurdle every year, is the best way to put it.").

[30/] PSE Initial Br. ¶ 42.

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demands quick action from the Commission, but openly states that it will do nothing different to fund distribution projects if the Commission rejects the ECRM.[31/]

12 The Commission can conclude after considering the evidence presented here and in ICNU's Initial Brief that PSE has no immediate or pressing need to fund the projects included in the ECRM. It can also conclude that PSE's management will fund all distribution projects necessary to ensure the safety and reliability of the system, consistent with its management-determined capital budget and the results of its planning processes. In other words, PSE has the capital and tools to do what it needs to ensure the safety and reliability of its distribution system, and will make the investment decisions it believes to be "important" at that time.[32/] No matter how presented by PSE, the ECRM is not needed to secure the Company's obligation to ensure that its system is safe and reliable. It can, however, be fairly characterized as a financial enhancement mechanism that would impermissibly encourage management to shift capital investment decisions to the Commission. As discussed below, PSE is financially sound and has no need for another mechanism that strips regulatory risk from it and places it upon ratepayers.

D. PSE Cannot Prove that Regulatory Lag or Attrition Will Detrimentally Impact Future Earnings

13 In its Initial Brief, PSE calls out Commission statements regarding regulatory lag and attrition to support its claim that without the ECRM it would "face ongoing earning erosion

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[31/] Koch, TR. 209:7-10 ("Without the recovery, the timely recovery, PSE will probably follow the same plan but do it at historic levels as it's been doing in the past, so it will take longer to accomplish.").

[32/] It is important for the Commission to note that nowhere in the record will it find PSE stating that it *cannot* fund the projects earmarked for the ECRM. Instead, it steadfastly refers to the budget allocation process and the "share" determined for distribution projects by management, inferring that capital would not be available. Of course, the capital would be available if management decided to dedicate it to distribution improvements.

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due to regulatory lag."[33/] As demonstrated by ICNU's Initial Brief, PSE's opinions regarding regulatory lag and attrition are not supported by evidence now before the Commission.

14 PSE's earnings are healthy and robust. The Company has enjoyed earnings above its allowed return in the last two reporting years, without the ECRM.[34/] Importantly, there is no evidence in the record demonstrating that its future earnings would be materially different. The Company could have presented an attrition study to conclusively demonstrate the future impacts of regulatory lag or attrition, but it did not do so.[35/] Perhaps it came to the reasonable conclusion that it would be a fruitless exercise given its robust earnings. No matter the reason, the empirical and transparent evidence of regulatory lag and attrition is not before the Commission in this record. As a result, the Commission can conclude that PSE's statements regarding its future earnings without the ECRM represent the Company's supposition of the future - a supposition that cannot be proved by facts.

15 In the end, ratepayers should not be asked to carry the financial burden associated with the expedited recovery of costs and return called for by the ECRM when PSE's management has refused to fund these same system investments "year after year."

III. CONCLUSION

16 For the reasons expressed by ICNU here and in its Initial Brief, ICNU respectfully requests that the Commission either discontinue the Company's decoupling mechanism or modify it to exclude Schedules 40, 46, and 49, and reject PSE's proposed ECRM.

[33/] PSE Initial Br. ¶ 45.
[34/] Schooley, Exh. TES-1T at 9:18-10:7.
[35/] ICNU Initial Br. ¶¶ 15-16.

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Respectfully submitted,

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