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Christine O. Gregoire

ATTORNEY GENERAL OF WASHINGTON

900 Fourth Avenue #2000 • Seattle WA 98164-1012

April 6, 2001

VIA FAX AND U.S. MAIL

Carole Washburn, Secretary
 Washington Utilities and Transportation Commission
 1300 S. Evergreen Park Drive S.W.
 P.O. Box 47250
 Olympia, Washington 98504-7250

Re: PSE Advice No. 2001-10, Docket Nos. UE 010409/UE 010410
 Time of Day Adjustment/Electricity Conservation Credit

Dear Ms. Washburn:

Public Counsel submits this written comment regarding Puget Sound Energy's (PSE) Time of Day (TOD) Rate Adjustment and Electricity Conservation Incentive Credit (Conservation Credit) proposals. These comments are directed at the proposal as set out in the substitute tariffs sheets filed on April 4, 2001. While PSE's revisions remedy some of our concerns, we continue to see major issues with the filing.

As discussed in more detail below, Public Counsel recommends that the Commission suspend the Time of Day portion of the proposal and allow the Conservation Credit to go into effect, with conditions. Public Counsel also recommends that the Commission deny the request for less than statutory notice. Public Counsel further recommends that the Commission deny the PSE request to disregard the impact that these programs have on service quality indices.

1. Time of Day Rate Adjustment

Public Counsel understands that the Commission may not need to act upon the merits of this filing at the April 11 open meeting. If the Commission does take action on the TOD proposal, we recommend that it suspend the filing for further proceedings. In the event the Commission defers action until the April 25 open meeting, Public Counsel may file additional comments. We believe suspension is warranted because PSE's filing, affecting roughly half of its customers, raises serious legal and policy questions that require time for careful review and public participation.



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a. Substantive Issues – Program Design and Policy Questions

As filed, the TOD proposal is mandatory for all customers with the requisite “smart meters.” PSE’s supplemental filing proposes summer effective rates ranging from 12 to 28 percent higher for residential customers, and 5 to 20 percent higher for commercial customers between the hours of 6 am and 9 p.m. Overnight effective rates are 26 to 30 percent lower for residential customers, and 14 to 26 percent lower for commercial customers. Given that customers use only 35 to 45 percent of their energy during the cheapest time, many customers will pay higher bills unless their usage patterns change. However, many customers, both residential and business, do not have the flexibility to make enough usage changes to avoid the rate increases. Small businesses must be open in order to serve customers. Families come home from work and school, and do not want to be forced to wait until 9 p.m. to use electricity. Therefore, the program, if adopted at all, should be a voluntary pilot program.

The TOD proposal appears to solve the wrong problem. The Pacific Northwest faces a shortage of energy, particularly under current drought conditions. The TOD plan, however, is designed primarily to shift rather than to reduce consumption. Shifting of load can remedy capacity problems, but is not designed to remedy shortages of energy. Instead of pushing consumption to cheaper times, Public Counsel believes PSE should place significantly more emphasis on direct conservation measures and programs designed to help customers save energy.

The savings PSE gains from managing its peak loads are not shared equitably with consumers. TOD may shift consumption away from peak periods when market prices are high, saving money for PSE. PSE proposes that shareholders retain the vast majority of these savings, rather than share the benefits equally with customers. We address our concerns with the Conservation Credit in more detail below.

The cost basis for the TOD rates is unclear. The Commission this week approved a major settlement involving PSE, Staff, Public Counsel, and PSE’s large industrial customers that was based on the fundamental principle that PSE’s core customers are entitled to the benefits of PSE’s core resources. *Air Liquide et al. v. PSE*, UE 001952/001959 et al, Eleventh Supplemental Order (April 5, 2001). PSE, and the Northwest in general has hydroelectric resources available to follow loads and peaks. Hydro is the lowest cost resource on the system. PSE has not presented evidence describing how it relies upon market purchases to meet core customer demand, that it need rely on market in peak, rather than off-peak periods, or that the prices reflected in the TOD proposal accurately capture the variations in market prices and loads.

Customers bear all of the risks in this proposal. The proposed deferred accounting mechanism ensures that PSE can recover any loss in retail revenues that result from shifts in usage, even allowing the company to add a surcharge to customers who do not participate in the program if revenues from participants are less than they otherwise would be. By contrast, PSE will credit customers any overcollection in retail revenues, but again on a class basis, so that individual customers may still end up worse off than they would have been. In addition, PSE would retain

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the bulk of market revenues resulting from sales of energy driven by the TOD program, ensuring that PSE is always better off.

PSE requests that the Commission disregard the impact of this program on the service quality indices which PSE must meet under the terms of its merger with Washington Natural Gas. Public Counsel is opposed to approval of any such exception to the service quality index. The service quality index was a fundamental component of Public Counsel's willingness to settle the merger case. Given the company's frequent and public reference to its performance as measured by the SQIs since the merger, we are greatly troubled by its apparent willingness to abandon the indices on the suspicion it will have difficulty meeting the baselines. Furthermore, we suggest the Commission should be concerned about approving a proposal that PSE believes is going to lead to so much customer confusion and potential dissatisfaction that the company does not wish to be held to existing customer service standards.

b. Legal and Procedural Issues

Less Than Statutory Notice. Public Counsel recommends denial of PSE's request for approval on less than statutory notice. Reduced notice is only appropriate for "good cause shown" under RCW 80.28.060. PSE has not provided adequate justification or cause for expedited implementation of such a major proposal. On the contrary, we believe a proposal this complex and broad in its impact warrants full notice to customers and a careful review of its merits.

Notice to Customers. Public Counsel believes that PSE's affected customers have received little if any effective notice of this proposal. The notice detailed in the advice letter was apparently limited to the posting of a one paragraph notice at payment stations. Even that notice contains no information whatever about the content of the proposal. This lack of real notice to customer is a further reason for denial of the LSN and for suspension to allow customers adequate time to learn of this proposal and provide comment to the Commission. While we believe PSE's supplemental filing reduces probable customer confusion by consolidating the residential class and softening the difference between peak and off-peak, we are still concerned with customer acceptance and understanding of this proposal.

PSE Rate Plan. The rate plan adopted as a result of the Puget Power and Light/Washington Natural Gas merger provides that rates would not increase between January 2001 and January 2002 except as specified in the agreement. *In the Matter of the Application of Puget Sound Power & Light and Washington Natural Gas Company for an Order Authorizing Merger*, Docket Nos. UE 951270, UE 960195, Fourteenth Supplemental Order, Appendix A (Stipulation), Section III.A, p. 6. While there is an exception in Section III.A.5 for redesign of electric rates, Public Counsel believes the Commission's merger order makes clear that exception does not apply in this situation. See, Fourteenth Supplemental Order at 26. Thus, making a rate change of this type with an effective date prior to January 2002 appears to be inconsistent with the merger rate plan.

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2. Alternatives to Address Energy Concerns

As noted above, one issue here is whether the PSE proposal is appropriately designed to meet the region's potential problem of adequate energy supply. Public Counsel recommends that as part of any proceeding after suspension, that PSE and stakeholders examine whether other approaches by PSE could more effectively address the energy supply question. This review could range from a review of alternative rate designs to a broader look at PSE's overall energy conservation efforts. We believe there are also other options for rate design that might lead to more effective price signals for consumers. If the Commission is interested in exploring ways to promote energy conservation, we suggest it consider more than time of use rates.

3. Electricity Conservation Incentive Credit.

Public Counsel supports the concept of conservation incentive credits. We have advocated the expansion of industrial curtailment/"buy-back" proposals to all customers. We are pleased to see PSE come forward with a proposal in this area. Public Counsel does have a concern that the amount of the credit may be inadequate to provide adequate incentives to customers to reduce energy consumption, or fairly share the benefits of energy savings between consumers and shareholders. Public Counsel recommends that "buy-back" programs of this sort be designed to split the benefits evenly (50/50) between shareholders and ratepayers.

Wholesale	Retail	Difference	PSE Share	Customer Share
\$160/MWh	\$60	\$100	\$50 (half)	\$50 (half)(\$.05/kwh)
\$170	\$60	\$110	\$60 (PSE proposal)	\$50 (PSE proposal)
\$275	\$60	\$215	\$107.50 (half)	\$107.50 (half)
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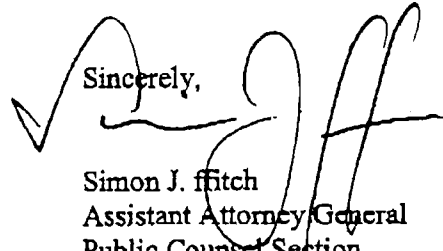
As illustrated above, PSE's plan does not evenly share the benefits with ratepayers as long as the wholesale market price remains above \$160/MWh. Current summer market projections for peak period prices at the Mid-Columbia hub remain over \$275/MWh. At that price PSE captures 77% of benefits. If the market price stays above \$275, PSE keeps an even larger proportion of the benefits. Similarly when PSE's rates are lower than 6 cents/kwh (as is the case for commercial customers except those on Schedule 24), a larger proportion of the benefits goes to the company.

Even though we would like to see a different plan design, however, Public Counsel recommends that the conservation credit be allowed to go into effect as proposed at this time. In order to address our concerns, however, we would request that the Commission impose a condition on approval that the amount of the credit be reviewed at the end of the summer (September) so that it can be determined if the five cent level is an adequate incentive and is an appropriate sharing of the savings.

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Thank you for your consideration of these comments. Public Counsel expects to be in attendance at the open meeting on April 11.

Sincerely,



Simon J. Fitch
Assistant Attorney General
Public Counsel Section
206-389-2055

cc: Puget Sound Energy



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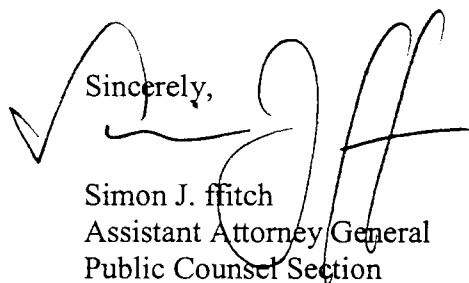
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