

Service Date: March 5, 2024

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKET UE-240087

COMPLAINT

and

NOTICE OF PREHEARING
CONFERENCE

(Set for April 1, 2024, at 1 p.m.)

1 The Washington Utilities and Transportation Commission (Commission) on its own motion, and through its staff (Staff), alleges as follows:

I. PARTIES

2 The Commission is an agency of the state of Washington authorized by statute to regulate the rates, services, facilities, and practices of public service companies, including electric companies.

3 Puget Sound Energy (PSE or Company) is a Washington Public Service Corporation operating as a “public service” electric company in the state of Washington subject to the regulatory authority of the Commission.

II. BACKGROUND

4 On December 27, 2022, PSE submitted a compliance filing in Docket UE-220066 following issuance of Commission Order 24/10 in Docket UE-220066.¹ This filing contained a tariff page for Schedule 52-B 12th Revision, amongst other schedules.² This filing was rejected in part in Order 26/12 in Docket 220066.³

¹ Declaration of Jacque Hawkins-Jones (hereinafter “Hawkins-Jones Decl.”) at ¶ 3.

² *Id.*

³ *Id.*

- 5 On January 9, 2023, PSE submitted a corrected compliance filing in Docket 220066.⁴ This filing did not contain a Schedule 52-B tariff sheet.⁵ The January 9th filing was approved, and rates became effective on January 11, 2023.
- 6 Despite the January 9, 2023, filing not containing a Schedule 52-B, PSE began charging customers subject to Schedule 52-B the 12th Revision rate when the PSE tariff filing was approved on January 11, 2023.⁶
- 7 On January 23, 2024, Staff received an email from a PSE employee working in rates and regulations.⁷ On January 24, 2024, Staff met with the PSE employee via virtual meeting conference.⁸ PSE was inquiring how to address an issue with the missing tariff page for Schedule 52-B.⁹ PSE explained that the tariff page was inadvertently left out of the filing and the rate in the 12th Revision of Schedule 52-B was being charged, even though the rate was not in the tariff.¹⁰ PSE indicated that the difference in rates between the 11th Revision (the last revision approved by the Commission before the new rates went into effect) and 12th Revision of Schedule 52-B amounted to roughly \$36,000.¹¹
- 8 On February 2, 2024, Staff inquired with PSE about how much, in total, was charged under Schedule 52-B since January 11, 2024 (when the present tariff became effective).¹² On February 5, 2024, PSE responded that since January 11, 2023, \$927,785.34 had been collected from customers under Schedule 52-B.¹³
- 9 PSE informed Staff that as of February 5, 2024, PSE was charging customers under Schedule 52-B at the 12th Revision rate.¹⁴ The last approved version of Schedule 52-B was the 11th Revision. The 11th Revision was also not in the January 9th filing.¹⁵

⁴ *Id.*

⁵ *Id.*

⁶ Declaration of Betty Erdahl (hereinafter “Erdahl Decl.”) at ¶ 6.

⁷ *Id.* at ¶ 4.

⁸ *Id.* at ¶ 5.

⁹ *Id.*

¹⁰ *Id.* at ¶ 5-6.

¹¹ *Id.* at ¶ 6.

¹² Hawkins-Jones Decl. at ¶ 5.

¹³ *Id.* at ¶ 6.

¹⁴ *Id.* See also Erdahl Decl. at ¶ 6.

¹⁵ Hawkins-Jones Decl. Exh. 1.

- 10 On February 7, 2024, Staff reviewed the tariff pages published on PSE’s website.¹⁶ At that time, PSE improperly published the 12th Revision of Schedule 52-B. When Staff revisited the website on February 13, 2024, the improper tariff page had been replaced with the 11th Revision of Schedule 52-B – the version from the tariff effective before the current tariff.¹⁷

III. JURISDICTION

- 11 The Commission has jurisdiction over the subject matter of this complaint under RCW 80.01.040, RCW 80.01.060, RCW 80.04.110, and chapter 480-100 WAC.

IV. APPLICABLE LAWS AND REGULATIONS

- 12 The Commission regulates public service corporations pursuant to a delegation of authority from the legislature. RCW 80.01.040(3). Electric utilities subject to Commission jurisdiction are required to follow Commission rules. WAC 480-100-003(1). Tariff provisions filed by a utility must comply with Commission rules. WAC 480-100-003(2). Deviation from Commission rules without authorization is subject to penalties. WAC 480-100-003(4).
- 13 The Commission shall “fix” rates that are just, reasonable, and sufficient by order. RCW 80.28.020. “. . . [N]o electrical company . . . may charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such service as specified in its schedule filed and in effect at the time. . . .” RCW 80.28.080(1)(a). Rates cannot be changed unless the company provides notice. RCW 80.28.060(1).
- 14 “Every . . . electrical company . . . shall file with the commission and shall print and keep open to public inspection schedules in such form as the commission may prescribe, showing all rates and charges made” RCW 80.28.050. A utility is required to publish its rate, schedules, rules, and regulations governing service. WAC 480-100-028. A tariff submitted in a compliance filing must be approved by the Commission before it can be effective. WAC 480-07-880(2). If a utility is required to have a tariff on file with the Commission, that tariff must be maintained by the utility. WAC 480-80-010. The approved tariff can be made available to the public via the company’s website. WAC 480-100-193(1)(a).
- 15 Every public service company is required to obey and comply with “every order, rule, direction or requirement” promulgated by the Commission. RCW 80.04.380. Violations of statutes, rules, or orders are subject to penalties “not to exceed the sum of one thousand dollars for each and every offense.” *Id.* For continuing violations, each day the utility remains out of compliance serves as a “separate and distinct offense.” *Id.* Deviations from Commission rules are subject to penalties. WAC 480-100-003(4).

¹⁶ *Id.* at ¶ 7.

¹⁷ *Id.* at ¶ 8. *See also* Erdahl Decl. at ¶ 7.

V. CAUSE OF ACTION

- 16 The Commission realleges paragraphs 2 through 15, above.
- 17 Staff alleges that PSE violated RCW 80.28.080(1)(a) at total of 26,982¹⁸ times by collecting rates from customers under Schedule 52-B, 12th Revision, even though such schedule was not filed nor approved by the Commission.
- 18 Staff alleges that PSE's violation of RCW 80.28.080(1)(a) is continuing as PSE is still charging customers under a schedule not approved by the Commission, and therefore total penalties under this Cause of Action cannot yet be determined.
- 19 Staff alleges that PSE violated RCW 80.28.050 a total of 392 times since it did not file tariff Schedule 52-B 12th Revision with the Commission prior to charging customers rates under that schedule.
- 20 Staff alleges that PSE's violation of RCW 80.28.050 is continuing as PSE has not filed Schedule 52-B 12th Revision with the Commission for approval, and therefore total penalties under this Cause of Action cannot yet be determined.
- 21 Staff alleges that PSE violated WAC 480-100-028 a total of 392 times as it published on its website an unapproved tariff representing that the tariff is approved by the Commission.
- 22 Staff alleges that PSE violated RCW 80.28.060(1) on January 11, 2023, when it improperly started charging the 12th Revision rate for Schedule 52-B without providing notice as required.

VIII. REQUEST FOR RELIEF

- 23 Staff requests that the Commission find that PSE is in violation of statute and commission rules since January 11, 2023. Staff alleges that PSE violated Washington state statute when it charged customers under a rate schedule not approved by the Commission, and proceeded to collect for bills based on that unapproved tariff sheet.¹⁹ Staff also requests that the Commission find PSE violated state statute and commission rule by publishing on its website, holding out as approved, an unapproved tariff sheet. Under RCW 80.04.380, each violation of statute, rule, or order is subject to a penalty not to exceed one thousand dollars per violation. Staff requests that the Commission issue penalties against PSE that are fair

¹⁸ This number is reached by multiplying the number of installations by months billed (12 months). According to the spreadsheet sent by the PSE employee, it appears bills were sent by installation, and there are 2,372 installations under Schedule 52b. In addition, the employee used 2,372 to calculate the averages in monthly bills and the estimated difference per customer between the 11th Revision rate and the 12th Revision rate.

¹⁹ Based on the information currently available to Staff, Staff does not believe PSE intentionally omitted Schedule 52-B's tariff page in the January 2023 filing. Staff also wants to reiterate that this error was brought to Staff's attention by PSE.

and reasonable under the circumstances for 26,982 violations of RCW 80.28.080(1)(a), 392 violations of RCW 80.28.050, 392 violations of WAC 480-100-028, and one violation of RCW 80.28.060(1). Staff requests that for each additional billing cycle that PSE charges under Schedule 52-B, and each day that PSE retains the improper tariff on its website, will increase the potential maximum penalty. Staff requests that the Commission assess a fair and just penalty considering the maximum penalty and the totality of the circumstances.

- 24 Staff requests that the Commission order PSE to refund to customers all amounts improperly collected under Schedule 52-B since January 11, 2023, with interest, and to cease collecting under Schedule 52-B unless and until Schedule 52-B is approved by the Commission.
- 25 Staff also requests that the Commission order PSE to remove the unapproved and outdated tariff pages from its website, and order it to only publish for public viewing those tariff sheets approved by the Commission for current rates.
- 26 Staff further requests that the Commission order such other or additional relief as is appropriate under the circumstances.

IX. PROBABLE CAUSE

- 27 Based on a review of the statutes and Commission rule, and the declarations and exhibits of Staff members Betty Ann Erdahl and Jacque Hawkins-Jones, the Commission finds probable cause exists to issue this Complaint.

VIII. NOTICE OF PREHEARING CONFERENCE

- 28 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05 relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to RCW 34.05.413, RCW 34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission's procedural rules, chapter 480-07 WAC, will apply in this proceeding.
- 29 **THE COMMISSION GIVES NOTICE That it will hold a virtual prehearing conference in this matter at 1 p.m. on April 1, 2024. To participate by phone, call (253) 215-8782 and enter the Meeting ID: 882 9181 9540# and Passcode 744143#. To attend via Zoom, please use the following link: [Click to join meeting](https://utc-wa-gov.zoom.us/j/88291819540?pwd=zK0UGw1hd1DQ1G63b1WSsNMDHM0R7o.1).**²⁰
- 30 The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling matters including establishing dates for distributing evidence, identify the issues in the proceeding, and determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430.

²⁰ <https://utc-wa-gov.zoom.us/j/88291819540?pwd=zK0UGw1hd1DQ1G63b1WSsNMDHM0R7o.1>

- 31 **INTERVENTION:** Persons who wish to intervene should file a petition to intervene in writing at least three business days before the date of the prehearing conference. *See* WAC 480-07-355(a). The Commission will consider oral petitions to intervene during the conference, but strongly prefers written petitions to intervene. Party representatives must file a notice of appearance with the Commission no later than the business day before the conference. *See* WAC 480-07-345(2). Parties with more than one representative must identify one individual as the “lead” for purposes of official service. Any party or witness in need of an interpreter or other assistance should fill out the form attached to this notice and return it to the Commission. The Commission will set the time and place for any evidentiary hearings at the prehearing conference, on the record of a later conference or hearing session, or by later written notice.
- 32 **THE COMMISSION GIVES NOTICE** that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.
- 33 The names and mailing addresses of all known parties and their known representatives are as follows:

Respondent:	Jon Piliaris Puget Sound Energy 355 110 th Ave NE Bellevue, Washington 98004 (425)456-2142 jon.piliaris@pse.com
	Jon Piliaris Puget Sound Energy PO BOX 97034 PSE-08N Bellevue, Washington 98009-9734
Complainant:	Washington Utilities and Transportation Commission 621 Woodland Park Loop SE P.O. Box 47250 Olympia, WA 98504-7250 (360) 664-1160
Representative:	Josephine Strauss, WSBA No. 58283 Assistant Attorney General Office of the Attorney General Utilities and Transportation Division P.O. Box 40128 Olympia, WA 98504-0128 (360) 709-4850 josephine.strauss@atg.wa.gov

- 34 Administrative Law Judge Connor Thompson, from the from the Commission's Administrative Law Division, will preside during this proceeding.²¹
- 35 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Lacey, Washington, and effective March 5, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Michael Howard _____
MICHAEL HOWARD
Director, Administrative Law Division

Inquiries may be addressed to :

Jeff Killip
Executive Director and Secretary
621 Woodland Square Loop S.E.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1173

²¹ Judge Thompson can be reached by email at connor.thompson@utc.wa.gov or by phone at (360) 664-1346.

NOTICE

Hearings are accessible to persons with disabilities and persons who do not speak English as a first language. If limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please provide the information requested below via email to Stacey Brewster, paralegal, at stacey.brewster@utc.wa.gov.

(PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____