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May 18, 2001

VIA FAX NO. 360-586-1150

Carole Washburn, Secretary
 Washington Utilities and Transportation Commission
 1300 S. Evergreen Park Drive, SW
 Olympia, WA 98504-7250

RECEIVED
 WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
 01 MAY 21 11 8:45

Re: Electric Operations Rulemaking, Commission Docket No. UE-990473

Dear Ms. Washburn:

TrizecHahn Office Properties, Ltd. ("TrizecHahn") thanks the Washington Utilities and Transportation Commission ("Commission") for the opportunity to submit written comments on proposed rules in the above docket. TrizecHahn wishes to comment on proposed modifications to WAC 480-100-123(3).

TrizecHahn is an existing customer of Puget Sound Energy, Inc. ("PSE"), taking service under PSE Schedule 26 at four, co-located industrial warehouses in Kent Washington. TrizecHahn is converting some of its warehouse capacity into an internet data center. This conversion is anticipated to increase its electrical consumption to a level of approximately 25 MW, necessitating the construction of new PSE distribution facilities at TrizecHahn's expense. TrizecHahn's request to convert from Schedule 26 to Schedule 31 has been resisted by PSE, although TrizecHahn will qualify for Schedule 31 under its terms. Until recently, PSE has demanded that TrizecHahn agree to non-core service under Schedule 48 as a condition to continued electrical service, take-it, or leave-it. Currently, the two parties have tabled the issue of applicable rate, while negotiations proceed regarding construction of the necessary distribution facilities.

TrizecHahn is concerned that the current wording of the proposed rule may further increase the leverage of electric utilities in dealing with new and existing customers. Proposed WAC 480-100-123(3), is an improvement over existing rules, but still remains

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vague. It could be subject to mischief on the part of utilities whenever incremental cost is less than that utility's average electrical cost of service. The Commission should not provide too easy a vehicle for utilities to evade their statutory obligations to serve under RCW §80.28.010(2). Moreover, the proposal lacks any statement of procedural protections for the customer faced with a threat of service denial.

TrizecHahn offers for Commission consideration the following modifications to the proposed rule, WAC 480-100-123(3), underlined as shown below:

Upon request by an electric utility, and after notice to the affected potential customer and opportunity for hearing in which the utility shall bear the burden of proof, the commission may waive the utility's obligation to provide new or additional service when to do so would:

- (a) Cause an adverse a[e]ffect on other customers that cannot be rectified through installation of additional facilities or protective equipment; or
- (b) Not be economically feasible. Economic feasibility shall be determined only with regard to the cost of necessary transmission and distribution upgrades and improvements, without discrimination between the utility's existing customers and the residence or business to whom service would be denied.

Procedural Protections. Electricity is a necessity of modern life, essential to the continued economic wellbeing of the Sate. Under RCW §80.28.010(2), every Washington resident and business has a basic and fundamental right to electricity and the facilities to receive it. As their needs grow, they have the right to additional supplies and upgraded facilities.

Before those statutory rights can be denied or abridged, it is fundamental that they should receive notice and the opportunity for a hearing regarding any attempt by an electric utility to pick and choose who is to receive service and who is to be left without. As the proponent of an order denying such rights, the electric utility should bear the burden of proof in any such hearing. Underscored additions to the proposed rule, shown above, would incorporate these protections into the rule.



Substantive Basis For Denying Service. Legitimate examples of service denials should be very few in number: service to a ranger hut near the top of Mt. Ranier, service to a lightly populated island reachable only by submarine cable, and possibly service to a new industrial process that would create severe harmonic disturbances on the connecting distribution system. Each of these examples has a common element – an incremental cost of transmission/distribution infrastructure that is, and will probably remain, prohibitive. Of course, even that generalization is an overstatement. If the potential customer is willing to pay for the line extension, the submarine cable or the harmonic-dampening equipment, there is no economic feasibility issue to be resolved.

The utility's incremental cost of power should not be the measure of what is economically feasible. Today, incremental cost exceeds average cost. Five years ago, incremental cost was dramatically lower than average cost. Five years from now, incremental cost could once again be lower than average cost as new generating resources are brought on stream. Allowing power cost to be used as a determinant promises a series of patently discriminatory flip-flops that hold Washington's economy hostage to temporary power-market conditions.

The goal of a rulemaking to modify existing administrative rules should be to clarify. WAC 480-100-123(3), as proposed, does not achieve this goal. TrizecHahn urges the Commission to revise the proposed to rule as suggested herein.

Thank you for considering TrizecHahn's comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'John A. Cameron', with a long horizontal line extending to the right.

John A. Cameron

JAC/ss