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April 14, 2010

David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P. O. Box 47250
Olympia, Washington 98504-7250

RE: *In the Matter of the Amended Petition of Puget Sound Energy, Inc. For an Order
Authorizing the Use of the Proceeds from the Sale of Renewable Energy Credits and
Carbon Financial Instruments*
Docket UE-070725

Dear Mr. Danner:

Enclosed for filing are an original and ten copies of corrected page 23 of the March 17, 2010, Brief on Behalf of Commission Staff in this docket. By way of explanation:

On pages 22-23 of the March 17, 2010, Brief on Behalf of Commission Staff in this docket, we interpreted RCW 80.28.068¹ to apply only in the context of a general rate case hearing. Among other things, this interpretation was based on the phrase at the beginning of that section: "Upon request by an electrical or gas company or other party in a general rate case hearing ...". We buttressed that interpretation by referring to the last sentence of that section, which calls for expenses and lost revenues to be recovered in rates to other customers; the Commission typically determines cost responsibility by customers in a general rate case hearing.

In footnote 90 of that brief, we further buttressed that interpretation by referring to the legislative history of the 2009 amendments to RCW 80.28.068. We asserted that the statute's limitation to a "general rate case hearing" was intentional, and quoted from various bill reports and other legislative documents.

¹ RCW 80.28.068 states: "Upon request by an electrical or gas company, or other party to a general rate case hearing, the commission may approve rates, charges, service, and/or physical facilities at a discount for low income senior customers and low-income customers. Expenses and lost revenues as a result of these discounts shall be included in the company's cost of service and recovered in rates to other customers."



Recently, while reviewing a similar issue, we had occasion to review that legislative history again, which caused us to focus on the following language from the Final Bill Report on SSB 5290, which explained the 2009 amendments to RCW 80.28.068:

Under the current law, only a gas or electric utility may initiate a request to approve or change a low-income program. The utility may make the request as part of a general rate case, a single rate case, or file a tariff, which would become effective after 30 days unless set for a hearing by the WUTC.

Summary: A party to a general rate case hearing, in addition to an electrical or gas company, may request changes to a gas or electric utility's program for low-income senior customers and low income customers.

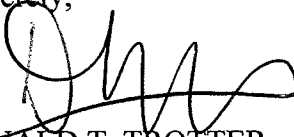
This bill report language suggests the Legislature did not intend to limit RCW 80.28.068 to requests in rate case hearings, but rather intended to continue to allow a gas or electric utility to propose a low income discount in contexts other than a general rate case hearing. The plain language of the statute may not permit that reading, because: 1) the phrase "or other party to a general rate case hearing" is not ambiguous, and reflects but a single context for requests for low income discounts; and 2) courts do not resort to legislative history unless the statute is ambiguous.

Nonetheless, the Brief on Behalf of Commission Staff was incorrect to state that the limitation in RCW 80.28.068 to general rate case hearings was a deliberate choice of the Legislature. We apologize to the Commission and all parties for that error.

Consequently, we are filing a corrected page 23 to the March 17, 2010, Brief on Behalf of Commission Staff in this docket. The corrected page deletes the text of footnote 90.

This correction does not affect the other arguments made on behalf of Commission Staff that RCW 80.28.068 does not apply in this case.

Sincerely,



DONALD T. TROTTER
Assistant Attorney General

DTT:klg
Enclosures
cc: Parties