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November 21, 2012

VIA ELECTRONIC FILING & ABC/LMI

David Danner
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Pk. Dr. S.W.
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RE: *In the Matter of the Petition of Puget Sound Energy, Inc. and NW Energy Coalition For an Order Authorizing PSE to Implement Electric and Natural Gas Decoupling Mechanisms and to Record Accounting Entries Associated with the Mechanisms*, Dockets UE-121697 and UG-121705
Public Counsel's Comments

Dear Mr. Danner:

Public Counsel files these comments in response to the Commission's Notice Requesting Filing of Proposals and Additional Information, dated November 13, 2012.

The threshold question is whether it is productive to proceed with a review of this particular proposal. As Public Counsel notes below, there are a number of problems with the PSE filing that provide a reasonable basis for the Commission to reject the proposal as filed. If the Commission wishes to consider the proposal at this time, Public Counsel does not object to an informal preliminary period of review. Ultimately, in order make a final decision regarding this or a modified proposal, Public Counsel believes the Commission will need to set it for hearing to allow for development of the necessary factual record.

Threshold Concerns

Inconsistency with Policy Statement. As an initial matter, it is apparent that PSE's filing is not consistent in several respects with the guidelines laid out in the Commission's Decoupling Policy Statement.¹ Puget Sound Energy (PSE) and the Northwest Energy Coalition (NWEC) have disregarded the clearly expressed direction of the Commission that such proposals should be

¹ Docket U-100522, *In the Matter of the Washington Utilities and Transportation Commission's Investigation into Energy Conservation Incentives*, Report and Policy Statement on Regulatory Mechanisms, Including Decoupling, To Encourage Utilities to Meet or Exceed Their Conservation Targets, November 4, 2010 (hereafter, 'Decoupling Policy Statement').

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presented as part of a general rate case, a requirement intended to ensure that the cost, revenue, and rate of return implications could be reviewed in a complete context. Instead, the petitioners have chosen the path of single-issue ratemaking expressly disfavored by the Commission. The filing does not include an appropriate adjustment to the cost of capital to reflect the reduction of risk for shareholders. The proposal does not account for off-system sales or avoided costs. There is no provision in the gas proposal for incremental conservation. Finally, the “K factor” component of the proposal is not materially different than the Conservation Savings Adjustment (CSA) recently rejected by this Commission in PSE’s last general rate case. Public Counsel concurs with the ICNU comments of November 5, 2012, which raise many of these points in more detail. Given these problems, one reasonable option open to the Commission is to reject this filing and request PSE to re-file a proposal that is consistent with the Decoupling Policy Statement.

Coordination with the PSE Expedited Rate Filing (ERF) Proposal. As it acknowledges in its testimony in this docket, PSE has been meeting with stakeholders regarding a potential expedited rate filing (ERF) proposal to be filed with the Commission. Both this decoupling proposal and the potential ERF are intended to address issues related to asserted earnings attrition. It would be much more efficient and productive for the Commission and parties to consider both proposals at the same time, given the overlapping policy and technical issues. It appears PSE has chosen to stagger the timing of the two filings, perhaps substantially, making coordinated review difficult. The Commission is not required to adopt this bifurcated approach.

Initial Workshop Process

If the Commission decides not to reject the proposal at this stage, Public Counsel has no objection to the Commission conducting a preliminary informal workshop process. The policy issues around decoupling have been extensively explored in previous Commission dockets. The process should consist of one or more technical conferences intended to facilitate gathering facts, performing analysis, and gaining understanding of the mechanics and impact of the proposal. The process should include the opportunity for all parties to conduct discovery about the proposal. Commissioner Oshie’s request for a back-cast of the impact of the proposal is an example of useful factual development that can occur. Other factual issues to be pursued include:

- *K-Factor.* How the “K-factor” works, including the impact of the weather normalization component, and whether it perpetuates the ‘throughput incentive.’
- *Impact on Rate of Return.* The Decoupling Policy Statement requires utilities to submit the following with any decoupling proposal: “Evidence evaluating the impact of the proposal on risk to investors and ratepayers and its effect on the utility’s ROE.”² PSE did not include any such evidence with its proposal.

² Decoupling Policy Statement at ¶ 28.

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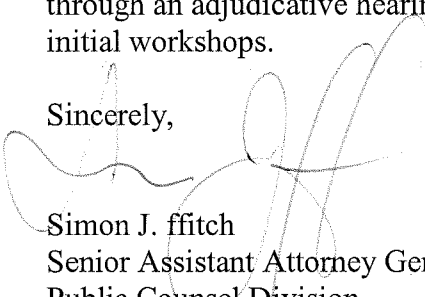
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- *Off-system Sales and Avoided Costs.* The proposal does not consider offsetting revenue (e.g. off-system sales) or avoided costs (e.g. short-term market energy not purchased), issues identified in the Decoupling Policy Statement.
- *Incremental conservation.* The proposal does not include a commitment to achieve incremental natural gas conservation, contrary to the guidance of the Policy Statement. While PSE and the NWECA did include a commitment for incremental electric conservation as part of the proposal, it appears there may be need to clarify the specific amount of additional conservation PSE is promising to acquire if the mechanism is approved.³
- *Attrition.* The proposal is intended to address earnings erosion, or attrition, related to conservation. The filing does not appear to include any studies or analysis that documents the Company's conservation-related attrition as compared to other factors contributing to possible earnings attrition.

Creating a Record for Decision

The proposal raises a number of factual issues, as noted above. The foregoing informal process may result in an all-party consensual agreement around this or a modified proposal. If that does not occur, in order for the Commission to resolve disputed matters and make a decision, it will need a record upon which to make findings of fact. The petitioners have already filed testimony and evidence in support of the proposal. Information gathered in the informal phase could be incorporated in the record by stipulation. Other parties should be permitted that opportunity also, through an adjudicative hearing process, in the event that matters remain in dispute after the initial workshops.

Sincerely,



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³ The petition and testimony filed by PSE and the NWECA do not quantify or outline the specific amount of incremental electric conservation to be achieved. Based upon a review of the Commission's approval of PSE's biennial target and ten year conservation potential in Docket UE-111881, it appears that the two methods summarized in the testimony of Mr. Piliaris for PSE (Exhibit JAP-1T, p. 36 l. 14 – p. 37, l. 1) would actually result in two different amounts of 'incremental conservation' achievement.