

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

)	
WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET NO. PG-041209
)	
Complainant,)	
)	ORDER NO. 02
v.)	
)	APPROVING AND ADOPTING
PUGET SOUND ENERGY, INC.,)	SETTLEMENT AGREEMENT
)	
Respondent.)	
.....)	

Synopsis: The Commission approves and adopts the parties' uncontested Settlement Agreement as a reasonable resolution of a Commission Complaint against Puget Sound Energy, Inc. for violations of pipeline safety rules.

1 **PROCEEDINGS.** This docket was initiated by a Commission Complaint against Puget Sound Energy (PSE) for pipeline safety violations. The Complaint was served on April 29, 2005. The Complaint alleges that PSE, as pipeline operator, bears responsibility for three violations of WAC 480-93 and 49 CFR 192.605(a) that resulted from the failure by employees of Pilchuck Contractors, Inc. (Pilchuck) to follow PSE's standard requirements for purging gas when installing pipe.

2 The Commission convened a prehearing conference on June 27, 2005, and established a procedural schedule that set dates for the parties to file stipulated facts and motions for summary determination. The procedural schedule also provided dates for settlement discussions. On August 26, 2005, in light of ongoing settlement negotiations, the parties requested suspension of the date for

filing stipulated facts. The parties filed a Settlement Agreement on September 6, 2005. There are no facts in dispute. The settlement, if approved, would resolve all issues in this proceeding.

3 **PARTY REPRESENTATIVES.** Christopher Swanson, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff ("Commission Staff" or "Staff").¹ Sheree Strom Carson, attorney, Bellevue, Washington, represents Puget Sound Energy, the respondent.

4 **COMMISSION DECISION.** As discussed more fully below, PSE acknowledges that the incident described in the Complaint occurred and that the Company is liable for violation of 49 CFR 192.605(a). PSE agrees to a penalty of \$15,000. The Commission determines that it should approve and adopt the proposed settlement as a full resolution of the Complaint as being in the public interest.

MEMORANDUM

I. Background and Procedural History

5 The Complaint alleges that PSE, as pipeline operator, is liable for the failure by employees of Pilchuck to follow PSE's standard requirements for purging a pipe of gas when installing pipe. This failure resulted in an explosion that burned one employee severely enough to require his hospitalization.

6 Specifically, the contract employees failed to install a pipe riser that would have diverted gas away from the excavation where the work was being done. This violated two of PSE's gas operating standards. In addition, the contract

¹ In formal proceedings, such as this case, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including Staff. RCW 34.05.455.

employees failed to ground the pipe, which violated a third standard. A static discharge caused accumulated gas to explode while a workman was in the excavation, resulting in his injuries.

7 The Complaint alleges each violation of a gas operating standard as a separate violation of WAC 480-93 and 49 CFR 192.605(a), which requires each operator to prepare and follow a manual of written procedures for conducting operations and maintenance activities. The maximum penalty for each alleged violation is \$25,000. The Complaint recommends the maximum penalty of \$75,000.

8 PSE, by its Answer, disputed its responsibility for the violations, given that the misconduct by service-provider employees, didn't adhere to PSE's operating standards, and thereby caused the violations. Additionally, PSE disputed the number of violations alleged, and the imposition of monetary penalties. PSE argued that the matter concerns a single incident and should be treated as a single violation.

9 On September 6, 2005, the parties filed a Settlement Agreement. The proposed settlement is uncontested and, if approved, would resolve all issues in this proceeding. In the proposed Settlement Agreement PSE concurs with allegations in the Complaint that describe the incident and its causes, acknowledges a single violation of WAC 480-93 and 49 CFR 192.605(a), and agrees to a penalty of \$15,000.

II. Discussion and Decision

10 The proposed settlement agreement is consistent with the public interest. PSE acknowledges its responsibility for the safe conduct of construction activities associated with the operation and maintenance of its pipeline distribution system. PSE acknowledges that the incident described in the Complaint

occurred and that the incident involved activities that were not conducted in accordance with prescribed methods, in violation of 49 CFR 192.605(a).

- 11 Our record shows that PSE had the proper procedures in place to prevent this accident, if the procedures had been followed. The accident resulted from a single incident where Pilchuck employees failed to follow PSE's gas operating standards. Nevertheless, PSE accepts its responsibility as the pipeline operator and agrees that it should be penalized at a level that recognizes the serious nature of any safety violation that results in personal injury. The penalty is in an amount that underscores the importance of continuous compliance by PSE's employees and contractors with safety requirements meant to keep workers from harm as they undertake inherently risky activities.
- 12 Our record also shows that PSE took several appropriate actions in response to the incident. PSE's Gas First Response organization reviewed the incident at group safety meetings. They discussed the specific details of the incident, reinforced the need to follow standards and procedures and reviewed the proper use of personal protective equipment in gaseous atmospheres. Further, PSE's Contract Management department has confirmed that Pilchuck's safety staff reviewed the elements of this incident with all of their employees during safety meetings.
- 13 The Settlement Agreement provides a reasonable resolution of the issues raised by the Commission's Complaint. We approve and adopt the Settlement Agreement set forth in the Appendix to this Order as fully resolving the matters before the Commission in this proceeding.

FINDINGS OF FACT

- 14 Having discussed above all matters material to our decision, and having stated general findings, the Commission now makes the following summary findings of

fact. Those portions of the preceding discussion that include findings pertaining to the Commission's ultimate decisions are incorporated by this reference.

- 15 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including gas companies.
- 16 (2) PSE owns and operates a natural gas distribution system in Washington state. PSE serves residential, commercial and industrial customers with natural gas, under tariffs subject to Commission regulation.
- 17 (3) On June 22, 2004, at 35th Avenue West and West Smith Road in Seattle, Pilchuck Contractors, Inc., a PSE contractor, was performing work for PSE. The project involved the installation of 3500 feet of 6-inch polyethylene (PE) pipe. The Pilchuck crew was working on a 2-inch tie-in for a new 6-inch PE main.
- 18 (4) The work performed was covered by written standards and filed procedures for "purging" and "preventing accidental ignition" that, when followed, allow the work to be done safely. These standards and procedures are contained in the 2004 PSE Gas Operating Standards Part 2525.3400.
- 19 (5) As a result of the failure to follow PSE Gas Operating standards, an employee of Pilchuck was burned and hospitalized.

CONCLUSIONS OF LAW

20 Having discussed above in detail all matters material to our decision, and having stated general findings and conclusions, the Commission now makes the

following summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the Commission's ultimate decisions are incorporated by this reference.

- 21 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings. *Title 80 RCW.*
- 22 (2) PSE operates as a "gas company" as that term is defined in RCW 80.04.010.
- 23 (3) PSE is a public service company subject to Commission regulation under Title 80 RCW and, with respect to its gas distribution system and appurtenant facilities, is subject to Commission safety rules applicable to natural gas pipelines. Work conducted in connection with the incident described in this Order did not meet the requirements of the Commission's pipeline safety rules.
- 24 (4) PSE is responsible for ensuring that work conducted on its system meets the requirements of 49 CFR Part 192. Work conducted in connection with the incident described in this Order did not meet the requirements of 49 CFR Part 192.
- 25 (5) The Commission should approve and adopt the Settlement Agreement filed by the Parties on September 6, 2005, as a reasonable resolution of the issues raised by the Commission's Complaint in this matter.
- 26 (6) The Commission should retain jurisdiction to effectuate the terms of this Order. *Title 80 RCW.*

ORDER

THE COMMISSION ORDERS THAT:

- 27 (1) The proposed Settlement Agreement filed by the Parties on September 6, 2005, which is attached to this Order as Appendix A and incorporated by reference as if set forth in full in the body of this Order, is approved and adopted in full resolution of the Complaint in this matter.
- 28 The Commission retains jurisdiction over the subject matter and the parties to effectuate the provisions of this Order.

Dated at Olympia, Washington, and effective this 28th day of September, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.

APPENDIX A