

August 1, 2018

Mr. Mark L. Johnson  
Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250

**Re: Docket A-130355, Rulemaking to Make Corrections and Changes in Rules in WAC 480-07, Relating to Procedural Rules,**

Dear Mr. Johnson:

These comments are submitted on behalf of Puget Sound Energy (“PSE”) in response to the Commission’s Notice of Opportunity to Submit Written Comments dated July 2, 2018 regarding proposed amendments to the Washington Administrative Code (“WAC”) Chapter 480-07, Parts III B through IV. As this appears to be the final opportunity for written comment, PSE renews certain of its previously stated concerns about the proposed rules.

**WAC 480-07-505(1)(b) Definition of General Rate Proceeding.**

PSE again renews its concern that the rules, as revised, would trigger a general rate case when a company files for a rate increase of less than three percent if it proposes to change or lower its cost of debt in the filing. PSE continues to believe that a change in the cost of debt, by itself, should not trigger a general rate case, if there is no other change in the capital structure or cost of equity. PSE proposes the following change to the proposed rule:

Except as otherwise provided in this rule or RCW 80.04.130 (2)(a) (governing rate decreases for telecommunications companies), the commission will initiate a general rate proceeding in response to a filing by any public service company identified in WAC 480-07-500 requesting to change its rates if that filing meets any of the following criteria:

(b) The company requests a change in its authorized ~~rate of~~ return on common equity or a change in its capital structure.

This is consistent with the Commission’s decision in PSE’s 2013 ERF, in which the Commission approved, outside of a general rate case, a rate increase of less than three percent and a reduction

in the cost of debt.<sup>1</sup> It is also consistent with the settlement agreement executed by ten parties in the PSE 2017 general rate case and approved by the Commission.<sup>2</sup> In that case the parties agreed that PSE could file an expedited rate filing, requesting a rate increase of less than three percent outside of a general rate case, and that PSE could update its cost of debt in that proceeding.<sup>3</sup> Although the proposed rules give the Commission discretion not to treat such a filing as a general rate case,<sup>4</sup> which PSE finds helpful, it would be preferable to remove the requirement that any change in the rate of return—including a change in the cost of debt only—would trigger a general rate case. This change would provide companies and intervenors more certainty regarding how a submission will be treated, rather than having to wait for the Commission to exercise its discretion.

### **WAC 480-07-510(3)(a) General Rate Proceeding; Detailed Support For Proposals**

PSE renews its concern regarding the wording of the requirement to file “all detail . . . necessary to support [the company’s] requests and proposals.” This language is over inclusive; it would require a company to file supporting workpapers as evidence because the workpapers fall within the category of “all detail, calculations, information and descriptions necessary to support its requests and proposals.” Alternatively, if as Staff suggests, the proposed rule requires a company to file “only the amount needed to prove the company’s case”<sup>5</sup> then the rule is ambiguous as to what level less than “all” is required. PSE proposes the following change, which addresses Staff’s concern with respect to companies filing sufficient evidence to meet their burden of proof, while also lessening PSE’s concern that the rule would ultimately require all information in workpapers to be filed as evidence.

The company must include in its initial testimony and exhibits, including those addressing accounting adjustments, sufficient all detail, calculations, information, and descriptions necessary to ~~support its requests and proposals and~~ meet its burden of proof. Any party responding to the company’s proposal also must include in that party’s testimony and exhibits sufficient all detail, calculation, information, and descriptions necessary to support its filed case proposals.

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<sup>1</sup> *WUTC v. PSE*, Dockets UE-130137 & UG-130138, Order 07, ¶¶ 63-65 (June 25, 2013) (noting Staff’s suggestion that, in an ERF, PSE should be allowed to update debt costs for known changes, and accepting this “sensible recommendation”).

<sup>2</sup> *WUTC v. PSE*, Dockets UE-170033 & UG-170034, Order 08, ¶¶ 214-221 (Dec. 5, 2017).

<sup>3</sup> *Id.*

<sup>4</sup> See Proposed Rules at WAC 480-07-505(4).

<sup>5</sup> Matrix of 5-11-18 Comments on Proposed Revisions to Parts III B through IV.

### **WAC 480-07-510(4)(a) Timing of Workpaper Filing**

PSE disagrees with the change to the proposed revised rule that would allow parties to wait five days after a filing to provide workpapers to other parties. This delay in receiving work papers would harm regulated companies such as PSE, particularly during the rebuttal phase of the case. The time for preparation of rebuttal testimony is typically short—approximately four or five weeks—and if a regulated company does not receive other parties’ supporting workpapers for a week after response testimony is filed, the company will lose valuable time needed to understand and respond to other parties’ testimony. The use of workpapers to understand other parties’ submissions is a fundamental necessity for companies to allow them to uphold their burden of proof by responding to and rebutting issues raised by other parties; a delay in receipt of work papers puts companies at a distinct disadvantage. Companies will be harmed by this delay, and the quality of rebuttal testimony may suffer if PSE is not able to work through other parties’ filings for the first week after they are filed. This can be expected to result in companies requesting that an extra week be added to the procedural schedule between response testimony and the company’s rebuttal testimony. PSE respectfully requests the Commission return to the earlier version of this proposed draft rule and require workpapers to be provided no later than three business days following a filing, or in the alternative, that workpapers be provided at the time of filing.

### **WAC 480-07-515 Limited Rate Proceedings—Electric and Natural Gas Companies**

PSE wishes to again express its concern that the limited rate proceeding rules that had been proposed in WAC 480-07-515, were removed from the rulemaking last year. The proposed rules, as drafted, would have allowed a company to file up to two successive limited rate proceedings, the first within one year after the rate effective date of a general rate case, and the second within one year after the rate effective date of a first limited rate proceeding. There was no requirement for a showing of exceptional circumstances for a utility to file a limited rate proceeding, and power costs were to be removed as part of the filing. In the November 16, 2017 draft of the proposed rules, the limited rate case proceeding section was removed, and the explanation given was that “Staff believes a rule establishing limited rate proceedings would be premature.”<sup>6</sup>

PSE respectfully disagrees that it is premature to establish rules addressing limited rate proceedings. As the recent PSE ERF filing demonstrates, there are differing views as to (i) the format of a limited rate proceeding/ERF, (ii) how power costs should be treated/removed in the filing, and (iii) the standard to be met for such a filing (i.e., whether a showing of exceptional

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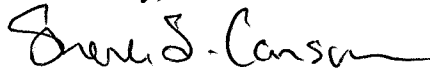
<sup>6</sup> See Revised Summary of Initial Comments on Proposed Revisions to GRC Rules, October 16, 2017, p. 7-8.

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need is required for an ERF).<sup>7</sup> Limited rate proceedings have been used periodically for several years,<sup>8</sup> and the Commission has acknowledged a utility's ability to file such cases.<sup>9</sup> Establishing rules for such proceedings would promote certainty and efficiency in the ratemaking process. For this reason, PSE respectfully requests that the Commission either reinstate and allow further comment on the limited rate proceeding rules that were withdrawn, or promulgate updated rules addressing limited rate proceedings and allow comment on the updated rules.

Thank you for the opportunity to file comments on behalf of PSE. If we can be of any further assistance, please contact Donna L. Barnett or Sheree Strom Carson at 425-635-1400.

Sincerely,



Sheree S. Carson

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<sup>7</sup>*WUTC v. PSE*, Dockets UE-180532 & UG-180533, Order 03 (July 2, 2018) (noting Staff's allegations of deficiencies in the filing and PSE's disagreement with Staff's viewpoint).

<sup>8</sup> See, e.g., *WUTC v. PSE*, Dockets UE-130137 & UG-130138, Order 07 ¶¶ 78-80 (June 25, 2013); *WUTC v. PSE*, Docket UG-101644, Order 04 (March 15, 2011) (approving settlement of PSE's gas tariff increase filing).

<sup>9</sup> See, e.g., *WUTC v. PSE*, Dockets UE-060266 & UG-060267, Order 08, ¶ 51 (Jan. 5, 2007) (noting that nothing "precludes PSE from seeking additions to rate base between rate cases so long as the amounts are not so large as to trigger a general rate proceeding under our rules.").