

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

KENNETH L. BINKLEY,

Complainant,

v.

SALMON SHORES RV PARK AND PUGET
SOUND ENERGY, INC.,

Respondents.

NO. UE-091531

DECLARATION OF LYNN LOGEN IN
SUPPORT OF PUGET SOUND
ENERGY'S MOTION FOR SUMMARY
DETERMINATION

LYNN LOGEN states as follows:

1. I am the Tariff Consultant for Puget Sound Energy, Inc. ("PSE" or the "Company"). I have personal knowledge of the statements set forth in this declaration. I make this declaration in support of PSE's Motion for Summary Determination.
2. Mr. Binkley is a tenant of Salmon Shores; he is not a customer of PSE. Salmon Shores RV Park, LLC ("Salmon Shores") is a customer of PSE receiving electricity under Schedules 7, 24 and 25.
3. On behalf of PSE, I investigated allegations made by Mr. Binkley in (A) an informal complaint submitted to the Washington Utilities and Transportation Commission (the "Commission") on April 2, 2008 (*see* informal complaint attached hereto as **Exhibit A**); and

(B) a complaint filed with the Attorney General's Consumer Protection Division on May 11, 2008 (*see* complaint with Attorney General's office attached as **Exhibit B**). Both complaints alleged that Salmon Shores was charging utility fees to tenants in excess of the actual rates charged by PSE.

4. As part of my investigation, I reviewed WAC 480-100-108(5), which provides that a "customer may not resell electricity unless specifically authorized in the utility's tariff." In this case PSE is the utility and Salmon Shores is the customer. I also reviewed PSE's electric Tariff G which provides in section 5 of Schedule 80 that: "Service shall not be resold unless specifically authorized in the applicable rate schedule." *See* excerpt from Schedule 80 attached as **Exhibit C**. Finally, I reviewed Schedules 7, 24, and 25, by which PSE provides electric service to Salmon Shores. *See* Schedules 7, 24, and 25 attached as **Exhibit D**. None of those schedules specifically authorizes a customer to resell service at a rate higher than that charged by PSE.
5. PSE has historically defined reselling as occurring only when a landlord (PSE's customer) charges tenants on a per-kilowatt hour ("kWh") basis for electricity and the per-kWh rate used by the landlord is greater than PSE's rate to the landlord. Where a landlord recovers some or all of their costs relating to providing electric service to tenants on a basis other than on a per-kWh basis, service is not considered as being resold, even if the practice results in charges to tenants that amount to a total greater than PSE's bill to the landlord.
6. After reviewing Salmon Shore's invoices and comparing them to PSE's invoices, I determined that at that time Salmon Shores was indeed reselling electricity in violation of PSE's tariff. From May 7, 2008 until May 4, 2009, I contacted the manager at Salmon Shores several times in an attempt to avoid disconnection of service to all tenants at Salmon Shores, due to the violation of PSE's tariff.

7. For instance, on February 24, 2009, I sent an email to Salmon Shores showing a calculation of the average rate per kWh that PSE billed Salmon Shores and a marked up invoice to Mr. Kenneth Binkley showing the rate that should be charged. At that time, I suggested that if Salmon Shores needed to collect costs not recovered by using this average rate that Salmon Shores use an Electricity Availability Charge ("EAC") based on something other than the kWhs. This email was also written notice of disconnection of service if Salmon Shores' bills to their tenants were not revised within ten (10) working days. See email attached as **Exhibit E**.
8. On March 18, 2009, I responded to a fax transmittal from the manager of Salmon Shores indicating that the billings were still not in compliance since the EAC was based on kWh used by tenants. See facsimile attached as **Exhibit F**.
9. On April 2, 2009, I received another fax transmittal (dated March 31, 2009) showing the methodology that Salmon Shores intended to use to allocate the costs of electricity to tenants. The total amount billed by PSE for the month was shown to be greater than the actual tenant bills for the month. The methodology used did not result in reselling. See facsimile attached as **Exhibit G**.
10. On April 8, 2009, Rich La Monica, an investigator for the Office of the Attorney General of Washington, John Cupp, a member of the Consumer Affairs section of the staff of the Washington Utilities and Transportation Commission and I discussed the billing by Salmon Shores and agreed upon the following conclusions:
- The proposed methodology used by Salmon Shores in the March 31, 2009, facsimile to Lynn Logen was appropriate provided that the correct numbers were used. See facsimile attached as **Exhibit H**;
 - The rate per kilowatt-hour used by Salmon Shores to calculate the amount billed to tenants of Salmon Shores cannot be greater than the average per kWh

rate based on the total amount billed by PSE to Salmon Shores. If it were greater, this would indicate that Salmon Shores was in fact illegally re-selling utilities and thus cause Salmon Shores to be out of compliance with the PSE's tariff.

- That for an appropriate billable rate to be determined, a monthly average of the utility charges billed to Salmon Shores by PSE would need to be calculated as indicated in the spread sheet developed by Lynn Logen and provided to Salmon Shores in his e-mail dated April 2, 2009. See email attached as **Exhibit I**.

11. In a May, 4, 2009, email to Salmon Shores I discussed the timing of billings and the fact that Salmon Shores was billing in one month based on PSE bills for the prior month. See email attached as **Exhibit J**. I discussed the timing issue and billing with Salmon Shores over the telephone prior to June 12, 2009, and was satisfied that billing to tenants did not violate our tariff and Salmon Shores was not illegally reselling electricity since they were not charging on a per kWh basis a rate that exceeded PSE's average rate.

12. Mr. Binkley submitted his formal complaint in Docket No. 091531 on September 14, 2009, and I reviewed each of the bills (attachments 2 through 7) to his formal complaint. The rate per kWh on those bills and the average rate charged to Salmon Shores by PSE is as follows:

4/1/09 bill - \$0.08717 per kWh ---Rate charged by PSE for this time period \$0.091568
5/1/09 bill - \$0.08718 per kWh ---Rate charged by PSE for this time period \$0.088447
6/1/09 bill - \$0.08717 per kWh ---Rate charged by PSE for this time period \$0.088322
7/1/09 bill - \$0.08717 per kWh ---Rate charged by PSE for this time period \$0.089716
8/1/09 bill - \$0.08717 per kWh ---Rate charged by PSE for this time period \$0.088515
9/1/09 bill - \$0.066 per kWh ---Rate charged by PSE for this time period \$0.088476

13. Based on the exhibits that Mr. Binkley attached to his complaint, I conclude that starting in April 2009, Salmon Shores has not been illegally reselling electricity as they

charge tenants a per-kWh rate that is less than the rate PSE charges Salmon Shores and the EAC charge is based on the number of tenants rather than a per-kWh rate.

14. I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

DATED: 12th day of April, 2010.

By



Lynn Logen
Tariff Consultant for Puget Sound Energy, Inc.