**EXHIBIT NO. \_\_\_(JMN-1T)
DOCKETS UE‑151871/UG-151872
PSE EQUIPMENT LEASING SERVICE
WITNESS:  JULIE MULLER-NEFF**

**BEFORE THE**

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

|  |  |  |
| --- | --- | --- |
| **WASHINGTON UTILITIES AND****TRANSPORTATION COMMISSION,****Complainant,** **v.****PUGET SOUND ENERGY,****Respondent.** |  | **Dockets UE-151871** **UG-151872** |

**DIRECT TESTIMONY OF**

**JULIE MULLER-NEFF**

**ON BEHALF OF SMACNA-WW**

**June 7, 2016**

**SMACNA-WW**

**DIRECT TESTIMONY OF
JULIE MULLER-NEFF**

**CONTENTS**

1. **Introduction...........................................................1**
2. **SMACNA-WW: Mission and Membership.........2**
3. **Overview of the HVAC Market............................8**

**IV. PSE Proposal...........................................................9**

**I. INTRODUCTION**

**Q Please state your name and your position.**

A. I am Julie Muller-Neff. I am Executive Vice President of the Sheet Metal and Air Conditioning Contractors National Association – Western Washington Chapter (SMACNA-WW), an intervenor in this proceeding. SMACNA – WW is the Western Washington Chapter of the Sheet Metal and Air Conditioning Contractor’s National Association and is a non-profit trade association. There are one hundred and three (103) SMACNA Chapters, affiliated with the national association, located in the United States, Canada, Brazil and Australia.

**Q What is your professional background?**

A I have been in the industry representing Heating, Ventilation, and Air Conditioning (HVAC) contractors for over ten years. After graduating from Loyola School of Los Angeles, California, I worked as a staff attorney from 2004-2006 for Bohm, Francis, Kegel & Aguilera, LLP and then Lanak and Hanna, LLP. In March 2006, I started working for Orange Empire SMACNA in Southern California. After nine years with Orange Empire SMACNA, SMACNA –WW recruited me to replace the retiring Executive Vice President in October 2014.

**Q What are your responsibilities at SMACNA-WW?**

A As the Executive Vice President, I serve as the chief staff person of the organization and report to the SMACNA – WW Board of Directors. I represent HVAC and sheet metal employers and related firms. I am responsible for the following areas: (1) All aspects of labor relations and collective bargaining; (2) Promoting the industry and developing business opportunities with all direct or indirect purchasers of construction services (including architects, engineers, building owners, governmental agencies; developers; home owners; and other construction users); (3) Providing innovative educational programs for firms to enhance business skills; (4) Maintaining marketing, advertising and promotion programs for the sheet metal industry; (5) Legislative and regulatory advocacy on a local, state and federal level; and, (6) Executive level management of the business affairs of a not for profit multi‐employer contractor association (501(c)(6)). Furthermore, I work with our firms and associated parties to ensure that the purposes and goals of SMACNA-WW are fulfilled.

**II. SMACNA-WW: MISSION AND MEMBERSHIP**

**Q What are the goals of SMACNA-WW?**

A As an association, the ultimate goal of SMACNA – WW is to achieve and maintain the following principles and programs for the sheet metal industry: (1) To establish advertising, publicity and promotional activities to advise the public of the nature, extent and availability of services performed by the industry; (2) To promote educational programs to formulate high quality standards of sheet metal construction; (3) To aid in the formulation of uniform sheet metal specifications and improvement of state and municipal codes; (4) To expose fraudulent or misleading advertising or representations intended to deceive the public; (5) To encourage and promote trade practices that will eliminate unfair competition or exploitation of the sheet metal, HVAC and related industries; (6) To encourage and promote the establishment of a uniform pattern of payments by customers during the progress of jobs to avoid inequitable payment delays and economic penalties; (7) To provide a forum for the discussion of the common interests and problems of labor and industry and to encourage and promote harmonious relations between labor and industry; and, (8) To encourage any proper activity which will increase the efficiency of the industry and its ability to serve the public.

**Q Who Does SMACNA-WW Represent?**

A At any given time SMACNA – WW represents over one-hundred and sixty (160) different firms (“SMACNA – WW Firms”). There are four levels of involvement in SMACNA – WW: (1) Contractor Member Firm; (2) Bargaining Unit Firm; (3) Signatory Independent Firm; and (4) Affiliate Member Firm.

 (1) Contractor Member Firm. SMACNA – WW Contractor Member Firms are listed on the SMACNA – WW website at: http://www.smacnaww.org/members/member-directory. All Contractor Member Firms are regular members of SMACNA – WW, have assigned their bargaining rights to SMACNA – WW, are signatory to the Sheet Metal Workers Local 66 Collective Bargaining Agreement (“Local 66 CBA”), and perform “covered work” as per the Local 66 CBA (outlined below). Signatory Contractors pay a monthly membership fee to SMACNA – WW for value added services, and also remit Industry Fund to SMACNA – WW based on hours worked by each Sheet Metal Worker (“Industry Fund”), as per the Sheet Metal Worker Local 66 Collective Bargaining Agreement (“Local 66 CBA”).

 (2) Bargaining Unit Firm. SMACNA – WW Bargaining Unit Firms have assigned their bargaining rights to SMACNA – WW, are signatory to the Sheet Metal Local 66 CBA, and perform “covered work” as per the Local 66 CBA. Bargaining Unit Firms remit Industry Fund to SMACNA – WW based on hours worked by each Sheet Metal Worker. However, Bargaining Unit Firms do not maintain an annual membership in SMACNA – WW, and do not pay a monthly membership fee to SMACNA – WW.

 (3) Signatory Independent Firm. Signatory Independent Firms are signatory to the Local 66 CBA, and perform “covered work” as per the Local 66 CBA. However, they have not assigned their bargaining rights to SMACNA – WW and bargain independently of SMACNA – WW. However, Signatory Independent Firms still remit Industry Fund to SMACNA – WW based on hours worked by each Sheet Metal Worker, unless negotiated out of the Local 66 CBA. Signatory Independent Firms do not maintain an annual membership in SMACNA – WW, and do not pay a monthly membership fee to SMACNA – WW.

 (4) Affiliate Membership Firms. SMACNA – WW Affiliate Member Firms are listed on our SMACNA – WW website at: http://www.smacnaww.org/members/member-directory. Affiliate Member Firms are members of SMACNA – WW and pay a monthly membership fee to SMACNA – WW for value added services. However, Affiliate Member Firms are not signatory to the Local 66 CBA because they do not perform work as HVAC contractors. Affiliate members are either suppliers of HVAC equipment and services or industry related entities. As such, they are not part of the SMACNA – WW Bargaining Unit, and do not remit Industry Fund to SMACNA – WW.

**Q Are all SMACNA-WW Firms signatory to the Local 66 CBA?**

A All Contractor Member Firms, Bargaining Unit Firms, and Signatory Independent Firms are signatory to the Local 66 CBA and are considered union shops. The Local 66 CBA contains a Standard Form of Union Agreement, Commercial Addendum, Residential / Light Commercial Addendum and Service Addendum, specifying the working conditions applicable to all Sheet Metal Workers who perform the covered work outlined in the Agreement. Affiliate Member Firms are not signatory to the Local 66 CBA because they do not perform the type of “covered work” listed in the Local 66 CBA.

**Q What is “covered work”?**

ACovered Work is defined as the type of work and work processes claimed by Local 66 and specifically outlined in the Local 66 CBA. Contractor Member Firms, Bargaining Unit Firms, and Signatory Independent Firms perform “covered work” as per the Local 66 CBA, while the Affiliate Member Firms supply goods and services to HVAC industry.

**Q Please describe the work performed by SMACNA – WW Firms.**

ASMACNA – WW Firms perform work in industrial, commercial, institutional and residential markets. Said Firms specialize in heating, ventilating and air conditioning; architectural sheet metal; industrial sheet metal; kitchen and other related appliances; specialty stainless steel work; manufacturing; siding and decking; testing and balancing; service; and energy management/maintenance. SMACNA – WW Firms provide the highest quality workmanship, professionalism and service to their customers.

**Q How is SMACNA – Western Washington Funded?**

A SMACNA – WW is funded through Industry Fund contributions and monthly membership dues for value added services.

**Q What is “Industry Fund”?**

A As per the Local 66 CBA, “Industry Fund” (IF) is paid on all hours worked by each Sheet Metal Worker and is remitted to SMACNA – WW. This funding mechanism is standard among the unionized Building Trades contractor associations. SMACNA – WW receives Industry Fund from Contractor Member Firms, Bargaining Unit Firms, and Signatory Independent Firms (with the exception of those firms who have negotiated this out of the Local 66 CBA). As stated in the Local 66 CBA, “Industry Fund contributions are to be used to promote programs of industry education, training, negotiation and administration of the collective bargaining agreement, research and promotion, such programs serving to expand the market for the services of the Sheet Metal Industry, improve technical and business skills of Employers, stabilize and improve Employer-Union relations, and promote, support and improve the employment opportunities for employees.” Furthermore, SMACNA – WW has an obligation to provide support and services to all contractors who remit Industry Fund to SMACNA – WW, not just Contractor Member Firms.

**Q You mentioned there is a national organization. What is SMACNA-WW’s relationship with the national organization?**

A The Sheet Metal and Air Conditioning Contractors’ National Association (SMACNA) is an international trade association representing 1,834 member firms in 103 chapters throughout the United States, Canada, Australia, and Brazil. A leader in promoting quality and excellence in the sheet metal and air conditioning industry, SMACNA has offices in Chantilly, VA. and on Capitol Hill. All chapters, including SMACNA – WW, are independent non-profit corporations governed by a separate the Board of Directors. Although each chapter is independently governed and operated, SMACNA National provides a basis of support for chapters and members though technical, labor, advocacy and educational expertise. For example, SMACNA National (with the assistance from Contractor Member Firms) has developed numerous technical standards and manuals. The standards are accepted worldwide by the construction community, as well as foreign government agencies. ANSI, the American National Standards Institute, has accredited SMACNA as a standards-setting organization. As such, SMACNA National is the preeminent authority on all facets of the sheet metal industry, from duct construction and installation to air pollution control, energy recovery and roofing. SMACNA – WW is obligated to send a percentage of the local “Industry Fund” to the National Association to maintain membership in the National Association.

**Q What is the interest of SMACNA-WW in this proceeding?**

A In the Puget Sound region, SMACNA – WW Firms operate in a robust competitive HVAC market covering the commercial, industrial and residential sectors. On behalf of its members and IF contributors, SMACNA – WW is very interested in the outcome of this matter, as Puget Sound Energy’s proposed lease tariff could potentially cause great harm to the HVAC and related appliance market as a whole.

 Specifically, under the proposed tariff, the equipment options are very limited and restricted. There are only three residential furnaces listed in the tariff. In contrast, as discussed in more detail in the testimony of Brian Fluetsch and John van den Heuvel, there are numerous options available on the open market for the procurement of a residential furnace. SMACNA Contractors use their expertise when determining what type and size furnace to recommend to the homeowner. The contractor and the homeowner work as a team to determine the best fit for the project. Budget, efficiently, size, location of the unit and performance are all factors that are taken into consideration prior to the install. The one size fits all scenario proposed by PSE would ultimately harm homeowners who are not a fit for the leased equipment.

**III. OVERVIEW OF THE HVAC MARKET**

**Q Please describe the market and the competitors in that market.**

A There are many competitors in market. As outlined above, SMACNA – WW represents over 160 contractors and these contractors are split into four groups: (1) Contractor Member Firm; (2) Bargaining Unit Firm; (3) Signatory Independent Firm; and, (4) Affiliate Member Firm. SMACNA only represents the unionized facet of the industry. There are many other non-union contractors who perform the same type of work as SMACNA – Western Washington. Many of those are represented by the Washington State Heating, Ventilation, and Air Conditioning Contractors Association, which is also a party in this proceeding. These contractors just represent some of those in the market. Big box stores, such as Home Depot and Loews also compete for a portion of the market share.

**IV. PSE PROPOSAL**

**Q When did you first hear of the PSE proposal?**

A I first heard of PSE’s proposal from Gensco, a distributor of HVAC products and an affiliate member of SMACNA-WW, and from a few of my contractor-members. Gensco had an informational meeting concerning this issue and a few of my Contractor-Members attended. After this meeting we discussed the issue with the SMACNA – WW Board. In consultation with our Legislative Advocate, Kathleen Collins, we proposed that SMACNA – WW retain an attorney for representation in this matter.

**Q Did anyone from PSE contact SMACNA as PSE was developing the proposal? If not, do you know why?**

A No, PSE did not contact us, and I am unaware if PSE contacted any of my members. I assume that PSE did not because our members are likely are perceived as competitors.

**Q Does this conclude your testimony?**

A Yes.