

**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

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1 **I. INTRODUCTION**

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

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

10 **Q What is your professional background?**

11 A I have been in the industry representing Heating, Ventilation, and Air
12 Conditioning (HVAC) contractors for over ten years. After graduating from
13 Loyola School of Los Angeles, California, I worked as a staff attorney from 2004-
14 2006 for Bohm, Francis, Kegel & Aguilera, LLP and then Lanak and Hanna, LLP.
15 In March 2006, I started working for Orange Empire SMACNA in Southern
16 California. After nine years with Orange Empire SMACNA, SMACNA –WW
17 recruited me to replace the retiring Executive Vice President in October 2014.

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

19 A As the Executive Vice President, I serve as the chief staff person of the
20 organization and report to the SMACNA – WW Board of Directors. I represent
21 HVAC and sheet metal employers and related firms. I am responsible for the
22 following areas: (1) All aspects of labor relations and collective bargaining; (2)
23 Promoting the industry and developing business opportunities with all direct or

1 indirect purchasers of construction services (including architects, engineers,
2 building owners, governmental agencies; developers; home owners; and other
3 construction users); (3) Providing innovative educational programs for firms to
4 enhance business skills; (4) Maintaining marketing, advertising and promotion
5 programs for the sheet metal industry; (5) Legislative and regulatory advocacy on
6 a local, state and federal level; and, (6) Executive level management of the
7 business affairs of a not for profit multi-employer contractor association
8 (501(c)(6)). Furthermore, I work with our firms and associated parties to ensure
9 that the purposes and goals of SMACNA-WW are fulfilled.

10 II. SMACNA-WW: MISSION AND MEMBERSHIP

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

12 **A** As an association, the ultimate goal of SMACNA – WW is to achieve and
13 maintain the following principles and programs for the sheet metal industry: (1)
14 To establish advertising, publicity and promotional activities to advise the public
15 of the nature, extent and availability of services performed by the industry; (2) To
16 promote educational programs to formulate high quality standards of sheet metal
17 construction; (3) To aid in the formulation of uniform sheet metal specifications
18 and improvement of state and municipal codes; (4) To expose fraudulent or
19 misleading advertising or representations intended to deceive the public; (5) To
20 encourage and promote trade practices that will eliminate unfair competition or
21 exploitation of the sheet metal, HVAC and related industries; (6) To encourage
22 and promote the establishment of a uniform pattern of payments by customers
23 during the progress of jobs to avoid inequitable payment delays and economic

1 penalties; (7) To provide a forum for the discussion of the common interests and
2 problems of labor and industry and to encourage and promote harmonious
3 relations between labor and industry; and, (8) To encourage any proper activity
4 which will increase the efficiency of the industry and its ability to serve the
5 public.

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

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

11 (1) Contractor Member Firm. SMACNA – WW Contractor Member Firms are
12 listed on the SMACNA – WW website at:

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

22 (2) Bargaining Unit Firm. SMACNA – WW Bargaining Unit Firms have assigned
23 their bargaining rights to SMACNA – WW, are signatory to the Sheet Metal

1 Local 66 CBA, and perform “covered work” as per the Local 66 CBA. Bargaining
2 Unit Firms remit Industry Fund to SMACNA – WW based on hours worked by
3 each Sheet Metal Worker. However, Bargaining Unit Firms do not maintain an
4 annual membership in SMACNA – WW, and do not pay a monthly membership
5 fee to SMACNA – WW.

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

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

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

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

9 **Q What is “covered work”?**

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

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

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

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

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

3 **Q What is “Industry Fund”?**

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

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

21 A The Sheet Metal and Air Conditioning Contractors’ National Association
22 (SMACNA) is an international trade association representing 1,834 member firms
23 in 103 chapters throughout the United States, Canada, Australia, and Brazil. A

1 leader in promoting quality and excellence in the sheet metal and air conditioning
2 industry, SMACNA has offices in Chantilly, VA. and on Capitol Hill. All
3 chapters, including SMACNA – WW, are independent non-profit corporations
4 governed by a separate the Board of Directors. Although each chapter is
5 independently governed and operated, SMACNA National provides a basis of
6 support for chapters and members though technical, labor, advocacy and
7 educational expertise. For example, SMACNA National (with the assistance from
8 Contractor Member Firms) has developed numerous technical standards and
9 manuals. The standards are accepted worldwide by the construction community,
10 as well as foreign government agencies. ANSI, the American National Standards
11 Institute, has accredited SMACNA as a standards-setting organization. As such,
12 SMACNA National is the preeminent authority on all facets of the sheet metal
13 industry, from duct construction and installation to air pollution control, energy
14 recovery and roofing. SMACNA – WW is obligated to send a percentage of the
15 local “Industry Fund” to the National Association to maintain membership in the
16 National Association.

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

18 A In the Puget Sound region, SMACNA – WW Firms operate in a robust
19 competitive HVAC market covering the commercial, industrial and residential
20 sectors. On behalf of its members and IF contributors, SMACNA – WW is very
21 interested in the outcome of this matter, as Puget Sound Energy’s proposed lease

1 tariff could potentially cause great harm to the HVAC and related appliance
2 market as a whole.

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

14 III. OVERVIEW OF THE HVAC MARKET

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

16 **A** There are many competitors in market. As outlined above, SMACNA – WW
17 represents over 160 contractors and these contractors are split into four groups:
18 (1) Contractor Member Firm; (2) Bargaining Unit Firm; (3) Signatory
19 Independent Firm; and, (4) Affiliate Member Firm. SMACNA only represents the
20 unionized facet of the industry. There are many other non-union contractors who
21 perform the same type of work as SMACNA – Western Washington. Many of
22 those are represented by the Washington State Heating, Ventilation, and Air
23 Conditioning Contractors Association, which is also a party in this proceeding.

1 These contractors just represent some of those in the market. Big box stores, such
2 as Home Depot and Loews also compete for a portion of the market share.

3 **IV. PSE PROPOSAL**

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

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

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

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

17 **Q Does this conclude your testimony?**

18 A Yes.
19