

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PUGET SOUND ENERGY, Respondent.	DOCKETS UE-180899 and UG- 180900 (<i>Consolidated</i>) ORDER 04 SUSPENDING PROCEDURAL SCHEDULE; CANCELING EVIDENTIARY HEARING; GRANTING REQUEST TO PROCEED ON A PAPER RECORD; APPROVING NOTIFICATION METHODS FOR PUBLIC COMMENT HEARING
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BACKGROUND

- 1 On November 7, 2018, Puget Sound Energy (PSE or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-60, Tariff G, Electric Service, in Docket UE-180899 and revisions to its currently effective Tariff WN U-2, Natural Gas Service, in Docket UG-180900. The effect of this filing is to increase rates and charges for electric and natural gas service provided to customers in the state of Washington.
- 2 The Commission suspended operation of the tariffs and consolidated the dockets for hearing by Order 01, entered on November 15, 2018. The Commission entered Order 02, Standard Protective Order, also on November 15, 2018.
- 3 On November 30, 2018, the Commission entered Order 03, Prehearing Conference Order; Notice of Hearing (Order 03), which established a procedural schedule, including, among other things, a deadline for Commission staff (Staff), Public Counsel, and all intervenors to file testimony and exhibits by January 25, 2019; a deadline for the Company's rebuttal testimony and exhibits on February 2, 2019; and an evidentiary hearing set for March 20, 2019.
- 4 On January 18, 2019, counsel for Staff filed a letter informing the Commission that a multiparty settlement in principle has been reached between PSE, Staff, AWEC, The Energy Project, the Federal Executive Agencies, and Nucor Steel (the "Settling Parties").

The letter also indicated that Public Counsel may join the settlement, and expects to confirm whether it will join, not oppose, or oppose the settlement early this week.

5 The Settling Parties request that the Commission suspend the current procedural deadlines, cancel the evidentiary hearing, and adopt an alternative schedule and procedure. The Settling Parties propose to file their settlement agreement and all supporting documentation, or provide a status report to the Commission, by January 30, 2019. The Settling Parties' agreement in principle includes a proposed rate effective date of March 1, 2019. To facilitate the rate effective date, the Settling Parties agree that a formal settlement hearing is not necessary in this case and request a streamlined review of the proposed settlement on a paper record so long as the settlement remains unopposed.¹

6 In addition, the Settling Parties and Public Counsel request that the Commission schedule the public comment hearing on February 5, 2019,² to ensure that the Commission has a reasonable opportunity to consider any public comments received in these dockets. Because there is insufficient time for PSE to provide its customers with notice of the public comment hearing by bill inserts or a separate mailing, PSE has worked with Staff and Public Counsel to develop alternative methods to notify its customers. PSE commits to providing notice of the public comment hearing by publication in all major newspapers in its service territory on January 25, 2019; by posting a prominent display on the Company's website; by email to all of its customers that accept electronic communications (approximately 750,000 customers); and by repeated posts on its social media channels (Facebook and Twitter) over the next few weeks. The Settling Parties suggest that the Commission can further assist PSE's efforts by distributing notice of the hearing date to persons on its open meeting service list. The Settling Parties request that the Commission confirm that these alternative best efforts are permitted methods of notice sufficient to satisfy applicable notice requirements.

7 On January 18, 2019, PSE sent an email to all parties requesting that the Commission waive the application of WAC 480-90-197(3) and WAC 480-100-197(3), which govern notice to customers of adjudicative proceedings where public testimony will be taken.

¹ If Public Counsel opposes the settlement, the Parties will notify the Commission and propose an alternative procedure for Commission review of the multiparty settlement.

² The parties originally agreed to a public comment hearing date of February 25, 2019.

DISCUSSION AND DECISION

- 8 WAC 480-07-740 provides that the Commission will review settlement agreements to determine whether they comply with applicable legal requirements and whether approving the agreement is consistent with the public interest. We find that the procedural modifications proposed by the parties will adequately and appropriately facilitate such review. Accordingly, we adopt the schedule and procedures proposed by the Settling Parties for the reasons discussed below.
- 9 **TIMING.** The timing and content of the settlement agreement must afford the Commission a reasonable opportunity to: (a) review the terms of the settlement; (b) consider evidence and argument from all parties on why the Commission should or should not approve and adopt the settlement; (c) consider any public comments the Commission receives; (d) enter an order prior to the recommended effective date of the settlement agreement and any statutory deadline by which the Commission must take action in the proceeding; and (e) review and approve any required compliance filing.³
- 10 WAC 480-07-740 sets out specific timing requirements based on the complexity of a given proceeding. For less complex matters, the parties must submit a settlement agreement and supporting documentation to the Commission at least 30 days prior to the requested effective date for any tariff changes or other terms and conditions of the settlement.⁴ The Commission agreed to adjudicate this matter on an expedited schedule for several reasons; primarily, the Commission approved a settlement agreement in the Company's last general rate case on December 15, 2017, that included a commitment from the parties to support, or not oppose, a 120-day adjudication schedule for an expedited rate filing, which PSE filed in this proceeding. In addition, the rate relief requested is limited, based largely on the Company's Commission basis report filing, and does not (1) include pro forma adjustments, new adjustments, or annualizing adjustments, (2) consider forward-looking power costs or (3) seek to adjust the currently-allowed return on equity. Finally, the expedited rate filing uses the rate spread and rate design approved in the Company's most recent general rate case. In light of these factors, we find that this proceeding is significantly less complex than a general rate case. Accordingly, we agree with the Settling Parties that review may proceed on the timetable established for less complex matters.

³ WAC 480-07-740(1).

⁴ WAC 480-07-740(2)(b).

- 11 The Settling Parties propose to file the settlement agreement with supporting documentation by January 30, 2019, and request a rate effective date of March 1, 2019. If the parties are able to file their settlement and associated documents by the January 30 deadline, the proposal meets the minimum 30-day requirement. In the event the Settling Parties are unable to finalize their agreement by January 30, the requested effective date must be adjusted to allow the Commission at least 30 days to review the settlement agreement and supporting documentation consistent with WAC 480-07-740(2)(b).
- 12 **SETTLEMENT HEARING.** We adopt the Settling Parties' recommendation to review the Settlement Agreement without a hearing. WAC 480-07-740(2)(e) provides that the Commission will conduct a hearing if the Commission believes that a hearing will assist the Commission to decide whether to approve and adopt the settlement. Here, the Settling Parties request to proceed on a paper record without a hearing, and they anticipate that Public Counsel will either join or not oppose the settlement. Based on the parties' agreement and the less complex nature of this proceeding, we conclude that a hearing is not necessary to assist the Commission with its decision so long as the settlement is unopposed. If Public Counsel ultimately decides to oppose the settlement, we will modify the schedule by subsequent notice and conduct a settlement hearing consistent with the requirements set out in WAC 480-07-740(3)(c).
- 13 **PUBLIC COMMENT HEARING.** The Settling Parties, with Public Counsel's support, request that the Commission schedule the public comment hearing for February 5, 2019, to allow the Commission sufficient time to consider any consumer comments.
- 14 Commission rules do not specifically address notice requirements for public comment hearings.⁵ WAC 480-07-440 addresses hearing notice generally, and provides that the Commission will set hearings "sufficiently in advance" to allow parties a reasonable time to prepare.⁶ The Commission typically provides a minimum of 7 days' notice for hearings other than initial hearings or conferences.⁷ We agree with the Settling Parties and Public

⁵ WACs 480-90-197(1) and 480-100-197(1) provide that the amount of notice required for a public comment hearing will be addressed in the prehearing conference order. Because the prehearing conference order in this docket did not establish a notice requirement, such requirement is established by this order. WAC 480-07-498 addresses public comment hearings but contains no notice requirements.

⁶ WAC 480-07-440(1)(a).

⁷ WAC 480-07-440(1)(a) requires 20 days' notice for the first hearing session or prehearing conference.

Counsel that providing notice by January 25, 2019, for a public comment hearing on February 5, 2019, is sufficient.

15 We also find that the proposed notice methods satisfy the customer notice requirements. WACs 480-90-197(3) and 480-100-197(3) provide as follows: “Methods of notice permitted include a bill insert, bill message, printing on the billing envelope, a separate mailing to all affected customers or, if the utility has the capability and the customer has authorized, by email.” Because the list of permitted notice methods is demonstrative rather than exhaustive, the Commission retains discretion to approve other notice methods when warranted by particular circumstances. Such circumstances exist here. Because PSE does not have sufficient time to notify the public by bill insert or separate mailing, the Company worked with Public Counsel to develop multiple alternatives to reach those customers who do not receive email communications from the Company. We conclude that using the proposed alternatives in lieu of a bill insert or separate mailing satisfies the Commission’s notice requirements in this case because the Company proposes to use a variety of means to reach affected customers. In addition, the proposed notification methods will permit the Company to schedule its public comment hearing sufficiently in advance to allow the Commission a reasonable opportunity to receive and consider public comments.

16 We note that our decision here should not be construed as precedential; the Commission will evaluate the use of alternative notice methods on a case-by-case basis when the methods described in rule cannot be accomplished due to time constraints. Because we determine that the proposed alternative notice methods satisfy Commission rules in this instance, an exemption from the applicable rules is unnecessary. Accordingly, PSE must issue notice by the approved methods as soon as possible, but no later than January 25, 2019. The Commission also grants the Settling Parties’ request to distribute the notice to all parties on its open meeting service list.

ORDER

THE COMMISSION ORDERS:

- 17 (1) The procedural schedule in Order 03 is suspended, and the evidentiary hearing scheduled for March 20, 2019, is canceled.
- 18 (2) The Settling Parties must file their settlement agreement and all supporting documentation, or provide a status report to the Commission, by January 30,

2019. In the event the Settling Parties are unable to finalize their agreement by January 30, the requested effective date must be adjusted to allow the Commission at least 30 days to review the settlement agreement and supporting documentation.

- 19 (3) The Commission will review the settlement agreement on a paper record without a hearing so long as the settlement remains unopposed.
- 20 (4) The Commission will hold a public comment hearing on February 5, 2019. Puget Sound Energy must provide notice of the public comment hearing as soon as possible, and not later than January 25, 2019, consistent with the commitments described in paragraph 6 of this Order.

Dated at Olympia, Washington, and effective January 22, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

LAURA CHARTOFF
Administrative Law Judge