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July 5, 2013

Steven V. King, Acting Executive Director and
Commission Secretary
Washington Utilities and Transportation Commission,
P.O. Box 47250
1300 S. Evergreen Park Drive, S.W.
Olympia, Washington 98504-7250

Re: Docket No. UE-130137/UG-130138 and UE-121697/UG-121705

Dear Mr. King:

Enclosed please find two originals and one (1) copy each of the PETITION FOR RECONSIDERATION OF THE KROGER CO. for filing in the above-referenced matters. I also include an additional sixteen (16) copies for internal distribution at the Commission. Please note that we also e-filed the above in both dockets on same date.

By copy of this letter, all parties listed on the Certificate of Service have been electronically served. Please place this document of file.

Very Truly Yours,



Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.

BOEHM, KURTZ & LOWRY

MLKkew
Enclosures
cc: Certificate of Service

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of	:	
	:	
PUGET SOUND ENERGY, INC.,	:	
and NORTHWEST ENERGY COALITION	:	Docket Nos. UE-121697 and
	:	UG-121705 (consolidated)
For an Order Authorizing PSE To Implement Electric	:	
and Natural Gas Decoupling Mechanisms and To	:	
Record Accounting Entries Associated With the	:	
Mechanisms	:	
_____	:	
	:	
WASHINGTON UTILITIES AND	:	
TRANSPORTATION COMMISSION,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket Nos. UE-130137 and
	:	UG-130138 (consolidated)
	:	
PUGET SOUND ENERGY, INC.,	:	
	:	
Respondent.	:	
_____	:	

**PETITION FOR RECONSIDERATION OF
THE KROGER CO.**

July 5, 2013

I. INTRODUCTION

Pursuant to WAC 480-07-850, The Kroger Co. (“Kroger”) respectfully requests that the Washington Utility and Transportation Commission (the “Commission”) reconsider the Commission’s Order No. 7, entered June 25, 2013, in these consolidated dockets (“Order No. 7”) with respect to Puget Sound Energy, Inc. (“PSE” or “the Company”).

Order No. 7 concerns PSE’s Expedited Rate Filing (“ERF”) in Dockets UE-130137 and UG-130138 (consolidated) and the Amended Decoupling Petition filed by PSE and the Northwest Energy Coalition (“NWEC”) in Dockets UE-121697 and UG-121705 (consolidated), which sought *inter alia* approval of revenue decoupling mechanisms for PSE’s electric and natural gas operations.

Reconsideration of Order No. 7 is necessary for the following two independent reasons: (i) the Commission appears not to have considered the totality of the evidence supporting a reduction in PSE’s return on equity (“ROE”) that is warranted in light of decoupling, and (ii) including larger non-residential electric customers in the decoupling mechanism at this time will provide PSE with little incentive to engage its customers on the subject of developing rate design solutions that can address the Company’s fixed cost recovery concerns as an alternative to revenue decoupling.

Kroger respectfully requests that the Commission reconsider Order No. 7 with respect to its decision not to reduce PSE’s ROE to reflect the reduction in risk attributable to the adoption of revenue decoupling and its decision to include larger electric customers in the revenue decoupling mechanism at this time.

II. ARGUMENT

A. The Commission Should Consider the Totality of the Evidence Supporting a Reduction in PSE's Return on Equity

The Commission determined that the record in this proceeding does not support an adjustment to PSE's equity return.¹ In reaching this determination, Chairman Danner and Commissioner Goltz state they while they do not disagree with certain of the conceptual underpinnings of Commissioner Jones' proposal to reduce PSE's allowed ROE by 30 basis points, they are not willing to extrapolate a percentage reduction from the evidence presented. They further note that the proposals for a risk reduction adjustment by three witnesses are "not supported by empirical evidence or, indeed, any evidence that meets the substantial competent evidence standard."²

Order No. 7 characterizes the recommendation by Nucor and Kroger that the Commission make a 25 basis point ROE reduction as if that recommendation were based solely on the fact that such an adjustment would be consistent with reductions in the range of 10 to 50 basis points that have been ordered by other state commissions.³ While there is no question that Nucor and Kroger offer the decisions of the cited commissions as useful guidance, Kroger also submitted evidence that specifically evaluated the volatility of PSE's usage per customer over the period 2002-2011 and measured the ROE impact of this volatility using the ERF volumetric delivery revenue applied to PSE's ERF rate base for electric and gas delivery services.⁴ This analysis is not addressed in Order No. 7 and appears to have been overlooked by the majority in reaching its decision. This analysis is squarely on point, as it measures the PSE earnings

¹ Order at Paragraph 107.

² Order at FN 162.

³ Order at Paragraph 101.

⁴ Exhibit No. KCH-3 at 4-7.

volatility attributable to historical changes in usage per customer – volatility that is eliminated by PSE’s decoupling proposal. Kroger’s analysis shows that the deviations in PSE’s usage per customer over this period produce impacts of up to 75 basis points (with an average of 33 basis points absolute value) for the electric delivery system and up to 167 basis points (with an average of 84 basis points absolute value) for the gas delivery system. The analysis demonstrates that the 25 basis point ROE adjustment recommended by Nucor and Kroger lies well within this range of earnings volatility and is a reasonable adjustment in light of the Company’s reduced earnings volatility.⁵

PSE offered no rebuttal testimony addressing Kroger’s empirical analysis and waived cross examination of witness Higgins who presented it. The Commission should reconsider its decision not to adjust PSE’s ROE in light of this evidence taken in combination with the evidence presented by Public Counsel witness Hill and ICNU witness Gorman.⁶ Accordingly, the Commission should reduce PSE’s ROE by 25 basis points for the functions subject to the decoupling mechanism to account for the reduction in risk attributable to adoption of revenue decoupling.

B. The Commission Should Exclude Larger Non-Residential Electric Customers from the Decoupling Mechanism at this Time and Direct PSE to Engage with Stakeholders to Develop Alternative Proposals for Enabling PSE to Better Recover Its Fixed Costs from the Non-Residential Class of Customers through Rate Design.

Kroger argues that PSE should first look to rate design rather than decoupling as a means of addressing its concerns about fixed cost recovery from non-residential customers.⁷ This recommendation from Kroger is not new, but is consistent with Kroger’s recommendation in

⁵ Exhibit No. KCH-1T at 20:17-21:7.

⁶ Exhibit No. SGH-1T at 3:19-18:11; Exhibit No. MPG-1T at 11:22-14:2 and 28:1-15

⁷ Exhibit No. KCH-1T at 29:13-30:7.

response to PSE's earlier proposal for a Conservation Savings Adjustment Rate proposal in Docket No. UE-111048. Moreover, as shown in the record of this case, Kroger has a demonstrated track record in working cooperatively with utilities to meet this objective.⁸

It is clear from its actions, however, that PSE has preferred not to work cooperatively with non-residential customers to develop rate design solutions to fixed cost recovery, but rather to pursue the more aggressive objective of full revenue decoupling (with no ROE offset). It is telling that in this proceeding PSE maintained that it did not even know what portion of its delivery-related revenues from customers served under Schedules 26 and 31 are recovered in kWh charges (as opposed to demand charges) because the rates charged under these schedules are not functionally unbundled.⁹ This admission is evidence that PSE did not even consider addressing concerns regarding fixed cost recovery from non-residential customers through rate design before filing its decoupling proposal.

Kroger appreciates the Commission's statement in its Order that it is generally receptive to changes in rate design that might enable PSE to recover its fixed costs from non-residential customers by including in demand and customer rates more of the fixed costs of providing them service.¹⁰ Kroger submits that improvements to rate design that would obviate the perceived need for decoupling are far more likely to occur if PSE is directed *first* to engage in such a dialogue with stakeholders prior to the adoption of decoupling for larger non-residential customers. A utility that has already been awarded an all-encompassing revenue decoupling mechanism (with no ROE offset) has little incentive to engage its customers on the subject of substituting rate design for revenue decoupling.

⁸ Exhibit No. KCH-1T at 27:10-28:17.

⁹ Exhibit No. KCH-1T at 30:14-19

¹⁰ Order at Paragraph 128.

In its Order, the Commission indicated that the rate design changes that could meet this objective should be supported by a detailed cost of service study and such other evidence as may be needed to protect both the company and its customers.¹¹ The Commission states that Kroger does not take its suggestion to substitute rate design for revenue decoupling beyond stating the principle that “[t]here is no detailed proposal supported by appropriate evidence upon which the Commission could order changes to PSE’s tariffs as a substitute for decoupling.”¹² In response, Kroger maintains that the development of such an analysis requires the active engagement of the utility. That engagement is unlikely to occur unless required by the Commission.

In allowing revenue decoupling to proceed prior to investigating rate design solutions, the Commission should consider whether it is applying an asymmetric burden of proof among the positions of the parties. Kroger’s urging that rate design should be considered before revenue decoupling is adopted is rejected by the Commission because Kroger’s recommendation is not accompanied by a detailed rate design proposal supported by a detailed cost of service study. Yet PSE is permitted to implement revenue decoupling while professing not even to know what portion of its non-residential delivery-related revenues is recovered through a kWh charge. A utility that does not know the answer to this question should not be implementing revenue decoupling, but rather should be actively investigating rate design solutions through engagement with its stakeholders. The Commission should elicit this engagement by excluding larger non-residential electric customers (i.e., customers with billing demands greater than 350 kW) from the decoupling mechanism at this time and instead direct PSE to engage with stakeholders to develop alternative proposals for enabling the company to better recover its fixed costs from the non-residential class of customers through rate design. If that effort fails, the Commission

¹¹ Id.

¹² Order at Paragraph 121.

could revisit the question of including these customers in the decoupling mechanism at a later date.

III. CONCLUSION

Based upon the foregoing, Kroger respectfully requests that the Commission reconsider Order No. 7 and for the reasons set forth above: (i) reduce PSE's ROE by 25 basis points for the functions subject to the decoupling mechanism and (ii) exclude larger non-residential electric customers from the decoupling mechanism at this time and instead direct PSE to engage with stakeholders to develop alternative proposals for enabling the company to better recover its fixed costs from the non-residential class of customers through rate design.

Respectfully submitted,



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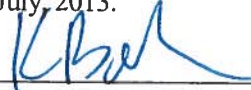
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COUNSEL FOR THE KROGER CO.

April 10, 2013

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the parties listed on the attached Certificate of Service by regular U.S. mail and electronic mail (when available) this 5th day of July, 2013.



Kurt J. Boehm, Esq.

Jody Kyler Cohn, Esq.

MASTER SERVICE LIST

As of: 5/30/2013

Docket: 121697

Original MSL Date: 10/26/2012

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