

**BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION**

**COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

DOCKET NO. UE-090704

and

DOCKET NO. UG-090705  
(consolidated)

PUBLIC COUNSEL ANSWER TO  
PSE MOTION FOR LEAVE TO  
FILE SUPPLEMENTAL AND  
REVISED TESTIMONY AND  
EXHIBITS

**I. INTRODUCTION**

1. Public Counsel files this answer in opposition to Puget Sound Energy's (PSE) Motion For Leave To File Supplemental and Revised Testimony and Exhibits in this proceeding (Motion). Public Counsel requests that the Motion be denied.

**II. ARGUMENT**

2. On May 8, 2009, PSE filed with the Commission proposed tariffs to increase its gas revenues by \$27.2 million (a 2.2 percent overall increase). The tariffs were suspended and set for investigation and hearing.<sup>1</sup> On August 3, 2009, PSE filed the above-referenced Motion. PSE's supplemental testimony seeks to revise the Company's gas revenue requirement upward to

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<sup>1</sup> Complaint and Order Suspending Tariff Revisions, Docket No. UG 090705, Order 01 (Suspension Order).

\$30.4 million (a 2.5 percent increase overall). PSE has not, however, revised its tariff filing to reflect the increased revenue request.

3. Public Counsel respectfully requests that the Motion be denied. The request violates and circumvents the Commission statutes and rules which establish the framework for lawful ratemaking.

4. If PSE wishes to revise its general gas rate case filing to seek a higher revenue amount than proposed in its initial filing, it must do so by filing new revised tariffs. PSE's ability to receive payment in rates and charges and to change or increase those rates is strictly prescribed by statute. *See generally*, RCW 80.04.130, RCW 80.28.050, RCW80.28.060, RCW 80.28.080. PSE's request in this Motion is not consistent with the statutory scheme.

5. One component of the statutory scheme, RCW 80.04.130, establishes a ten-month suspension period for Commission review of tariff filings. By supplementing and revising testimony without revising tariffs, PSE avoids triggering a new statutory suspension period, effectively truncating the Commission's and the parties' time for review of its filing. In this case, two and one half months of the suspension period have passed. By definition, therefore, the other parties and the Commission itself, are disadvantaged because they are allowed less than the statutory time period for the review of the new request.

6. RCW 80.28.060 also specifies that proposed changes be shown by printing, filing, and publishing new schedules. *See also*, RCW 80. 28.050. Pursuant to this provision and WAC 480-90-193(1) regarding notice to customers, PSE posted the initially proposed changes to its tariffs for public inspection and review on its website.<sup>2</sup> Nothing in PSE's Motion to supplement

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<sup>2</sup> Advice Letter Nos. 2009-11, 12, p. 5 (May 8, 2009).  
PUBLIC COUNSEL ANSWER TO PSE MOTION  
TO SUPPLEMENT TESTIMONY  
DOCKET NOS. UE-090704 AND UG-090705

asserts or establishes that PSE has revised its website notice or published new schedules to reflect that it is seeking over \$3 million in additional revenues beyond that contained in the initial proposed tariffs shown on its website.

7. The Suspension Order in these dockets is expressly tied to the initial tariffs filed in delineating the scope of the proceeding, with the proposed revisions listed as an appendix to the Order.<sup>3</sup> *Inter alia*, the Suspension Order specifically provides that “Puget Sound Energy, Inc. must not change or alter the tariffs filed in this docket during the suspension period, unless authorized by the Commission.”<sup>4</sup> This provision clearly precludes PSE from filing new tariffs to increase its rate request unless the Commission authorizes it.<sup>5</sup> Here PSE seeks to circumvent this restriction by asking for higher revenue during the suspension period while not changing or altering the tariff.

8. PSE cites the Commission’s procedural rules as requiring permission to file the supplemental testimony.<sup>6</sup> PSE is silent, however, as to another even more pertinent Commission rule which conveys a clear intent to limit requests for additional increases during a pending rate case. WAC 480-90-028 (by incorporation of WAC 480-80-111), prohibits PSE from substituting a different tariff for one already pending unless there is no material change and the change *does not increase* the rates in the pending tariff sheet. PSE’s filing simply ignores and circumvents this explicit legal requirement.

The rationales provided in the motion are not sufficient to negate the applicable laws and rules. The need to correct a mistake does not alone provide a justification for PSE to disregard

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<sup>3</sup> Order 01, ¶ 1.

<sup>4</sup> *Id.*, ¶ 13.

<sup>5</sup> This is often described as the provision in the standard suspension order that prohibits “pancaking” of rate cases, that is, filing a new rate case while an earlier case is still pending.

<sup>6</sup> Motion, ¶ 3.

the statutory framework. PSE had access to all the information necessary to prepare its own rate filing and significant staff resources to ensure its accuracy. Having discovered an error in its own presentation, three months after the initial filing PSE now seeks to avoid the procedural consequences of its own error and shift the burden instead to ratepayers and the Commission. Public Counsel certainly does not object to PSE correcting its error but it must do so within the statutory framework. Similarly, while the desire for a “complete record” is an important procedural goal as a general proposition, it does not obviate or supersede all other express statutory requirements for ratemaking.

### III. CONCLUSION

9. For the foregoing reasons, Public Counsel respectfully requests that the PSE motion to supplement be denied.

10. Dated this 10<sup>th</sup> day of August, 2009.

ROBERT M. McKENNA  
Attorney General

Simon J. ffitch  
Senior Assistant Attorney General  
Public Counsel