

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of  
  
PUGET SOUND ENERGY, INC.  
  
For an Order Authorizing Deferral of Certain  
Electric Energy Supply Costs

DOCKET NO. UE—011170

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,  
  
Complainant,

DOCKET NO. UE—011163

v.

PUGET SOUND ENERGY, INC.,  
Respondent.

MOTION TO STRIKE OF PUGET SOUND  
ENERGY, INC.

1. Puget Sound Energy, Inc. ("PSE") hereby moves to strike the "Industrial Customers of Northwest Utilities' Motion to Dismiss" dated September 12, 2001 (the "ICNU Motion") in the above-referenced dockets. PSE's full name and mailing address are:

Puget Sound Energy, Inc.  
P.O. Box 97034

MOTION TO STRIKE OF PUGET SOUND  
ENERGY, INC. - 1

[011163, PSE, Motion to Strike, 9-21-01.DOC]

PERKINS COIE LLP  
One Bellevue  
Center, Suite  
1800  
411 - 108th  
Avenue Northeast  
Bellevue, WA  
98004 - 5584  
(425) 453 -  
6980

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

Bellevue, Washington 98009-9734  
Attn: Steve Secrist  
Director, Rates and Regulation

2. This Motion brings into issue the following rules or statutes: WAC 480-09-120; WAC 480-09-420.

**I. STATEMENT OF FACTS**

3. On September 13, 2001, after a prehearing conference on September 4, 2001, this Commission issued the “Third Supplemental Order; Prehearing Conference Order; Order Setting Schedule; Notice of Prehearing Conference” (the “Scheduling Order”) in the above referenced dockets. The Scheduling Order contained the following deadline for submission of dispositive motions in such dockets:

<u>Deadline for</u>	<u>Date</u>
Joining in the motion or filing a dispositive motion	Wednesday, September 12, 2001

Scheduling Order at 3.

4. As shown on the copy of the cover page of the ICNU Motion attached to this Motion as Attachment A, on September 12, 2001 – the deadline for filing dispositive motions in these proceedings – the Industrial Customers of Northwest Utilities (“ICNU”) faxed a copy of the ICNU Motion to this Commission. However, according to the date stamp shown on Attachment A, hard copies were not received by the WUTC until September 17, 2001.

**II. ARGUMENT**  
**The ICNU Motion Should Be Stricken As Untimely**

5. As discussed above, the Scheduling Order set the deadline for filing a dispositive motion in these proceedings as September 12, 2001. ICNU submitted the ICNU Motion by facsimile on September 12, 2001,

PERKINS COIE LLP  
One Bellevue  
Center, Suite  
1800  
411 - 108th  
Avenue Northeast  
Bellevue, WA  
98004 - 5584  
(425) 453 -  
6980

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

but did not submit hard copies of such motion until September 17, 2001, five days after the deadline for submitting dispositive motions.

6. Under this Commission’s rules of Procedure, facsimile filings are permitted only in certain, limited circumstances:

**WAC 480-09-120 Filing and service filing telefacsimile; number of copies.**

...

(a) When telefacsimile filing is allowed. Receipt in the commission’s telefax machine, or similar device, does not constitute filing except as otherwise allowed in this rule. The following documents may be filed by telefacsimile device when the filing party, except as specifically noted, sends a hard copy postmarked on the day of filing, which is received in the normal course of commerce.

(i) Tariff filings, when a hard copy is filed the next business day, as provided in WAC 480-80-070;

(ii) Form E proof of insurance, when a hard copy is filed within ten days;

(iii) Tariff filings by solid waste companies, auto transportation companies, steamboat companies and motor carriers;

(iv) Proposals to amend commission tariffs, as provided in WAC 480-12-295; and

(v) Other documents, when the commission specifically allows or requires filing by telefacsimile in individual instances, when required for timely consideration or for the commission’s convenience. . .

WAC 480-09-120.

7. On its face, the ICNU Motion is untimely and should be stricken. The ICNU Motion was sent by fax to the Commission on September 12,

PERKINS COIE LLP  
One Bellevue  
Center, Suite  
1800  
411 - 108th  
Avenue Northeast  
Bellevue, WA  
98004 - 5584  
(425) 453 -  
6980

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

2001. Because the ICNU Motion does not meet any of the criteria listed above for filing by fax, and there is no indication that ICNU specifically received Commission permission to file the ICNU Motion by fax, ICNU's faxing of the ICNU Motion on September 12, 2001 "does not constitute filing."

8. The ICNU Motion was therefore filed on September 17, 2001, when hard copies were submitted to the Commission. As such the ICNU Motion was filed after the deadline for submission of dispositive motions and is untimely. The Commission should therefore strike the ICNU Motion.

**III. CONCLUSION**

9. Based upon the foregoing, PSE respectfully requests that the Commission strike the ICNU Motion.

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

**PERKINS COIE LLP**

By \_\_\_\_\_  
Markham A. Quehrn, WSBA #12795  
William R. Maurer, WSBA #25451  
Attorneys for Respondent Puget Sound Energy, Inc.

**PERKINS COIE LLP**  
One Bellevue  
Center, Suite  
1800  
411 - 108th  
Avenue Northeast  
Bellevue, WA  
98004 - 5584  
(425) 453 -  
6980

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, via facsimile and via U.S. mail, postage prepaid to:

Simon ffitc  
Assistant Attorney General  
900 Fourth Avenue  
Suite 2000  
Seattle, WA 98164

Shannon Smith  
Assistant Attorney General  
1400 South Evergreen Park Drive SW  
Olympia, WA 98504-0128

Robert Cedarbaum  
Senior Counsel  
1400 South Evergreen Park Drive SW  
Olympia, WA 98504-0128

Angela L. Olsen  
McGavick Graves, P.S.  
1102 Broadway  
Suite 500  
Tacoma, WA 98402

Bradley Van Cleve  
Davison VanCleve, P.C.  
1000 Southwest Broadway  
Suite 2460  
Portland, OR 97205

Carol S. Arnold  
Preston Gates and Ellis, LLP  
701 Fifth Avenue  
Suite 5000

PERKINS COIE LLP  
One Bellevue  
Center, Suite  
1800  
411 - 108th  
Avenue Northeast  
Bellevue, WA  
98004 - 5584  
(425) 453-  
6980

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100

Seattle, WA 98104

Harvard P. Spigal  
Preston Gates and Ellis, LLP  
222 Southwest Columbia Street  
Suite 1400  
Portland, OR 97201

Thomas W. Kuffel  
Donald Woodworth  
Deputy Prosecuting Attorneys  
516 Third Avenue  
Suite Number 550  
Seattle, WA 98104

John A. Cameron  
Davis Wright Tremaine LLP  
1300 SW Fifth Avenue  
Suite 2300  
Portland, OR 97201

Dated at Bellevue, Washington, this \_\_\_\_\_ day of September, 2001.

\_\_\_\_\_  
Corinne Scowcroft

PERKINS COIE LLP  
One Bellevue  
Center, Suite  
1800  
411 - 108th  
Avenue Northeast  
Bellevue, WA  
98004 - 5584  
(425) 453-  
6980