

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

Docket No. UE-072300

Docket No. UG-072301

(consolidated)

PUGET SOUND ENERGY, INC.'S
RESPONSE TO SEATTLE STEAM'S
MOTION FOR LEAVE TO NOTIFY
SCHEDULE 57 CUSTOMERS OR IN
THE ALTERNATIVE FOR MORE
COMPLETE NOTICE

1 Puget Sound Energy, Inc. ("PSE") respectfully submits to the Washington Utilities and Transportation Commission ("WUTC" or "the Commission") this response opposing Seattle Steam's Motion For Leave to Notify Schedule 57 Customers Or In the Alternative For More Complete Notice, filed March 18, 2008 ("the Motion"). In the Motion Seattle Steam seeks to use confidential customer names and usage information obtained in the course of this proceeding to send letters from Seattle Steam's counsel, Elaine Spencer, to certain PSE customers that take service under Schedule 57. As discussed in more detail below, the proposed solicitation is unnecessary and potentially violates the terms of the Protective Order entered in this case, PSE's privacy policy and WAC 480-90-153. Moreover, based on statements made in the Motion, PSE is concerned that Seattle Steam is not correctly interpreting the workpapers and may provide customers with confusing, misleading, and inaccurate information concerning the proposed gas

PUGET SOUND ENERGY, INC.'S RESPONSE TO
MOTION FOR LEAVE TO NOTIFY SCHEDULE 57
CUSTOMERS - 1
07771-0065/LEGAL14084521.1

Perkins Coie LLP
The PSE Building
10885 N.E. Fourth Street, Suite 700
Bellevue, WA 98004-5579
Phone: 425.635.1400
Fax: 425.635.2400

rate schedule changes and rate increase. The notice PSE has provided, and is providing, to customers regarding the proposed change in gas rate schedules and proposed rate increase complies with the applicable rules and will provide these customers an adequate opportunity to communicate any concerns they may have to the Commission, through the public hearing process. Accordingly, PSE requests that the Motion be denied.

A. The Proposed Letter from Ms. Spencer Violates Confidentiality Requirements

2 The Protective Order entered in this case designates customer names as "Confidential Information."¹ Additionally, it is PSE's policy to treat customer names, addresses, usage information as well as other customer specific data as confidential. This policy is consistent with WAC 480-90-153.

3 Seattle Steam proposes to use the Confidential Information obtained from the confidential workpapers of Janet K. Phelps (i.e., customer names, addresses and usage information) to contact these customers.² Counsel for Seattle Steam signed a confidentiality agreement and agreed to comply with and be bound by the Protective Order.

4 This proposed use of Confidential Information may violate several sections of the Protective Order, including the following:

Persons having access to the Confidential Information pursuant to this Order must request, review, use or disclose Confidential Information only

¹ See *WUTC v. PSE*, Docket Nos. UE-072300 and UG-072301 (Order 02) (Dec. 17, 2007) at ¶3.

² PSE marked the workpapers confidential because they contained the confidential customer information, including customer identity and usage information. PSE filed revised workpapers of Janet K. Phelps on February 13, 2008, and redacted the customer names and addresses that were on the original confidential workpapers. PSE has asked all parties to destroy the original workpapers.

by or to persons authorized under this Order, and only in accordance with the terms specified in this Order. Without limiting the foregoing, persons having access to Confidential Information shall not use any Confidential Information to design, develop, provide, or market any product, service, or business strategy that would compete with any product of the party asserting confidentiality. (Paragraph 6).

The parties must neither distribute copies of documents that include Confidential Information to, nor discuss the contents of confidential documents with, any person not bound by this Order. Persons to whom copies of documents are provided pursuant to this Order warrant by signing the confidentiality agreement that they will exercise all reasonable diligence to maintain the documents consistent with the claim of confidentiality. (Paragraph 10).

5 Additionally, by using Confidential Information in the proposed letter to PSE customers, Seattle Steam may cause PSE to be in violation of WAC 480-90-153, which prohibits the disclosure of customers' names, address and information related to the "quantity, technical configuration, type, destination and amount of use" for the purpose of marketing services. The proposed letter arguably constitutes a solicitation of PSE customers, by Ms. Spencer, in violation of WAC 480-90-153 and the Protective Order.

B. Schedule 57 Customers Have Adequate Notification and Representation

6 PSE has provided, and is providing, complete notice of the proposed rate increases to all its customers, including its Schedule 57 customers, by publicly filing its proposed revised tariffs with the Commission and mailing a description of the proposed rate increase and its impact on each rate class to customers, in bill inserts, during March and April. PSE's notice to customers complies with the applicable rules. *See* WAC 480-90-194, 197; WAC 480-100-194, 197. To require PSE to send out an additional customer specific notice of the impact of the proposed rate increase to each customer would set a bad precedent. It would be burdensome for

PSE to send notices to each customer of the proposed impact of rate increases on that customer, when PSE is already providing the required notice in bill inserts in a manner consistent with the applicable rules.

7 Moreover, PSE provided notification to customers during the course of its gas rate schedule review. PSE conducted this gas schedule review in response to a Commission recommendation for such a review,³ and it was this review that led to the proposal to close Schedule 57 to new customers⁴ and establish new transportation schedules. During the gas schedule review, PSE sent letters to more than 400 customers—including Schedule 57 customers—inviting them to participate in the gas rate schedule review process. PSE held a meeting with customers who accepted that invitation to discuss gas rate schedule issues. PSE also invited parties from previous general rate cases to attend a meeting in which PSE explained the proposed gas rate schedule changes.⁵

8 PSE has provided adequate notice to customers of both the proposed change to rate schedules and the proposed rate increase. Accordingly, it is not necessary for Seattle Steam's counsel to contact these PSE customers, nor is it necessary to send out additional notices to Schedule 57 customers, above and beyond the notices that have already been provided.

³In PSE's last general rate case, the Commission encouraged PSE to conduct a rate schedule review, prior to PSE's next general rate filing, to consider how schedules could be combined or separated to better reflect similar types of usage and cost causation. *See WUTC v. PSE*, Docket Nos. UE-060266 and UG-060267 (Order 08) (January 5, 2007) at ¶143.

⁴PSE has proposed to close Schedule 57 to new customers effective with the final order in this proceeding and to terminate Schedule 57 on December 31, 2012. *See* Prefiled Direct Testimony of Janet K. Phelps, Exhibit No. ___ (JKP-1T) at 5.

⁵*See* Second Exhibit to the Prefiled Direct Testimony of Janet K. Phelps, Exhibit No. ___ (JKP-3).

9 This is not a situation in which Schedule 57 customers are not adequately represented before the Commission. There are three different intervenors representing the interest of at least some of the Schedule 57 customers: Seattle Steam, Nucor Steel, and Northwest Industrial Gas Users ("NWIGU"). Many of the customers Seattle Steam wishes to notify may already be represented in this proceeding by NWIGU.⁶ Moreover, the date for timely intervention in this case has passed.

C. Seattle Steam's Motion Contains Several Assertions that Require Correction or Clarification

10 There are several inaccuracies in the Motion relating to the effects of the proposed rate schedule changes. For example, in paragraph 2 of the Motion Seattle Steam states that "the rates for Puget's largest interruptible transportation customers will increase dramatically, while the rates paid by all the rest of its interruptible transportation customers will be reduced." Seattle Steam appears to define "largest interruptible customers" as those using over one million therms per year. Using this definition, the above statement is not true. There are transportation customers below one million therms per year who are expected to have rate increases, and there are some transportation customers above one million therms per year who are expected to have rate decreases. Also in paragraph 2 of the Motion Seattle Steam states that PSE's workpapers show that PSE assumes that approximately 112 of its current Schedule 57 customers will migrate to a new Schedule 85T. This is incorrect. In its filing in this case PSE assumes 74 customers

⁶ PSE received confirmation from NWIGU that NWIGU represents some Schedule 57 customers. PSE has asked NWIGU to provide a confidential listing of its members. PSE has not yet received this information.

will migrate to Schedule 85T. Further, in paragraph 3 of the Motion Seattle Steam inaccurately states that "Puget is proposing in this proceeding that its largest interruptible transportation customers receive the largest increase of any customers." This also is not true. The 50,000 customers on Schedule 31 will receive, on average, a larger percentage increase than that proposed for the 22 customers that are expected to stay on Schedule 57.

11 Moreover, Seattle Steam's proposal to send out additional customer notice is directed only to the minority of current Schedule 57 customers who may face rate increases. Seattle Steam ignores the majority of current Schedule 57 customers who stand to benefit by PSE's proposed change to the gas rate schedules.

12 Although there are several other inaccuracies contained in the Motion, PSE does not intend to respond to all of them at this time, as they are peripheral to the issue of notice addressed in the Motion. Nevertheless, the inaccuracies contained in the Motion highlight the fact that neither Seattle Steam nor its attorney are the appropriate parties to give PSE customers notice of the proposed rate changes.

13 For the reasons set forth above, PSE requests that the Commission deny the Motion.

Respectfully submitted this 25 day of March 2008.

PERKINS COIE LLP

By 

Sheree Strom Carson, WSBA #25349

Jason Kuzma, WSBA #31830

Attorneys for Puget Sound Energy, Inc.