

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of	)	DOCKETS UE-121697
	)	and UG-121705 (consolidated)
PUGET SOUND ENERGY, INC.,)	
and NORTHWEST ENERGY	)	ORDER 09
COALITION)	
)	
For an Order Authorizing PSE To	)	ORDER GRANTING IN PART AND
Implement Electric and Natural Gas	)	DENYING IN PART PETITIONS
Decoupling Mechanisms and To Record	)	FOR RECONSIDERATION
Accounting Entries Associated With the)	
Mechanisms)	
.....)	
)	
WASHINGTON UTILITIES AND	)	DOCKETS UE-130137
TRANSPORTATION COMMISSION,	)	and UG-130138 (consolidated)
)	
Complainant,	)	ORDER 08
v.)	
)	
PUGET SOUND ENERGY, INC.,	)	ORDER GRANTING IN PART AND
	)	DENYING IN PART PETITIONS
Respondent.	)	FOR RECONSIDERATION
.....)	

MEMORANDUM

I. Background and Procedural History

1 Puget Sound Energy, Inc., (PSE) and the Northwest Energy Coalition (NVEC) filed a petition on October 25, 2012, seeking approval of electric and a natural gas decoupling mechanisms and authority for PSE to record accounting entries associated with the mechanisms. The Washington Utilities and Transportation Commission

(Commission) entered and served in these dockets on June 25, 2013, Order 07, its Final Order granting the Joint Parties' petition.¹

- 2 Although the Commission determined in Order 07 to include most non-residential electric and natural gas customers in the decoupling mechanism, the Commission encouraged the parties to explore alternatives to decoupling for non-residential customers:

The Commission determines that we should not at this time exclude from the decoupling mechanisms non-residential customers other than electric lighting and retail wheeling customers, and gas lighting, gas water heater rentals and special contracts. However, we strongly encourage customers such as Kroger and Nucor Steel, and trade organizations such as ICNU [Industrial Customers of Northwest Utilities] and NWIGU [Northwest Industrial Gas Users], to engage in meaningful dialogue with PSE, Staff and others who take an interest, and with the Commission, to monitor carefully how decoupling is working out in practice. It may be that there are alternatives for some, or all, non-residential customers that are better suited to meeting decoupling's goals than are the current decoupling mechanisms. The Commission remains open to hearing fully supported alternative proposals for fixed cost recovery from the non-residential class of customers, or subsets of the class.²

- 3 On July 5, 2013, Kroger Co., on behalf of its Fred Meyer Stores and Quality Food Centers divisions (Kroger), NWIGU, and Nucor Steel Seattle, Inc. (Nucor Steel), filed their respective petitions for reconsideration. Kroger asks the Commission to

¹ *Petition of Puget Sound Energy, Inc., and Northwest Energy Coalition for an Order Authorizing PSE to Implement Electric and Natural Gas Decoupling Mechanisms*, Dockets UE-121697 and UG-121705 (consolidated) and *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-130137 and UG-137138 (consolidated), Order 07 - Final Order Granting Petition and Final Order Authorizing Rates (June 25, 2013). We refer to Dockets UE-121697 and UG-121705 (consolidated) as the "Decoupling Dockets" and to Dockets UE-130137 and UG-137138 (consolidated) as the ERF (Expedited Rate Filing) Dockets.

² Order 07 ¶129.

reconsider its decision in Order 07 to include larger non-residential electric customers in the revenue decoupling mechanism and its decision not to reduce PSE's return on equity to reflect the reduction in risk attributable to the adoption of revenue decoupling. NWIGU urges the Commission to reconsider Order 07 so that it can address on the merits whether the Decoupling Mechanism should apply to non-residential customers that take service under PSE's Tariff Schedules 85, 85T, 87 and 87T. Nucor Steel also requests that the Commission reconsider Order 07 with respect to its decisions to include Schedules 85, 85T, 87, and 87T in the revenue decoupling mechanism, and not to reduce PSE's return on equity to reflect the reduction in risk attributable to the adoption of revenue decoupling.

4 The Commission issued a Notice of Procedural Conference on July 12, 2013. In its notice the Commission stated that:

The pending petitions for reconsideration open the possibility that [the] "meaningful dialogue" [discussed in Order 07] might occur sooner, rather than later, possibly leading to an alternative approach, or alternative approaches, for some, or all, non-residential customers that are better suited to meeting decoupling's goals than are the current decoupling mechanisms. The Commission wishes to discuss with the parties on the record whether it should, and how it might best procedurally, facilitate such efforts. The Commission will convene a procedural conference for this purpose.

5 The Commission convened the procedural conference on July 15, 2013, and established a schedule to provide an opportunity for the parties to conduct collaborative sessions to explore alternative approaches to achieving the underlying goals and purposes of decoupling for the non-residential classes of customers, or subsets of the non-residential classes. The parties met in person and telephonically to discuss these matters on August 5, August 19, September 30, October 7, October 14, and October 17, 2013. In addition to these scheduled meetings, the parties

corresponded informally by email, telephone calls, and face-to-face meetings to further discuss alternative approaches.³

6 As a result of these collaborations, all parties except Public Counsel and ICNU, reached agreements on alternative approaches to achieving the underlying goals and purposes of decoupling that they propose as means to resolve the pending petitions for reconsideration. On November 1, 2013, PSE, NWEC, and the Commission's regulatory staff (Staff), joined by Kroger, NWIGU and Nucor Steel filed two joint responses, one to each of the pending petitions for reconsideration. Albeit styled as a Joint Response[s] to Petition[s] for Reconsideration, the two filings are in the nature of multiparty settlement agreements. The proposed settlements were accompanied by prefiled testimony and exhibits.⁴

7 On November 8, 2013, Public Counsel and ICNU filed separate Comments concerning the proposed settlements. Albeit somewhat equivocal, we take these Comments as arguments opposing our approval and adoption of the respective Joint Parties' proposals. Public Counsel states that it "was not able to reach agreement with the Joint Parties on the proposals set forth in the Joint Responses" and "cannot support the proposed alternatives to decoupling for certain non-residential customers at this time."⁵

8 ICNU states:

While ICNU does not object to the customers referenced in the Gas and Electric Joint Responses being exempted from decoupling, or provided with a modified decoupling mechanism, ICNU does object that such exemptions and modifications apply to only those customers.⁶

³ Joint Response to Petitions for Reconsideration Filed by Northwest Industrial Gas Users and Nucor Steel Seattle, Inc. ¶ 6; Joint Response to Petition for Reconsideration Filed by the Kroger Company ¶ 6.

⁴ The Commission reopened the record in Order 08 to receive these filings.

⁵ Public Counsel Comments ¶ 14.

⁶ ICNU Comments ¶ 1.

9 ICNU elaborates on this in the conclusion to its Comments, saying that:

[I]f the Commission accepts the Gas and Electric Joint Responses, it should also exempt industrial electric customers on Schedules 40 and 49 from the current decoupling mechanism in order to further incentivize collaboration in developing an alternative proposal. Alternatively, the Commission should reject the Gas and Electric Joint Responses and consider a more comprehensive approach that includes industrial electric customers in an alternative decoupling mechanism.⁷

The parties joining in the electric and the natural gas settlements (collectively “Joint Parties”) filed a Reply to the comments from Public Counsel and ICNU on November 15, 2013. ICNU filed for leave to file a Response to the Reply, accompanied by its proposed Response, on November 20, 2013. We consider all of these filings in our discussion below.

10 The Commission reopened the record in the Decoupling Dockets on its own motion, on November 22, 2013, to receive the Joint Responses along with the prefiled testimony and exhibits that accompanied the respective filings.⁸ In addition, the Commission received into the record the Comments filed by Public Counsel and INCU, the Reply filed by the Joint Parties, and ICNU’s Response to the Reply. The Commission determined preliminarily that it could enter an Order disposing of the pending petitions for reconsideration, considering both the two proposals by which the Joint Parties would resolve them and the opposition to these proposals, on the basis of the papers filed. The Commission made its determination known to the parties in its order reopening the record subject to the caveat that it might, in response to a motion from a party or on its own motion, subsequently determine that additional process would be necessary for full disclosure of all relevant facts and issues.⁹ No party filed a motion seeking additional process and the Commission did not elect to

⁷ ICNU Comments ¶ 23.

⁸ The Commission deemed it unnecessary to reopen the ERF Dockets because the parties offered no new evidence or argument concerning return on equity or other issues resolved in Order 07 that implicate the ERF Dockets.

⁹ See RCW 34.05.449(2).

order such process on its own motion. The Petitions for Reconsideration accordingly are decided in this Order on the basis of the papers filed.

II. Petitions for Reconsideration and Joint Responses

A. Kroger (Electric Decoupling)

11 On July 5, 2013, Kroger filed a petition for reconsideration of Order 07. Kroger requested that the Commission reconsider its decision to make Rate Schedules 26 and 31 subject to decoupling because, according to Kroger: “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.”¹⁰ Kroger also asked the Commission to reconsider its decision not to reduce PSE’s return on equity.

12 Following negotiations encouraged by the Commission, Kroger, PSE, NWECA, and Staff (Joint Parties-Electric) arrived at an agreed position that they filed with the Commission on November 1, 2013, the date set for responses to Kroger’s Petition for Reconsideration. These parties filed a Joint Response proposing that the Commission grant Kroger’s petition by approving changes in rate design and an alternative decoupling mechanism for PSE’s electric customers who take service under General Service Rate Schedules 26 and 31.¹¹

¹⁰ See Kroger Petition for Reconsideration at 1. Schedule 26 applies to General Service customers with demand for Secondary Voltage greater than 350kW. Schedule 31 applies to General Service Primary Voltage customers. The parties also discussed possible alternatives to decoupling for Schedule 40, but no agreement on Schedule 40 was reached. The Joint Parties anticipate, however, that Schedule 40 will be discussed in upcoming collaboratives. Joint Response-Electric ¶ 7 (citing Docket UE-111048, Electric Settlement Agreement, ¶15 and Docket UE-130617, Order 6 ¶19.) We note that Staff has urged a broader discussion of Schedule 40 since at least December 2011.

¹¹ PSE’s other non-residential electric rate schedules include: General Service, Secondary Voltage with less than 350kW demand (Schedules 24 and 25); Schools (Schedule 43); Campus Rate (Schedule 40); Firm and Interruptible High Voltage Customers (Schedules 46 and 49); Irrigation Primary and Secondary Voltage (Schedules 29 and 35); Lighting (Schedules 50-59); and Choice/ Retail Wheeling (Schedules 448/449). Lighting and Choice/Retail Wheeling Customers are not subject to decoupling.

13 Kroger also agrees to drop its request for reconsideration with respect to the return on equity issue, if the Commission approves the alternative decoupling proposal.

1. The Joint Parties-Electric Proposal

14 The Joint Parties - Electric propose that, effective January 1, 2014, Schedules 26 and 31 will be moved into two new rate groups within the existing electric decoupling mechanism that now includes only two groups: Residential and Non-Residential. Schedules 26 and 31 rates will be redesigned and a modified decoupling mechanism will apply to these schedules.

15 Providing background, the Joint Parties-Electric testify that the decoupling mechanism approved in Order 07 establishes a revenue-per-customer amount that is to be recovered by PSE for delivery service.¹² The current mechanism is implemented for non-residential customers, by examining changes in kilowatt-hour usage per customer. If kilowatt-hour usage per customer decreases, delivery service revenues decrease, and an upward rate adjustment is made to compensate. Conversely, if kilowatt-hour usage per customer increases, delivery service revenues increase, and a downward rate adjustment is made to compensate.¹³

16 The Joint Parties-Electric proposal modifies the decoupling mechanism for Schedules 26 and 31 by determining the decoupling adjustment based on observed changes in billing demand per customer for Schedule 26 and 31 rather than changes in kilowatt-hour usage per customer.¹⁴ The rationale for this is the belief held by Kroger and others that it is preferable with respect to Schedule 26 and 31 customers for the decoupling adjustment to be derived using changes in demand usage rather than energy usage because the former is less variable than the latter. Consequently, a decoupling adjustment that is calculated based on observed changes in billing demand

¹² Exh. JPE-1T at 3:11-19.

¹³ *Id.*

¹⁴ *Id.* at 3:20-4:1.

per customer is likely to be less variable than a decoupling adjustment calculated based on observed changes in kilowatt usage per customer.¹⁵

- 17 To implement the alternative decoupling mechanism structured around demand charges rather than energy charges, it is necessary to change the rate design for these two schedules. Schedule 26 and 31 demand charges are increased, while their respective energy charges are reduced in a manner that is revenue-neutral both to PSE and to each of the two rate schedules.¹⁶ This allows PSE to fully recover its delivery service costs for Schedules 26 and 31 through the basic charge and demand charges, with decoupling adjustments as previously described and discussed further below.¹⁷
- 18 Each of the Joint Parties-Electric offers its view of why their proposal is in the public interest. PSE states that the proposal better aligns rate design with the underlying cost of service for electric Schedules 26 and 31.¹⁸ The proposal also satisfies PSE's interest by providing a promising alternative approach to decoupling for its non-residential electric customers.¹⁹ PSE explains that while some take the view that a company's throughput incentive relates only to fixed cost recovery through energy charges this incentive may also be present for demand charges. PSE says that the decoupling proposal for electric Schedules 26 and 31 addresses both sides of this debate. "If the proposal is ultimately successful in addressing both the utility's and customers' sides of this issue, it could lead to greater customer acceptance of this approach and serve as a model for decoupling other PSE non-residential electric rate classes."²⁰

¹⁵ *Id.* at 4:3-8.

¹⁶ Schedule 26 and 31 customers with higher load factors will experience modest bill reductions, while those with lower load factors will see modest increases. The parties represent that this is a compromise among the various interests that need to be addressed in rate design and that the proposed rate design is a compromise that is the product of give and take among the Joint Parties. Exh. JPE-1T at 5:15-20.

¹⁷ *Id.* at 4:9-15.

¹⁸ *Id.* at 11:6-8.

¹⁹ *Id.* at 11:20-12:19.

²⁰ *Id.* at 12:1-16.

- 19 More broadly, the Joint Parties-Electric proposal satisfies PSE's interests in helping ensure the continued viability of decoupling. PSE sees decoupling as the best model to address its fixed cost recovery challenges in the foreseeable future. By addressing the concerns of at least some of its non-residential electric customers, this proposal improves the chances for a sustainable solution to PSE's long-standing challenges with conservation-related lost margin.²¹
- 20 Among the reasons Staff finds the Joint Parties-Electric proposal in the public interest is that by shifting the operation of decoupling from rates tied to consumption to demand rates, the large commercial customers are given an incentive not only to conserve energy (kilowatt-hours), but to manage peak use as well.²² "The added incentive to reduce demand by the commercial customer will benefit all customers by reducing the need for peaking resources."²³ At the same time, the demand rate will include additional fixed costs and, in tandem with the basic customer charge, will protect PSE in terms of full recovery of its fixed costs.
- 21 Improved price signals are another benefit Staff sees in the alternative rate design and decoupling proposal. This will give customers an incentive to invest in energy-saving measures and demand control measures, including distributed generation.²⁴
- 22 Kroger testifies that the Joint Parties-Electric proposal is in the public interest because it will improve the rate design for Schedules 26 and 31 by more closely aligning fixed costs with demand-related charges while reducing energy charges in a way that is revenue-neutral.²⁵ In addition, in Kroger's view, a decoupling adjustment tied to energy demand rather than energy use should result in less variability in the decoupling adjustment, which improves the mechanism for customers such as Kroger.²⁶

²¹ *Id.* at 11:10-19.

²² *Id.* at 13:3-11.

²³ *Id.* at 13:13-14.

²⁴ *Id.* at 13:18-14:2.

²⁵ *Id.* at 14:20-15:2.

²⁶ *Id.* at 15:6-12.

- 23 NWEAC supports the Joint Parties-Electric proposal because it preserves the goal of removing PSE's throughput incentive, thereby eliminating the Company's disincentive to aggressively pursue additional energy efficiency.²⁷ In addition, the proposal improves on the current decoupling mechanism by ensuring the support of customers in schedules 26 and 31 for decoupling and a broader base of support for decoupling is desirable.²⁸
- 24 While NWEAC expresses concern that shifting fixed costs to demand charges from energy charges reduces customer incentives to conserve, NWEAC believes the reduction is modest enough that there still will be an incentive for these customers to invest in energy efficiency. In NWEAC's opinion, "the disadvantage posed by the change in rate design is outweighed by the benefit of garnering a broader base of support for the decoupling mechanism."²⁹ Moreover, NWEAC says, the parties' agreement to study this question in the evaluation of the decoupling mechanism will provide the parties and the Commission with additional information that may be relevant to future decisions.³⁰
- 25 We describe in more detail below the proposed changes to rate design and modifications to the decoupling mechanism as applied to Schedule 26 and 31 customers.
- a. Redesigned Rates**
- 26 The Joint Parties-Electric propose to change the rates charged for service under Schedule 26 and 31 as follows:
- For each schedule, energy charges will be set to recover 100 percent of the energy-related portion of each schedule's allocated Power Cost Adjustment (PCA) mechanism costs, as reflected in pages 51 and 53 of PSE's compliance Schedule 141 electric rate spread and rate design work papers, plus 50 percent

²⁷ *Id.* at 15:15-18.

²⁸ *Id.* at 15:19-22.

²⁹ *Id.* at 16:4-8.

³⁰ *Id.* at 16:8-12.

of the difference between these costs and energy revenue that would be recovered at existing base rates.³¹

- For each schedule, the difference in revenue resulting from the change in energy charges is then added to the existing seasonal demand charges in proportion to the revenues derived from demand charges in each season.
- For each schedule, the energy charges within Schedule 141 are eliminated and the resulting difference in revenue is then added to the existing seasonal demand charges within Schedule 141 in proportion to the revenues derived from Schedule 141 demand charges in each season.

b. Decoupling Mechanism

27 Schedules 26 and 31 of PSE electric tariff are moved into two new rate groups within the existing electric decoupling mechanism. Schedules 26 and 31 remain subject to the rate plan increases each year. The basic elements of the alternative decoupling proposal for Schedules 26 and 31 mirror those for other non-residential customers within the existing electric decoupling mechanism with the following changes:

- Allowed Delivery Revenue per Customer is calculated separately for customers served under Schedules 26 and 31.
- Allowed Volumetric Delivery Revenue per Customer for each schedule is shaped across months to calculate Monthly Allowed Delivery Revenue per Customer using the projected monthly delivery charge revenue for each schedule in 2014.
- Monthly delivery charge revenue is derived from billed demands, as currently defined within each schedule, multiplied by a Delivery Revenue per Unit calculated as a demand charge.
- Deferrals are calculated and trued-up separately for each rate schedule.
- The Delivery Revenue per Unit for each schedule is calculated using the ratio of each schedule's Expedited Rate Filing (ERF)-related demand charge

³¹ The current volumetric rates include some fixed costs from the underlying cost-of-service study. The alternative plan moves one-half of these fixed costs into the demand rates leaving the other one-half still in the volumetric rate. Schedule 141 includes the tariff sheets that establish the baseline rates for decoupling, following Commission approval of the ERF Dockets.

revenue in each season divided by the test period billing demand in that season. As with the current calculation of the Delivery Revenue per Unit, under this proposal it will also include the then-current rate adjustments under Schedule 142.³²

- The calculation of Schedule 142 rate adjustments for each schedule will mirror the existing calculations, except that: (1) energy usage and energy charges are replaced with billed demands and demand charges and (2) the initial Schedule 142 rates will be calculated using PSE's current F2013 load forecast.
- Deferrals incurred through December 31, 2013 will be allocated between customers served under Schedules 26 and 31, and all other non-residential electric customers remaining in the decoupling mechanism on the basis of the relative "margin revenue".
- If the decoupling mechanism's Earnings Test results in a customer credit of "over-earning" by PSE in 2013, the customer credit will be allocated between customers subject to the electric decoupling mechanism in the same manner as the allocation of deferrals incurred through December 31, 2013.

c. Prospective Evaluation of Alternative Decoupling Mechanism

28 Some concern remains among the Joint Parties-Electric that moving additional fixed costs to demand rates will dampen conservation efforts by Schedule 26 and 31 customers. Public Counsel comments on this concern, positing that any decoupling mechanism or alternative to decoupling should advance the goal of encouraging utility conservation. Yet, Public Counsel says, "[i]t is not clear that the alternative to decoupling for Schedules 26 and 31 adequately achieves this goal."³³

29 The Joint Parties - Electric propose in this connection that the evaluation of the decoupling mechanism provided for in the original PSE/NW EC joint proposal be modified to include an examination of whether and how the change to rate design for

³² Schedule 142 includes the tariff sheets implementing the Revenue Decoupling Adjustment Mechanism.

³³ Public Counsel Comments ¶ 11.

Schedule 26 and 31 affects conservation achievement by these customers.³⁴ The evaluation will examine whether there is conclusive evidence that the change had an appreciable effect on customers' energy efficiency achievements, including but not limited to achievements made through customer participation in PSE's energy efficiency programs.³⁵ Public Counsel acknowledges this aspect of the Joint Parties-Electric proposal, but is concerned that that "this examination would only offer a possible remedy to this issue after the expiration of the rate plan, which is at least two years in the future."³⁶

30 The Joint Parties respond to Public Counsel's concern that while their proposed evaluation will most likely definitively resolve this question two years from now, there are facts evident now that suggest Schedule 26 and 31 customers will continue to have significant incentives to conserve. Based on the cost-of-service analysis presented by PSE in its last general rate case, for example, Schedule 26 and 31 customers currently pay rates that are 103 percent to 104 percent of cost of service.³⁷ The proposed rate design change will not change the revenue requirement for these rate schedules. Thus, rates that are above parity will continue to provide a price incentive for these customers to conserve.³⁸ The Joint Parties state additionally that, while their proposal for Schedules 26 and 31 shifts recovery of costs from energy charges to demand charges, "approximately 70 percent of revenue from Schedules 26 and 31 will continue to be recovered through volumetric charges" providing "ample incentive for customers to conserve."³⁹

2. Effect on Other Non-Residential Electric Rate Schedules

31 Removal of Schedules 26 and 31 from the non-residential group within the existing electric decoupling mechanism means for customers who remain subject to the

³⁴ Joint Response to Petition for Reconsideration Filed by the Kroger Company ¶ 11; *see also* Exh. No. JPE-1T at 6:19-7:5.

³⁵ *Id.*

³⁶ Public Counsel Comments ¶ 11.

³⁷ Reply of Electric and Gas Joint Parties to ICNU and Public Counsel Comments ¶ 20.

³⁸ *Id.*

³⁹ *Id.* ¶ 21.

original mechanism that the Delivery Revenue Per Unit, used to calculate volumetric revenue, and the Monthly Allowed Delivery Revenue Per Customer, used to calculate allowed revenue under the existing decoupling mechanism, will be recalculated effective January 1, 2014. The current Schedule 142 rates for the remaining non-residential electric schedules will be in effect until the next rate year, beginning May 1, 2014.

- 32 Under the Joint Parties' proposal, the other non-residential electric schedules in the decoupling mechanism are projected to experience rate increases of 1.29% in 2014. This compares to the projected rate increase of 1.22% currently forecast for the non-residential class in 2014 if Schedules 26 and 31 remain in the decoupling mechanism.⁴⁰ This is because other non-residential customers, taken separately, are forecast to produce a larger fixed cost recovery shortfall (in percentage terms) than customers in Schedules 26 and 31. The current decoupling mechanism commingles any fixed cost recovery shortfall across all non-residential customers. The result is that Schedule 26 and 31 customers cross-subsidize other non-residential customers under the current mechanism.
- 33 When Schedule 26 and 31 customers are removed from the non-residential group within the decoupling mechanism, the other non-residential customers no longer benefit from the smaller percentage shortfall forecast for the Schedule 26 and 31 customers. They become responsible for their own relatively higher projected shortfall in fixed cost recovery. Thus, the modestly higher rate increase that remaining non-residential customers will experience results from the unwinding of cost shifting that is inherent between schedules that apply to customers with disparate growth rates.

B. Nucor Steel and NWIGU (Natural Gas Decoupling)

⁴⁰ Public Counsel comments that at the time of PSE's compliance filing on June 26, 2013, the Company projected a .62 percent increase for non-residential customers in 2014, later corrected to .82 percent. The 1.22 percent increase used as a benchmark in the Joint Parties - Electric proposal is an updated figure as of the time the proposal was filed, as is the 1.29 percent increase projection if the Commission approves their proposal. In other words, the "apples-to-apples" comparison is as stated by the Joint Parties - Electric.

- 34 On July 5, 2013, Nucor Steel and NWIGU each filed a petition for reconsideration of Order 07.⁴¹ Both NWIGU and Nucor Steel requested the Commission to reconsider its decision to include PSE's natural gas tariff Schedules 85, 85T, 87 and 87T in the revenue decoupling mechanisms. Nucor Steel also asked the Commission to reconsider its decision not to reduce PSE's return on equity.
- 35 Following the Commission's guidance in Order 07, Nucor Steel and NWIGU entered into negotiations with the other parties and arrived at an agreed position with PSE, NWECA, and Staff (Joint Parties-Gas) that they filed with the Commission on November 1, 2013, the date set for responses to their respective Petitions for Reconsideration. These parties filed a Joint Response proposing that the Commission grant the Nucor Steel and NWIGU petitions to the extent of removing from the decoupling mechanism PSE's industrial natural gas customers who take service under Schedules 85, 85T, 87 and 87T. These are nonresidential, interruptible sales and transportation customers that annually use between 150,000 and 1,000,000 therms (Schedules 85 and 85T) or over 1,000,000 therms (Schedules 87 and 87T).⁴²
- 36 Nucor Steel also agrees to drop its request for reconsideration with respect to the return on equity reduction issue if the Commission approves the proposal by the Joint Parties-Gas.

1. The Joint Parties-Gas Proposal

- 37 The Joint Parties-Gas proposal is fundamentally different than the Joint Parties-Electric proposal. It was first presented as an amendment negotiated by NWIGU to the "Multiparty Settlement Re: Coal Transition Power Purchase Agreement and Other Pending Dockets" (Multiparty Settlement) filed by PSE, NWECA and Staff in which they proposed to resolve the Decoupling and ERF Dockets, and an unrelated docket in which NWIGU had no interest. The essence of the amendment was that Schedule 85, 85T, 87 and 87T customers would not be subject to decoupling, but would be subject

⁴¹ NWIGU's petition is limited to the decoupling issues. Nucor Steel's petition concerns both decoupling and the ERF issues related to return on equity.

⁴² PSE's other non-residential natural gas schedules are: 31, 31T, 41 and 41T – Commercial and Industrial; 86 and 86T - Limited interruptible service for boilers, gas engines, or schools; 61 - Special Contracts; 71 and 72 - Water Heater Rentals; and 74 - Gas Conversion Burner.

to the Rate Plan as ultimately approved in Order 07. The *quid pro quo* for PSE, NWEC and Staff was NWIGU's support for the Multiparty Settlement.

- 38 The Commission rejected the Multiparty Settlement. The amendment negotiated by NWIGU that would have excluded industrial gas customers from PSE's decoupling mechanism was rejected along with the Multiparty Settlement. The amendment, however, was not a factor in the Commission's decision to reject the settlement, but rather a consequence of that decision.
- 39 According to the Joint Parties-Gas joint testimony relating this history, their proposal here is closely similar to the earlier amendment to the Multiparty Settlement:

The only material changes to the original proposal relate to how to transition these gas customers out of the existing gas decoupling mechanism and what effect this will have on the non-residential gas customers that remain in the mechanism.⁴³

One additional change is that the Joint Parties-Gas proposal would become effective January 1, 2014.

- 40 As generally understood, the principal goals of decoupling are to ensure an adequate opportunity for the utility to recover its fixed costs, hence removing the utility's "throughput incentive" when conservation efforts are likely to result in under recovery of such costs. Or, as previously expressed by the Commission, the purpose of decoupling is to "remove any financial disincentive to conservation in a fair and balanced manner."⁴⁴
- 41 The Joint Parties-Gas respond directly to the Commission's observation in Order 07 that there may be "alternatives for some, or all, non-residential customers that are better suited to meeting decoupling's goals than are the current decoupling mechanisms" and the related suggestions that parties should meet to discuss the

⁴³ Exh. No. JPG-1T at 4:15-17.

⁴⁴ *WUTC V. Puget Sound Energy*, Dockets UE-111048, UG-111049, Order 08 ¶ 455 (May 7, 2012).

prospects for such alternatives. They negotiated and agreed again that industrial gas customers should not be subject to decoupling, but should remain subject to the Rate Plan approved in conjunction with it.⁴⁵ The rationale for excluding the industrial gas companies from the decoupling mechanism remains the same as originally advanced in connection with the amendment to the Multiparty Settlement. Testimony in the record of this proceeding establishes that any throughput incentive for gas industrial customers is modest⁴⁶ and that these customers contribute little to PSE's non-fuel cost recovery.⁴⁷

42 Each of the Joint Parties-Gas offers its view of why their proposal is in the public interest. PSE states that the current rate design for gas industrial customers on Schedules 85, 85T, 87 and 87T addresses the underlying goals and purposes of decoupling making it unnecessary to include these rate schedules in decoupling mechanisms.⁴⁸ Moreover, inclusion of these customers in the rate plan ensures that they contribute fairly to the Company's increasing gas distribution costs.⁴⁹

43 Staff also is satisfied that PSE already recovers the fixed costs allocated or assigned directly to customers under Schedules 85, 85T, 87 and 87T through the existing rate design.⁵⁰ NWIGU testifies similarly that "Schedules 85, 85T, 87 and 87T already recover the vast majority of fixed costs from [the industrial gas] customers, and therefore, decoupling is unnecessary."⁵¹ NWIGU testifies, in addition, that there is no throughput incentive for industrial gas transportation customers because they purchase their own gas and

⁴⁵ The 2.2 percent annual Rate Plan increases will apply to these customers' basic charges, all blocks of the delivery charges, and the gas procurement charges under these schedules. However, the annual adjustment factor will not apply to gas industrial customers' demand charge, and the resulting loss in revenue of approximately \$300,000 will not be reallocated to other customers. Exh. No. JPG-1T at 5:19-6:2.

⁴⁶ Piliaris, Exh. No. JAP-24T at 15:10-12.

⁴⁷ Cavanagh, Exh. No. RCC-4T.

⁴⁸ Exh. No. JPG-1T at 9:2-5.

⁴⁹ *Id.* at 9:5-7.

⁵⁰ *Id.* at 9:15-17.

⁵¹ *Id.* at 10:12-15.

company-sponsored conservation programs for non-transportation gas customers are unique and cannot be evaluated in the same way that conservation programs for other customer classes can be evaluated. Industrial customers' demands for gas, for example, are more closely tied to swings in the economy than they are to conservation programs.⁵²

44 Nucor Steel agrees with the other Joint Parties-Gas that “[t]he current rate designs for Schedules 85, 85T, 87 and 87T do not contribute to the fixed-cost recovery concerns that decoupling is intended to address.”⁵³ Nucor testifies also that a large subset of the industrial gas customers, those taking service under Schedules 85T and 87T, are not eligible to participate in PSE’s energy efficiency programs and therefore have no impact on the Company’s support for such programs.⁵⁴

45 Finally, NWECC joins PSE in supporting the Joint Parties-Gas proposal because it honors the earlier commitment by the organization to support the amendment to the Multiparty Settlement negotiated with NWIGU. In addition, NWECC does not believe removing the industrial gas customers from decoupling undercuts the primary objective of decoupling to remove PSE’s throughput incentive. “Moreover, the settlement is in the Coalition’s interests because it reduces opposition to the decoupling mechanism from at least some of PSE’s customers.”⁵⁵

46 We describe and discuss in more detail below the proposal by the Joint Parties-Gas.

a. Elements Preserved from Original Proposal

47 Consistent with the original proposal, Schedules 85, 85T, 87 and 87T of PSE’s natural gas tariff will be removed from the decoupling mechanism and instead these rate schedules will be treated consistently with “rate plan customers.” This means that:

⁵² *Id.* at 10:17-11:3.

⁵³ *Id.* at 11:9-11.

⁵⁴ *Id.* at 11:11-16.

⁵⁵ *Id.* at 11:19-12:4.

- These schedules will be removed from the deferral calculations contained within the decoupling mechanism effective January 1, 2014.
- The basic charge, all blocks of the delivery charge, and the gas procurement charge under these schedules will increase over the levels approved in PSE's ERF at the K-factor for gas service, which is currently 2.2 percent.
- The K-factor increases will not apply to the demand charges under these schedules. The amount not collected from the demand charge will not be reallocated to the volumetric or any other charge.
- The K-factor increases will occur consistently with the timing of such increases for other “rate plan customers,” and the rates charged to these schedules will reflect the initial application of the K-factor in July 1, 2013, as well as the subsequent application on January 1, 2014, with additional applications of the K-factor each January 1 thereafter until the end of the rate plan period.

b. Transition Requirements

48 In terms of transition, it will be necessary to allocate and true-up the decoupling deferral balance through December 31, 2013. The Joint Parties-Gas propose that:

- Deferrals incurred through December 31, 2013 will be allocated between these customers (Schedules 85, 85T, 87 and 87T) and all other non-residential natural gas customers remaining in the decoupling mechanism on the basis of the relative actual revenue used as the basis for calculating these deferrals (i.e., “margin revenue”).
- If the decoupling mechanism’s Earnings Test results in a customer credit of “over-earning” by PSE in 2013, the customer credit will be allocated to the departing customers in the same manner as the allocation of deferrals incurred through December 31, 2013.
- PSE, NWIGU and Nucor will determine an agreed upon approach to surcharging or crediting the portion allocated to the removed schedules. PSE will propose the agreed upon approach for Commission approval concurrent with the filing of new Schedule 142 gas rates for the rate year beginning May 1, 2014.

2. Effect on Other Non-Residential Natural Gas Rate Schedules

- 49 Removal of Schedules 85, 85T, 87 and 87T from the decoupling mechanism will affect the prospective treatment of non-residential gas schedules that remain subject to the decoupling mechanism. Specifically, the Delivery Revenue per Unit, used to calculate volumetric revenue, and the Monthly Allowed Delivery Revenue per Customer, used to calculate allowed revenue, will be recalculated to reflect the removal of Schedules 85, 85T, 87 and 87T customers. These rate components will become effective January 1, 2014. The current Schedule 142 rates for these remaining non-residential gas schedules, however, will continue in effect until the next rate year, beginning May 1, 2014.
- 50 Under the Joint Parties-Gas proposal, the non-residential gas schedules remaining in the decoupling mechanism are projected to experience rate increases of 3.0% in 2014.⁵⁶ This compares to the projected rate increase of 2.25% currently forecasted for the non-residential class in 2014 if Schedules 85, 85T, 87 and 87T remain in the decoupling mechanism. This results because the remaining smaller non-residential gas customers are forecast to produce a larger fixed cost recovery shortfall (in percentage terms) than customers in Schedules 85, 85T, 87 and 87T. The current decoupling mechanism comingles any fixed cost recovery shortfall across all non-residential gas customers. When Schedule 85, 85T, 87, and 87T customers are removed from the decoupling mechanism, the dampening effect of the smaller percentage shortfall forecasted for the Schedule 85, 85T, 87 and 87T customers is removed. The remaining non-residential gas customers will become responsible for their own (projected) shortfall in fixed cost recovery. Thus, the higher rate increase that remaining non-residential gas customers are expected to experience results from the unwinding of cost shifting that occurs under the current decoupling mechanism.

III. Comments by ICNU and Public Counsel

⁵⁶ Public Counsel comments that this understates the impact and that “[t]he actual rate increase forecasted for non-residential customers remaining under decoupling is 3.6 percent.” Public Counsel Comments ¶ 5. It is the “soft-cap” that operates under the approved rate plan that initially limits this increase to 3 percent. The additional revenues will be deferred for future recovery from these customers.

51 ICNU argues that exempting industrial gas customers from the current decoupling mechanism while keeping industrial electric customers subject to the same decoupling mechanism is an unreasonable preference or constitutes rate discrimination, as prohibited under RCW 80.28.090 and 80.28.100, respectively. The Joint Parties rebut this argument with the observation that the concepts of “discrimination” and “unreasonable preference,” as used in these statutes, do not apply across different types of energy service.⁵⁷ That is, there can be no discrimination or preference between customers unless they are similarly situated, which electric and natural gas customers manifestly are not. The Joint Parties point to the general distinctions that:

Natural gas and electric customers buy different products and services and do so pursuant to an entirely distinct set of rates. . . . Natural gas and electric transmission and distribution systems developed entirely separately from one another, with their services and rates set accordingly.⁵⁸

52 The Joint Parties also point out note that:

In addition to the obvious distinction that gas and electric customers buy different products and services, there are other distinctions between Gas Schedules 85, 85T, 87, and 87T and Electric Schedules 40 and 49. The gas schedules are primarily interruptible service, whereas Schedule 40 and 49 are fully firm service. As discussed below, customers in the excluded gas schedules primarily take unbundled service, whereas Schedules 40 and 49 only offer fully bundled service.⁵⁹

Finally, the statutes forbidding undue discrimination or preference concern rates charged to customers. No matter what the Commission does with respect to the rates of gas customers through decoupling, it will have no impact on electric rates.⁶⁰

⁵⁷ Reply of Electric and Gas Joint Parties to Comments of ICNU and Public Counsel ¶ 5.

⁵⁸ *Id.*

⁵⁹ *Id.* at 4 n.9.

⁶⁰ *Id.* ¶ 8.

53 Tacitly acknowledging the absence of any other relevant connection between gas and electric services or customers, ICNU attempts to connect gas and electric customers through decoupling itself: “Industrial gas customers and industrial electric customers are no different from each other with regard to the cost impacts decoupling has on them, as well as with regard to their role in effectuating the ‘underlying purposes and goals of decoupling’.”⁶¹ The cost impacts of decoupling, however, vary as between natural gas service and electric service, and even vary between and within the various rate schedules that apply to the respective services. As to the underlying purposes and goals of decoupling, the record shows that PSE’s recovery of fixed costs under gas Schedules 85 and 87 is already largely assured by rate design so that there is little or no throughput incentive even without decoupling. There is no corresponding showing for the Schedule 40 or 49 electric customers ICNU represents and ICNU does not argue that this is the case for the industrial electric customers.

54 ICNU says that “the ‘service’ that gives rise to discrimination between industrial gas customers and industrial electric customers is not the provision of gas or electricity, but the administering of the decoupling mechanism itself.”⁶² The suggestion that “administering” the decoupling mechanism, or that decoupling itself is a “service” within the meaning of RCW 80.28.090 or 80.28.100, which respectively prohibit undue preferences and undue discrimination, is misplaced.⁶³ The purpose of these statutes is to protect utility customers from paying different rates for electrical or natural gas services than the rates other, similarly situated customers pay when they receive the same, or at least closely comparable, electrical or natural gas services. Decoupling is not a service provided by PSE. Decoupling is a ratemaking tool used to allocate costs the Company incurs when it experiences a shortfall in fixed cost recovery. Ideally, this tool operates to assign cost responsibility in accordance with cost causation.

⁶¹ ICNU Comments ¶ 8.

⁶² Indeed, ICNU expressly clarifies that its arguments do not depend on premises that gas and electric service are the same service or that there are no distinctions between industrial electric customers and Schedule 26 and 31 customers. ICNU Response to Reply of Electric and Gas Joint Parties to ICNU and Public Counsel Comments ¶ 3.

⁶³ See *Willman v. Wash. Utils. & Transp. Comm’n*, 122 Wn. App. 194, 211-12, 93 P.3d 909, 917 (2004), *aff’d*, 154 Wn.2d 801, 117 P.3d 343 (2005) (“[T]he purpose of RCW 80.28.090 . . . is to assure that customers who receive the *same service* pay the same rates.”)

- 55 ICNU argues, in addition, that authorizing rate design changes and an alternative decoupling mechanism for electric Schedules 26 and 31 without exempting Schedule 40 and 49 electric users from decoupling altogether “is not in the public interest and does not result in rates that are just and reasonable because it arbitrarily raises the rates of industrial electric customers.”⁶⁴ ICNU acknowledges, however, that the slightly higher increase in rates that non-residential electric customers that remain part of the current decoupling mechanism will experience if Schedule 26 and 31 customers are subject to an alternative decoupling mechanism results from reduced cross-subsidization within the non-residential electric customer rate group.
- 56 ICNU’s argument on the electric side depends on the same legal premise as on the gas side. That is, even if customers on different rate schedules are not similarly situated, there is undue discrimination or preferences if all customers are not subject to uniform decoupling mechanisms. ICNU ignores the fact that decoupling is not a service provided to customers. It is a rate design tool that helps protect the utility from under recovering its fixed costs. Decoupling can be applied more or less uniformly across rate schedules, as in the case of the decoupling mechanisms the Commission approved in Order 07 that distinguish only between residential and non-residential customers. Alternatively, decoupling can be applied in one fashion to one rate schedule or a set of rate schedules that impact the utility’s ability to recover its fixed costs one way, and in another fashion to rate schedules that have a different impact on fixed cost recovery. ICNU does not dispute that different rate schedules apply to customers having differing characteristics or “the obvious fact that different customers may be treated differently with regard to those differences.”⁶⁵ Nor does ICNU dispute that “distinctions exist between Schedule 26 and 31 customers on the one hand and Schedule 40 and 49 customers on the other.”⁶⁶
- 57 Indeed, ICNU does not even dispute that it makes sense to relieve Schedule 26 and 31 customers from the burden of cross-subsidizing other non-residential customers who

⁶⁴ ICNU Comments ¶ 17.

⁶⁵ ICNU Response to Reply of Electric and Gas Joint Parties to ICNU and Public Counsel Comments ¶ 6.

⁶⁶ *Id.*

contribute more to PSE's fixed cost recovery shortfall than others.⁶⁷ ICNU simply argues that Schedule 40 customers also may provide such subsidies and should be relieved from their burden. What ICNU ignores is that relieving the Schedule 26 and 31 customers from the burden of cross-subsidizing other customers is a result of, not the rationale for, treating them differently. The rationale for a modified decoupling mechanism for the Schedule 26 and 31 customers is the different rate design to which they have agreed. This change in rate design and the related modifications to decoupling satisfy the customers in terms of rate stability and afford PSE additional protection from under recovery of its fixed costs. Schedule 40 and 49 customers, in contrast, have not yet succeeded in advancing a comparable proposal that has gained sufficient support among the parties to be put before us.

58 ICNU also argues that the “customers effectively pay PSE through the decoupling mechanism to increase conservation efforts” and that “these conservation efforts should be viewed as a ‘service rendered’ by PSE to its customers.”⁶⁸ Without really explaining how, ICNU goes on to argue in this connection that adopting the alternative decoupling provision proposed for Schedule 26 and 31 constitutes undue preference for those customers.

59 Again, the Joint Parties reply that this is incorrect. Decoupling adjustments are not a payment for conservation services or, indeed, any service.⁶⁹ Rather decoupling is a ratemaking mechanism that can take the form of either a charge or a credit. This ratemaking mechanism is intended to maintain a targeted level of fixed cost recovery for PSE's delivery service on a per-customer basis. The proposed alternative decoupling mechanism for Schedule 26 and 31 customers would simply subject these customers to an alternative mechanism for calculating targeted revenues per customer.

60 ICNU states that while it does not oppose exempting the industrial gas customers from decoupling, or modifying decoupling for electric customers under Schedules 26 and 31, it does object to exempting these customers from the current decoupling

⁶⁷ *Id.* ¶ 11.

⁶⁸ ICNU Comments ¶ 9.

⁶⁹ Reply of Electric and Gas Joint Parties to ICNU and Public Counsel Comments ¶ 14.

mechanism without also exempting industrial electric customers on Schedules 40 and 49.⁷⁰ ICNU, however, asks us to exempt the Schedule 40 and 49 customers without actually demonstrating that they are similarly situated to the industrial gas customers or offering an alternative means to accomplish the ends of decoupling as in the case of the Schedule 26 and 31 electric customers.⁷¹ ICNU suggests instead that if we simply exempt Schedules 40 and 49 from decoupling, this will provide PSE, and perhaps others, an incentive to pursue further collaboration on alternatives to decoupling.⁷²

- 61 Public Counsel expresses its own concern over the fact that under the proposals now before us not all cross-subsidies are eliminated. Indeed, as Public Counsel argues with respect to both the electric and gas non-residential customers, absent per-class or per-customer decoupling for all non-residential schedules, there will always be some degree of cross-subsidization between one electric or gas schedule and another. Public Counsel argues that “[i]t is inequitable to separate out certain rates schedules from the decoupling mechanism, to the benefit of these individual groups of customers, without treating all rate schedules similarly.”⁷³
- 62 The Joint Parties point out, however, that different rate schedules, in many regards, treat different customers differently. They discuss in detail the example of Schedule 40:

⁷⁰ ICNU Response to Reply of Electric and Gas Joint Parties to ICNU and Public Counsel Comments ¶¶ 1, 2 (citing ICNU Comments ¶ 8).

⁷¹ ICNU participated in the collaborative process that led to the proposals now before us. ICNU says that it “it advanced its own proposal to create an alternative decoupling mechanism for electric Schedule 40 customers, which was similar to the proposal adopted for Schedules 26 and 31, but for reasons that were never articulated, this proposal was rejected.” ICNU Comments ¶ 6. The Joint Parties state this is incorrect and explain that “Commission Staff articulated concerns about proposed alternatives to decoupling for Schedule 40, in part due to a previous settlement agreement in PSE’s 2011 general rate case in which the parties agreed to meet and review Schedule 40. Discussions of alternatives for decoupling for Schedule 40 can still take place in that larger Schedule 40 review.” Reply of Electric and Gas Joint Parties to ICNU and Public Counsel Comments ¶ 4, n.7.

⁷² ICNU Comments ¶ 22.

⁷³ Public Counsel Comments ¶ 8.

Schedule 40 was established pursuant to a settlement agreement that was approved by the Commission in PSE's 2004 general rate case. [T]he Schedule 40 rate structure is very different from that of Schedules 26 and 31. Indeed, the Schedule 40 rates for distribution service (a major component of decoupling-eligible revenues) are uniquely determined for each Schedule 40 customer. Naturally, the modifications to the decoupling mechanism that may be workable for Schedules 26 and 31 are not necessarily applicable to Schedule 40. While a modified approach to decoupling for Schedule 40 may still be reasonable, it has not at this time been achieved through negotiation. The failure to develop a consensus solution for Schedule 40 is not reasonable grounds to stymie the progress the Joint Parties have made in identifying reasonable alternatives for Schedules 26 and 31 (or Gas Schedules 85, 85T, 87, and 87T).⁷⁴

63 Focusing on the Commission's rejection in Order 07 of the large non-residential customers that they be excluded from the decoupling mechanism, Public Counsel argues there is insufficient evidence in the record to support such an outcome here. Public Counsel refers specifically to the Commission's statements in Order 07 that such a proposal "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" and that there was "no such evidence in the current record."⁷⁵ The Commission was referring specifically "to changes in rate design that might better enable PSE to recover its fixed costs."⁷⁶ This argument, then, implicates only the proposal by the Joint Parties-Electric.

64 The Joint Parties reply that with respect to the proposed changes to rate design for Schedules 26 and 31 "the rationale for focusing on rate design and demand charges to meet the objectives of decoupling is fully addressed in the record of this case."⁷⁷ The

⁷⁴ Reply of Electric and Gas Joint Parties to ICNU and Public Counsel Comments ¶ 16.

⁷⁵ Public Counsel Comments ¶ 12 (citing Order 07 ¶ 128)

⁷⁶ Order 07 ¶ 128.

⁷⁷ Reply of Electric and Gas Joint Parties to ICNU and Public Counsel Comments ¶ 22 (citing Exhibit No. JPE-1T 14:11-15:12 and Exhibit No. KCH-1T at 24:10-31).

Commission rejected Kroger’s decoupling recommendations in Order 07, considering the objections of the parties that proposed decoupling in the first place. Since then, the Joint Parties point out, “a more comprehensive discussion has since occurred among the Joint Parties which has allowed them to support a *compromise* that blends some of the elements advocated by Kroger with the fundamental decoupling mechanism approved by the Commission.”⁷⁸ The Joint Parties continue that “the projected impact on other customers is presented in the record, and it is *de minimis*.”⁷⁹ In addition, because there are no cost shifts as a result of the alternative proposal, the same cost-of-service study performed in support of PSE’s most recent general rate case, which supported the adoption of decoupling in the first instance, can be relied on here. The Joint Parties argue that:

To require a new cost-of-service study for the alternative proposal – when there are no cost shifts and a new cost-of-service study was not required for the currently approved decoupling mechanism – would be to require an asymmetric and unreasonable burden of proof.⁸⁰

Finally, the Joint Parties argue, there is no need for the Commission to “protect the Company” with respect to the alternative proposal because the Company helped negotiate it.⁸¹

IV. Discussion and Determinations

65 In Order 07, the Commission observed that:

There undoubtedly is significant heterogeneity in the non-residential customer class. Members of this customer class have different—in some instances vastly different—levels of demand. Some non-residential customers have the capability to react nimbly to changed economic conditions, ratcheting their demand for power or gas up or

⁷⁸ Reply of Electric and Gas Joint Parties to ICNU and Public Counsel Comments ¶ 22.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

down as general market conditions improve or deteriorate. Others have less flexibility. Some customers are more weather sensitive than others. Many non-residential customers undertake their own conservation efforts and are not even eligible to participate in Company conservation programs and initiatives. These factors raise questions about the suitability of decoupling that relies exclusively on average revenue per customer.⁸²

The Commission acknowledged that there may be “alternatives for some, or all, non-residential customers that are better suited to meeting the goals of decoupling than are the current decoupling mechanisms.”⁸³ The Commission also indicated its willingness to remain “open to hearing fully supported alternative proposals for fixed-cost recovery from the non-residential class of customers, or subsets of the class.”⁸⁴

66 The proposals here before us respond directly to the Commission’s concerns and its willingness to address them by considering alternatives:

The Gas and Electric Joint Responses offer a straightforward resolution of the question of whether a one size fits all decoupling plan is appropriate for all large, non-residential PSE gas and electric customers by recommending the adoption of alternative plans for Schedule 85, 85T, 87 and 87T gas customers and Schedule 26 and 31 electric customers.⁸⁵

We express our appreciation for the concerted efforts of all the parties who participated in the collaborative that led to the proposals, which we view as offering helpful refinements to the decoupling mechanism approved in Order 07. It is significant that the collaborative provided the opportunity for meaningful dialogue among the parties, both those ultimately joining in support of the proposals and those opposed.

⁸² *Id.* ¶ 127.

⁸³ Order 07 ¶ 129.

⁸⁴ *Id.*

⁸⁵ Reply of Electric and Gas Joint Parties to ICNU and Public Counsel Comments ¶

- 67 The Joint Parties' testimony and exhibits in support of both proposals, along with evidence in the underlying record, demonstrates the careful consideration given to the proposals and show them to be in the public interest. The proposals also serve to further the Commission's continuing interest in exploring alternatives to traditional ratemaking. While there undoubtedly is some additional administrative burden associated with making changes to the decoupling mechanism approved in Order 07, we have no reason to expect the burden to be more than slight. The benefit of having a wider range of alternatives to evaluate clearly outweighs such increased burden as may occur.
- 68 Although ICNU participated in the collaborative process it was not able to achieve a consensus concerning changes that might be made with respect to Schedules 40 and 49. It appears the reason may be unrelated to the merits of decoupling, but rather the need for a broader discussion of Schedule 40 for other reasons of concern to Staff. If so, we expect that discussion to occur in the very near term.
- 69 At this juncture, however, while it does not otherwise object to the proposals before us, ICNU urges us to disapprove the gas and electric proposals unless we also exempt Schedules 40 and 49 from decoupling. That is, although it is concerned with electric rate schedules, ICNU does not seek relief of the nature proposed by the Joint Parties-Electric for electric Schedules 26 and 31. Instead, ICNU argues that unless it is granted exemption from decoupling, as proposed for certain industrial gas customers taking service under Schedules 85, 85T, 87 and 87T, we should deny both proposals.
- 70 The essence of ICNU's complaint with the proposal for large, non-residential gas customers contained in the Gas Joint Response is that its adoption would unlawfully discriminate and create unreasonable preferences between similarly situated customers. The only similarity between gas and electric customers to which ICNU points, however, is the Commission's determination in Order 07 to apply decoupling uniformly across PSE's non-residential gas and electric customers. ICNU's suggestion that once having effected decoupling in this fashion, the Commission cannot now refine the decoupling mechanism to better reflect differences among customers has no basis in fact or law. Nor is there any good policy rationale for not refining the decoupling mechanism when presented with reasonable alternatives

based on differences among customers that account for them being subject to separate rate schedules, with separate rate designs, in the first place. It is no more discriminatory or preferential to apply decoupling differently to industrial gas customers and industrial electric customers than it is to reflect in their respective rate designs the fundamentally different services provided.

- 71 The same is true within services. Different non-residential customers have different needs for service and these are recognized by the availability of multiple rate schedules that have different rate designs. Where customers are, in fact, similarly situated, their rate designs and rates are the same. We conclude as a matter of law that the effect of approving the two proposals now before us does not give rise to “any undue or unreasonable preference or advantage” as prohibited under RCW 80.28.090. Nor does our approval of these proposals result in any “rate discrimination” between customers for “like or contemporaneous service [provided] under the same or substantially similar circumstances or conditions” as prohibited under RCW 80.28.100.
- 72 As one of its “concerns” with the two proposals, Public Counsel states that it “was a full participant with the Joint Parties in the collaborative process,”⁸⁶ so we are confident these concerns were considered as the proposals were developed over the course of multiple meetings and other communications among the parties. The Joint Parties apparently found insufficient basis in the concerns Public Counsel relates in its comments to consider them barriers to implementation of the proposals as filed with the Commission. Nor do we find sufficient basis in Public Counsel’s concerns to reject, or condition our approval of the proposals. The impacts on other customers who remain subject to the decoupling mechanism approved in Order 07 are modest and, in fact, better align cost causation and responsibility than did the mechanism as initially implemented. Reducing the amount of cross-subsidization that occurred under the mechanism as first approved is a worthwhile accomplishment. The fact that the proposals here do not solve this problem completely does not mean the partial achievement is somehow inequitable.

⁸⁶ Public Counsel Comments ¶ 1.

- 73 We are fairly persuaded by the testimony in support of the proposals that their implementation will not create any disincentive to conservation. The final test of this will come at the time the Commission evaluates decoupling after several years of experience under the Rate Plan approved in Order 07. It is meaningful that the Joint Parties-Electric expressly provided in their proposal for the review of this question.
- 74 Although Public Counsel argues there is insufficient evidence in the record to support the proposals, we disagree. The cost-of-service study underlying PSE's 2012 general rate case supports decoupling as approved in Order 07 and the proposals now before us. We agree with the Joint Parties-Electric that in light of the fact that there are no cost shifts as a result of the proposals, the same cost-of-service study performed in support of PSE's most recent general rate case can be relied on here.⁸⁷ The evidence presented with the Joint Parties' proposals includes assessment of the impact of removing industrial gas customers from decoupling and the impact of establishing an alternative decoupling mechanism for electric companies. The underlying record also includes evidence relevant to our evaluation of these proposals.⁸⁸
- 75 On reconsideration, we now agree with Kroger and Nucor Steel that maintaining a uniform "fixed-cost recovery per customer" target is not an appropriate rate design objective for customer classes that have heterogeneous populations with a wide range of usage levels. In Kroger's case (*i.e.*, the Joint Parties-Electric proposal), we determine that the proposed changes in rate design are a better approach to protect PSE's ability to recover its fixed costs from the large non-residential customers taking service under Schedules 26 and 31 than the approach taken under the current decoupling mechanism. Changes in rate design may also be a better approach for Schedule 40 and 49 customers, as ICNU suggests, but absent a definite proposal we will not order any change for these customers.⁸⁹

⁸⁷ See *supra*. ¶ 44.

⁸⁸ See, *e.g.*, Cavanagh, Exh. No. RCC-4T and Piliaris, Exh. No. JAP-24T.

⁸⁹ See Order 07 ¶ 121. While ICNU was not able to achieve a consensus at this time concerning changes that might be made to the rate designs reflected in Schedules 40 and 49 that would improve upon the *status quo* vis-à-vis the purposes underlying decoupling, we find encouraging the suggestions of the Joint Parties that this opportunity remains open. We specifically urge Staff and ICNU, and other interested stakeholders, to initiate the broader discussion concerning Schedule 40 as contemplated in Dockets UE-111048 and UE-130617. See *supra* at 6 n.8.

- 76 We find that it serves the public interest to approve the Joint Parties-Electric proposed rate design changes and alternative decoupling mechanism for electric rate Schedules 26 and 31, effective January 1, 2014. We conclude on reconsideration that the Commission should reverse its prior determination in Order 07 including these rate schedules in the decoupling mechanism approved in that Order. We conclude in addition that we should authorize and require PSE to file such tariff sheets as are necessary to effect the rate design changes for Schedules 26 and 31 and to implement the alternative decoupling mechanism the Joint Parties-Electric propose. Finally, we conclude that PSE should be authorized and required to file any additional tariff sheets that may require revision in light of our determinations in this Order.
- 77 In the case of Nucor Steel (*i.e.*, the Joint Parties-Gas proposal) we find that it serves the public interest to remove from the current decoupling mechanism Rate Schedules 85, 85T, 87, 87T, under which industrial gas customers receive sales and transportation services from PSE, while leaving them subject to the annual adjustments provided under the Rate Plan approved in Order 07. We conclude in addition that we should authorize and require PSE to file such tariff sheets as are necessary to affect these results, along with any additional tariff sheets that may require revision in light of our determinations in this Order.

ORDER

THE COMMISSION ORDERS THAT:

- 78 (1) The Petition for Reconsideration of the Kroger Co. is granted to the extent it seeks reversal of the Commission's determination that Rate Schedules 26 and 31, under which PSE provides services to commercial and industrial electric customers, will be included in the decoupling mechanism approved in Order 07.
- 79 (2) PSE is authorized and required to file such tariff sheets as are necessary to effect the rate design changes for Schedules 26 and 31, under which PSE provides electric services to commercial and industrial customers under the terms of, and rates specified, in the tariff sheets implementing these Schedules,

and to implement the alternative decoupling mechanism described and discussed in the body of this Order. In addition, PSE is authorized and required to file any additional tariff sheets that may require revision in light of the Commission's determinations in this Order.

- 80 (3) The Northwest Industrial Gas Users' Petition for Reconsideration and the Petition for Reconsideration of Nucor Steel Seattle, Inc. are each granted to the extent they seek reversal of the Commission's determination that Rate Schedules 85, 85T, 87 and 87T, under which PSE provides services to industrial natural gas customers, will be included in the decoupling mechanism approved in Order 07.
- 81 (4) Except as expressly granted in this Order, the pending petitions for reconsideration of Order 07 are denied.
- 82 (5) PSE is authorized and required to file such tariff sheets as are necessary to remove Schedules 85, 85T, 87 and 87T, under which PSE provides services to industrial natural gas customers, subject to the terms of, and rates specified, in the tariff sheets implementing these Schedules.

Dated at Olympia, Washington, and effective December 12, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

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JEFFREY D. GOLTZ, Commissioner