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BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PUGET SOUND ENERGY, INC., Respondent.	DOCKET NOS. UE-011570/UG-011571 (Consolidated) MOTION TO STRIKE OF PUGET SOUND ENERGY, INC.
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1. Puget Sound Energy, Inc. ("PSE" or the "Company") hereby moves to strike portions of the testimony and exhibits as detailed on Attachment A to this Motion. PSE's full name and mailing address are:

Puget Sound Energy, Inc.
P.O. Box 97034
Bellevue, Washington 98009-9734
Attn: Steve Secrist
Director, Rates and Regulation

2. This Motion brings into issue the following rules or statutes: RCW 80.01.040; WAC 480-09-420, WAC 480-09-745, WAC 480-09-750.

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

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I. INTRODUCTION

3. In an interim relief case, the Commission takes a company as it finds it, with the recognition that a broader inquiry into the company’s needs and actions occurs in a different and subsequent regulatory analysis. An interim case presents the question of whether relief is necessary to restore a company’s financial integrity, based upon a consideration of the company’s existing financial condition and short-term financial projections. WUTC v. Washington Water Power Co., Cause No. U-80-13; 1980 Wash. UTC LEXIS 6, at *5-6 (June 2, 1980).

4. An interim case, by necessity, is also an expedited proceeding, with the corresponding demand that the Commission and the parties focus on relevant evidence. It is both burdensome and potentially misleading to undertake an analysis of issues that fall outside the appropriate and narrow scope of an interim proceeding. These issues are appropriately heard at a later time, within the broader scope of regulatory analysis provided by a general rate case.

5. To this end, PSE brings this motion to strike portions of the prefiled testimony and exhibits submitted by Public Counsel section of the Washington Attorney General’s Office (“Public Counsel”, the Industrial Customers of Northwest Utilities (“ICNU”), and the Staff of the Washington Utilities and Transportation Commission (“Staff”), for the reasons set forth below.

II. BACKGROUND

6. This proceeding concerns PSE’s request for interim relief filed with the Commission on December 3, 2001. In that filing, PSE requested that the Commission grant the Company interim relief because PSE meets the standards for such relief set forth in the Commission’s decision in WUTC v. Pacific Northwest Bell Telephone Co., Cause No. U-72-30 (1972).

7. The circumstances giving rise to PSE’s request for interim relief are attributable to events occurring in the wholesale markets, commencing on or about July 2001. The evidence presented by Company in support of its

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

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requests for relief looks to actual financial conditions within this time frame (July 2001 through February 2002) and short-term projections that extend through the end of the interim period (October 31, 2002).

8. On January 30, 2002, Public Counsel, ICNU and Staff submitted testimony responding to PSE’s request for interim relief. Among the issues raised by such rebuttal testimony are:

- The Company’s capital structure, particularly its debt to equity ratio years prior to July 2001;
- The prudence of certain long-term resource contracts entered into by PSE prior to July 2001; and
- Financial decisions and information that relates to the time period prior to July 2001.

9. PSE acknowledges that these may be important issues for the Commission’s consideration. However, they are issues that can and should be considered at a later date, in the broader context of the general rate case. The portions of the testimony and exhibits submitted on these factors should therefore be stricken, and examination of the Company’s witnesses on these matters should not be permitted. Attached to this Motion as Attachment A is a listing of the specific pages and lines of materials submitted by Public Counsel, ICNU and Staff that are irrelevant to the Commission’s consideration of whether interim relief is appropriate.

III. ARGUMENT

A. Portions of Public Counsel, ICNU and Staff Testimony That Addresses Matters Beyond the Company’s Current and Short-Term Financial Projections Should Be Stricken Because They Are Outside the Limited Scope of This Proceeding

10. The Commission has recently affirmed the limited scope of an interim proceeding:

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

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A request for interim relief . . . presents only the opportunity to review a short-term snapshot of the extent of need and to examine whether circumstances allow for a longer-term review or require that we take action immediately.

WUTC v. Olympic Pipe Line Co., Docket No. TO-011472, Third Supplemental Order (January 31, 2002) (hereinafter, “Olympic”).¹

11. In that order, the Commission examined arguments made by two intervenors regarding how Olympic came to be in its current financial state. The intervenors presented arguments on, among other things, the prudence of Olympic’s expenditures, the financial condition of the company’s shareholders and creditors, and the company’s capital structure.

12. In considering Olympic’s request, the Commission rejected the intervenors’ invitation to examine these factors, holding that such issues were appropriate for analysis in Olympic’s ongoing general rate case:

We state the arguments not to resolve them but to acknowledge them, and to reiterate our expectation that the record in the general rate case will be sufficient to identify whether any of the questions have bearing on the appropriate regulatory result and, if so, to resolve them.

Olympic at 9; see also, id. at ¶ 35 (“Issues of whether the Commission will accept the actual structure or any of various hypothetical capital structures for purposes of setting long-term rates, and whether the Commission will require the owners to commit to changing the Company’s capital structure, are matters that can be addressed during the general rate proceeding. For purposes of

¹ PSE recognizes that in the Olympic decision, the Commission found that that company’s situation was “so different from past proceedings and so different from the combination of circumstances that we can reasonably anticipate in the future that we caution against the use of elements of this decision as a model for future decisions.” Olympic at 4. However, this caution appears to apply to the rather unusual financial circumstances facing that company and not to the general discussion of the nature of interim relief or interim proceedings contained in that order.

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

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the interim, we focus on the debt component, as it represents the reality that the Company faces today.”).

13. Similarly, in the case now before the Commission, ICNU and Staff present the Commission with arguments regarding the prudence of PSE’s activities in the natural gas market, its capital structure, and its previous financial condition. These arguments are simply not part of the Commission’s analysis in determining interim rates. See In re Avista Corp., Docket No. UE-010395, Sixth Supplemental Order, at 9 (Sept. 24, 2001) (“In this phase of the proceedings, the Commission will not determine the prudence of Avista’s power costs or make determinations regarding substantive issues that may be raised in subsequent proceedings concerning the appropriate treatment of such costs for rate and accounting purposes.”). Rather, in an interim proceeding, the Commission looks at whether PSE has a short-term need for interim relief, applying the factors for interim relief set out in WUTC v. Pacific Northwest Bell Telephone Co., Cause No. U-72-30 (October 1972) (“PNB”). The PNB factors do not address issues such as prudence, capital structure, or the Company’s historical financial record.²

² For instance, in the Olympic case, the intervenors presented arguments that Olympic’s capital structure was unreasonable, that it could access money from its shareholders, and that it passed too much of its equity on to its owners. The Commission did not consider these arguments for the purposes of determining whether Olympic was entitled to interim relief. For instance, the Commission accepted Olympic’s capital structure, which consisted of 100% debt, and stated:

Issues of whether the Commission will accept the actual structure or any of various hypothetical capital structures for purposes of setting long-term rates, and whether the Commission will require the owners to commit to changing the Company’s capital structure, are matters that can be addressed during the general rate proceeding. For purposes of the interim, we focus on the debt component, as it represents the reality that the Company faces today.

Olympic at 9.

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

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14. The question facing the Commission is whether PSE has demonstrated its circumstances to be critical. In the Olympic proceeding, the Commission held that an “interim proceeding entertains a short-term solution to an asserted urgent problem.” Olympic at 16. Thus, the Commission takes the company as it is, with the recognition that analysis of the company’s long-term needs may yield a different regulatory analysis. “A company’s short-term need may require a different approach from the approach required to solve its long-term need.” Id.; see also WUTC v. Washington Water Power Co., Cause No. U-80-13; 1980 Wash. UTC LEXIS 6, at *5-6 (1980) (“In exercising our statutory responsibility to regulate in the public interest we wish to note that the Commission when considering a petition for interim rate relief will not consider or give weight to long-range economic projections but will concern itself only with an analysis of existing and actual conditions and short-range projections, which in the main are least subject to volatile economic winds and are more conducive to credible reliability than long-range plans.”). “The decision must be made solely upon the record and within the time frame that has close proximity to the claimed emergent conditions.” Washington Water Power, 1980 Wash. UTC LEXIS at *12.

15. The proper place to consider such long-term considerations as prudence, capital structure and the Company’s historical financial information is in the context of the general rate case, which is designed to “produce a thorough financial analysis, based on sound regulatory principles, and to yield a result that is fully appropriate for the Company’s long-term operations.” Olympic at 17.

B. Irrelevant Evidence Is Inadmissible and Must be Stricken

16. WAC 480-09-745 provides that “[i]f irrelevant matter would unnecessarily encumber the record, the document will not be received in evidence . . .”

17. WAC 480-09-750 provides that “[i]rrelevant, duplicative, and inadmissible evidence burdens the commission and

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

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all parties. To minimize that burden, the presiding officer *shall* to the extent possible exclude evidence that is irrelevant, repetitive, or inadmissible, whether or not a party objects to the evidence.” (Emphasis added.)

IV. CONCLUSION

18. Based upon the foregoing, PSE respectfully requests that the Commission strike the portions of testimony and exhibits listed in Attachment A.

Respectfully submitted this _____ day of _____, 2002.

PERKINS COIE LLP

By _____
Markham A. Quehrn, WSBA #12795
Kirstin S. Dodge, WSBA #22039
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

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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:

CITY OF KENT

c/o Tom Brubaker, Deputy City Attorney
220 Fourth Avenue South
Kent, WA 98032
Phone: (253) 856-5770
Fax: (253) 856-6770
e-mail: tbrubaker@ci.kent.wa.us

Michael L. Charneski
Attorney at Law
19812 194th Avenue NE
Woodinville, WA
Phone: (425) 788-2630
Fax: (425) 788-2861
e-mail: charneskim@aol.com

Cogeneration Coalition of Washington

Don Brookhyser
Elizabeth Westby
Alcantar & Kahl, LLP
1300 SW Fifth Avenue, Suite 1750
Portland, OR 97201
Phone : 503-402-9900
Fax: 503-402-8882
e-mail: deb@a-klaw.com

Seattle Steam Company
Judith A. Endejan
Michael Tobiason
Graham & Dunn, P.C.
1420 Fifth Avenue, 33rd Floor
Seattle, WA 98101
Phone: 206-624-8300
Fax: 206-340-9599
e-mail: jendejan@grahamdunn.com
mtobiason@grahamdunn.com

Northwest Energy Coalition and Natural Resources Defense Council

Danielle Dixon
Policy Associate
NW Energy Coalition
219 First Avenue, Suite 100
Seattle, WA 98104
Phone : 206-621-0094
Fax: 206-621-0097
e-mail: Danielle@nwenergy.org

Northwest Industrial Gas Users
Edward A. Finklea
Energy Advocates LLP
Attorneys at Law
526 NW 18th Avenue
Portland, OR 97209-2220
Phone: 503 721-9118
Fax: 503-721-9121
e-mail: efinklea@energyadvocates.com

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

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Cogeneration Coalition of Washington

Don Brookhyser
Elizabeth Westby
Alcantar & Kahl, LLP
1300 SW Fifth Avenue, Suite 1750
Portland, OR 97201
Phone : 503-402-9900
Fax: 503-402-8882
e-mail: deb@a-klaw.com

Industrial Customers Northwest Utilities

S. Bradley Van Cleve
Davison Van Cleve
1000 SW Broadway, Ste 2460
Portland, OR 97205
Phone: (503) 241-7242
Fax: (503) 241-8160
e-mail: mail@dvclaw.com

Cost Management Services, Inc. and Cities of Auburn, Des Moines, Federal Way, Redmond, Renton, SeaTac, and Tukwila

Carol S. Arnold
Preston Gates Ellis
701 Fifth Avenue, Suite 5000
Seattle, WA 98104
Phone : 206 623-7580
Fax: 206 623-7022
e-mail:
carnold@prestongates.com

City of Bremerton

Angela L. Olsen
Assistant City Attorney
McGavick Graves
1102 Broadway, Suite 500
Tacoma, WA 98401
Phone: 253-627-1181
Fax: 253-627-2247
e-mail: alo@mcgavic.com

Seattle Steam Company

Judith A. Endejan
Michael Tobiason
Graham & Dunn, P.C.
1420 Fifth Avenue, 33rd Floor
Seattle, WA 98101
Phone: 206-624-8300
Fax: 206-340-9599
e-mail: jendejan@grahamdunn.com
mtobiason@grahamdunn.com

AT&T Wireless and Seattle Times Co.

John A. Cameron
Traci A.G. Kirkpatrick
Davis Wright Tremaine LLP
1300 SW Fifth Avenue, Suite 2300
Portland, OR 97201
Phone : 503-778-5206
Fax: 503 778-5299
e-mail: johncameron@dwt.com

Multi-Service Center, Opportunity Council, Energy Project

Charles Eberdt
The Energy Project
314 E. Holly St.
Bellingham, WA 98225
Phone: 360-734-5121 x332
Fax: 360-671-0641
e-mail: chuck_eberdt@oppco.org

King County

Donald C. Woodworth
Deputy Prosecuting Attorney
500 Fourth Avenue, Suite 900
Seattle, WA 98104
Phone : 206-296-0430
Fax: 206-296-0415
e-mail:
don.woodworth@metrokc.com

PERKINS COIE LLP

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

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40
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42
43
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Commission Staff:

Robert D. Cedarbaum
Senior Counsel
Shannon E. Smith
Asst AG
1400 S. Evergreen Park Dr. S.W.
P.O. Box 40128
Olympia, WA 98504-0128
phone: 360-664-1160 (Cedarbaum)
360-664-1192 (Smith)
fax: 360-586-5522
e-mail:
bcedarba@wutc.wa.gov
ssmith@wutc.wa.gov

Federal Executive Agencies

Maurice Brubaker
Brubaker and Associates, Inc.
1215 Fern Ridge Parkway, Suite 208
St. Louis, MO 63141
Phone: (314) 275-7007
Fax: (314) 275-7036
e-mail:
<mailto:mbrubaker@consultbai.com>

Federal Executive Agencies

Norman Furuta
Associate Counsel
Department of the Navy
2001 Junipero Serra Blvd., Suite 600
Daly City, CA 94014-1976
Phone: (650) 746-7312
Fax: (650) 746-7372
email:
<mailto:FurutaNJ@efawest.navy.mil>

Public Counsel:

Simon J. ffitc
Public Counsel Section
Office of Attorney General
900 Fourth Avenue, Ste 2000
Seattle, WA 98164-1012
phone: 206-464-7744
fax: 206-389-2058
e-mail:
SimonF@ATG.WA.GOV

Federal Executive Agencies

Kay Davoodi
Rate Intervention
Naval Facilities Engineering Command
1314 Harwood Street SE
Washington Navy Yard, DC 20374-5018
Phone: (202) 685-3319
Fax: (202) 433-7159
e-mail:
<mailto:DavoodiKR@efaches.navy.mil>

King County

Thomas Kuffel
Office of the Prosecuting Attorney
E-550 King County Courthouse
516 Third Avenue
Seattle, WA 98104
Phone : 206-296-9015
Fax: 206-296-0191
e-mail:
thomas.kuffel@metrokc.gov

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Kroger

Mike Kurtz
Boehm, Kurtz and Lowry
2110 CBLD Center
36 East Seventh St.
Cincinnati, OH 45202
Phone : (513) 421-2255
Fax : (513) 421-2764
email : Mkurtzlaw@aol.com

Dated: February __, 2002.

Pam Iverson

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