

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

DOCKET PG-060215

**COMMISSION STAFF REPORT
OF INVESTIGATION**

**Pipeline Safety Staff
Washington Utilities & Transportation Commission**

March 10, 2008

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COMMISSION STAFF REPORT¹

- 1 This report summarizes the investigation by the Staff of the Washington Utilities and Transportation Commission (Staff) involving falsification of certain gas leak records of Puget Sound Energy Company (PSE). This Report is prepared by Commission Staff. In this Report, we explain the conduct that occurred, the extent of the conduct, and the steps PSE has taken to assure the conduct is not repeated. We also offer some explanations as to why the conduct occurred.
- 2 This docket has significant importance because much of gas safety regulation is based on the records pipeline companies keep. To protect the integrity of the gas pipeline, Commission gas safety rules require gas pipeline companies such as PSE to conduct and respond to safety issues within prescribed intervals. If the public cannot rely on the integrity of the company's records, public confidence in the safety of the pipeline is compromised.
- 3 In this case, a key part of Staff's investigation was to determine whether falsification of PSE gas safety records is widespread. When records are falsified to show compliance, it is very difficult to detect that fact. However, Staff took nine depositions of persons involved in the conduct at issue, and asked pointed questions about this sort of conduct. Each deponent who participated in the conduct testified that they were not aware of any other similar conduct, and that the work was always done.
- 4 Nonetheless, Staff remains very concerned about anything in the corporate culture at PSE and/or Pilchuck that may have led to this conduct, and allowed that conduct to be maintained for several years. Staff did what it could to analyze this issue. However, a key element of any resolution of this matter needs to include an independent, third party audit of PSE's relationship with its contractors, to assure this relationship is appropriate, and focused on compliance with Commission gas pipeline safety rules.

I. Executive Summary

- 5 PSE's gas safety standards manual classifies as a "phantom leak" a gas leak that has been previously reported, investigated, and classified, but on subsequent visits cannot be confirmed (*i.e.*, no gas leaking from the pipe is detected) and no known repairs have occurred.² In this situation, PSE's manual requires that a follow-up leak evaluation must

¹ In this Report, we refer to the statutes in effect on the date of the Complaint. Some of the applicable statutes have changed since that date. These changes were accomplished by chapter 142, Laws of 2007. Essentially, gas pipeline safety statutes moved from RCW 80.28 to RCW 81.88, with some changes in language to clarify the application of the gas pipeline safety laws. The substance of the statutes did not change in any way relevant to this docket.

² See Appendix 1: PSE's gas Safety Standards manual, Section 2625.1300. Here, the manual refers to phantom leaks only in the context of a leak re-evaluation. However, in practice, when a leak is first reported,

be made within 30 days by a person different than the person who classified the leak as a phantom leak in the first place, before the leak can be 'zeroed,' and thus require no further evaluation.³

6 Between February 2001 and May 2006, PSE, through its contractor, Pilchuck Contractors, Inc. (Pilchuck), falsified certain PSE gas leak evaluation records to create the appearance of compliance with this "different person" requirement on roughly 10% of the records Staff closely investigated. In significantly fewer instances, Pilchuck also altered dates on certain leak work orders to create the appearance of compliance with the 30 day limit for a follow-up phantom leak evaluation.

7 In sum, between February 2001 and May 2006, Pilchuck engaged in the falsification of PSE gas safety records. Staff is prepared to prove 156 violations of Commission rules (before consideration of continuing violations).

8 There are various reasons why Pilchuck violated the "different person" requirement, and why the conduct was not addressed earlier.

9 First, the procedures Pilchuck had in place at the time helped enable the "different person" violations. For example, it was common for Pilchuck to assign one employee a "stack" of leak evaluations to do, without regard to whether that employee had done the prior phantom leak classification. Thus, the employee would go to the site to do the leak evaluation, and recall at that time that he or she had done the prior phantom leak classification. It was easier for him or her to just do the work and create a false document than bring the uncompleted document back and have the task reassigned.

10 Second, both PSE and Pilchuck provided oversight that was inadequate to detect the conduct. Two Pilchuck management employees testified that they became aware of instances where the "different person" requirement was not observed. At least one of these managers was aware that falsification of records was involved. While one manager took action to attempt to address the situation, the other manager did not. However, when Pilchuck did take action, it did not attempt to determine the depth of the problem, nor did Pilchuck ever follow-up to determine whether the action taken addressed the problem.

11 For its part, PSE never audited the paper copies of the leak evaluation records. Such an audit might have indicated that this conduct was going on.

12 Third, some Pilchuck employees testified that they engaged in this conduct because their Pilchuck supervisors (*i.e.*, Pilchuck management employees) directed them not to observe the "different person" requirement. Another employee testified that she engaged in this behavior because that is how it was done when she worked at PSE, before PSE outsourced these activities to Pilchuck in early 2001. She said she did not understand the "different person" requirement was in PSE's gas safety standards manual. This may partially explain

and if PSE investigates the matter and finds no gas, the "P" classification ("P" for "phantom") also might be used, and a follow-up evaluation would be scheduled within 30 days.

³ *Id.*

why, despite avenues for employees to report this conduct to PSE and Pilchuck, no employee reported this conduct to PSE or Pilchuck until the Commission exposed the conduct.

- 13 Fourth, Pilchuck did not train its employees on the requirements contained in PSE's gas safety standards manual, except when there were changes to the manual, or if a particular employee needed to be specially qualified to perform specific tasks.⁴ If PSE or Pilchuck had conducted periodic training on various parts of the manual, that could have reinforced for employees the requirements for phantom leaks, and that these needed to be followed.
- 14 Some of these same reasons explain why Pilchuck also altered dates on these documents in order to provide the appearance of compliance: *i.e.*, lack of adequate oversight, lack of auditing and lack of training. It does not appear that at the time, PSE management or Pilchuck management knew the conduct related to altered dates was occurring. Of course, it is possible PSE and/or Pilchuck could have discovered this if they had performed adequate oversight, audits and training.
- 15 Once Commission Staff brought the conduct to PSE and Pilchuck's attention, PSE and Pilchuck took immediate steps to prevent this behavior from recurring. Pilchuck made changes to Pilchuck's record-keeping and audit procedures. Pilchuck briefed its employees on the applicable requirements. The Pilchuck employees involved received verbal reprimands. PSE took similar steps. The Pilchuck employees and former Pilchuck employees whom Staff questioned on this issue confirmed that the conduct has stopped. Moreover, PSE (and Pilchuck) cooperated well with Staff during the adjudication phase of this proceeding.⁵
- 16 Nonetheless, in Staff's view, this remains a very serious matter, primarily because the conduct was not the result of an honest mistake; it was intentional, and calculated to create the appearance of compliance when in fact there was not compliance. Moreover, Staff likely would not have discovered this conduct at all had it not received an unsolicited tip. In this case, the "gravity of the violation" substantially outweighs any offsetting considerations.⁶
- 17 While it is not uncommon for an investor-owned utility such as PSE to outsource certain gas pipeline maintenance activities, when that happens, those activities are transformed into a profit center of PSE's contractor. This can affect the motivations and behaviors of the people doing, managing and auditing these activities. A third party (*i.e.*, independent) audit should be conducted to more broadly evaluate, among other things, PSE's relationships with its contractors, and whether adequate quality controls are in place.

⁴ Staff is generally aware that the union offers training to members who do gas safety work for Pilchuck.

⁵ Some Pilchuck employees who were interviewed by Staff before the complaint was filed were not candid in responding to Staff's questions. This did not seem to be an issue once this case became an adjudication.

⁶ Under RCW 80.28.212, in determining the penalty amount, the Commission considers "the size of the business of the person charged, the gravity of the violation, and the good faith of the gas company charged in attempting to achieve compliance after notification of the violation." PSE is a very large company, so the only "offsetting" factor would be PSE's good faith response.

II. Background

A. PSE and Pilchuck.

18 PSE owns and operates a gas pipeline system serving end use customers in this state, with most customers located in the Puget Sound area. In February 2001, PSE outsourced the maintenance of its gas pipeline system to various contractors, including Pilchuck. At the time PSE outsourced this work, the PSE employees who were doing the work were offered employment at Pilchuck, and a large majority of these former PSE employees became Pilchuck employees.

19 Basically, Pilchuck's function is to inspect PSE's gas pipeline system, install gas mains and service lines, and maintain and repair that system. As part of this function, Pilchuck investigates and evaluates gas leaks that have been previously identified by PSE or PSE's leak survey contractor (Heath Consultants).

20 To do this work for PSE, Pilchuck employs a few hundred employees who operate from several "bases." In general, Pilchuck employees report to their assigned bases each morning to receive their work assignments for the day. The two bases pertinent to this Report are Pilchuck's "Kent Base," located in Kent, Washington, and Pilchuck's "North Operating Base," located in Seattle, Washington.

21 While PSE has contracted out much of the construction and maintenance of its gas pipeline system, PSE cannot contract away its own responsibility for maintaining its gas pipeline system and for obeying all applicable rules; PSE has never suggested otherwise.

B. How PSE generated, processed and maintained gas leak records.

22 Commission rules require PSE to prepare and maintain accurate gas leak records.⁷ To that end, PSE has a system by which gas leaks are tracked and leak-related work is assigned to meet the deadlines for leak evaluations contained in PSE's gas safety standards manual.

23 To start with, PSE assigns each leak a unique, multi-digit number, preceded by a capital letter. All documents related to that leak will contain that leak number. PSE uses a form called a "leak work order" that is filled out whenever a Pilchuck employee evaluates a leak on PSE's gas pipeline system. The leak work order reports the address of the leak, the date of the leak evaluation, who did that evaluation, what was discovered, and what remedial action was taken by Pilchuck.

24 PSE assigns a unique work order number to each leak work order related to a specific leak, usually in numerical sequence, starting with "Leak Work Order 1." Over time, Pilchuck may visit a leak site on several occasions. Consequently, there may be several work orders related to a specific leak (*e.g.*, Leak Work Order 1, 2, 3, 4, *etc.*).

⁷ These rules are described in detail in Part II.C below (¶¶ 32-35).

- 25 PSE has an electronic data base called "LMS," which stands for "Leak Management System." PSE includes leak evaluation information on LMS. LMS creates a leak work order for a new leak, and it also creates a leak work order for subsequent leak evaluations, when the due date approaches.
- 26 Each week, clerical staff at Pilchuck⁸ access LMS and "pull off" the leak work orders for that week, which would be prior to the deadline for any leak evaluation. Several different leaks might be involved, so the result is a "stack" of leak work orders.
- 27 Pilchuck's Kent Base and North Operating Base serve an area of older PSE pipe. Pilchuck's practice for assigning the follow-up leak work orders varied. Sometimes, a single Pilchuck employee might have primary responsibility for leak evaluations, so a Pilchuck Superintendent or scheduler would give that person the stack. Other times, a Pilchuck Superintendent or scheduler would assign the leak work orders to several different employees.
- 28 When the Pilchuck employee completed the leak evaluation work orders, they would bring them back to their base for processing. At the Kent base, the completed leak work orders were faxed (or scanned and then emailed) to the North Operating Base, and the original work order would be sent to the North Operating Base overland, via mail or document delivery service.
- 29 When the completed leak work orders arrive at the North Operating Base, Pilchuck enters the information into LMS. Pilchuck then files the paper copy of the leak work order in a file folder containing the other work orders and other records related to that leak.
- 30 In the end, the information contained on the leak work orders should exist in two forms: 1) in electronic form in PSE's LMS system; and 2) in PSE's paper files, *i.e.*, in the form of the original leak work order, filed in a separate, leak-specific folder located at Pilchuck's North Operating Base. That folder should contain all the leak work orders associated with a specific leak number.
- 31 An example leak work order is included in Appendix 2: Leak Work Order 10 for leak number L9604014 (the "10" is to the right of the leak number). Each leak work order associated with that leak is also labeled number L9604014. Leak Work Order 1 would state what was found when the leak was first reported. The subsequent leak work orders report each subsequent visit to that leak until it is finally repaired, the facilities are replaced, or it is determined there is no leak.

C. Pertinent laws and rules applicable to leak evaluation records.

- 32 The Commission's gas safety rules are codified in WAC 480-93. In that rule, the Commission prescribes many requirements, and in WAC 480-93-999, the Commission also adopts certain requirements contained in federal gas safety rules. Consequently, when

⁸ For a period of time, one Pilchuck employee pulled leak evaluation work orders off LMS for all Pilchuck bases. Currently, an employee at each Pilchuck base pulls the work orders for the area served by that base.

we cite a rule codified in the Code of Federal Regulations (C.F.R.), that is intended to refer to a Commission rule.

33 Commission rules require PSE to prepare and follow a gas safety standards manual. ⁴⁹ C.F.R. § 192.605(a). PSE must also “prepare and maintain permanent gas leak records.” WAC 480-93-187. These records must contain the “date and time the leak was detected, investigated, reported and repaired, and the name of the employee(s) conducting the investigation.” WAC 480-93-187(1). PSE must maintain these records in its files. WAC 480-93-187.

34 PSE has a gas safety standards manual. PSE’s manual requires that when a report of a gas leak is investigated, and no gas is detected, the leak is to be classified as a “phantom leak.” The manual further requires that when a leak is classified as a phantom leak, a follow-up leak evaluation be made within 30 days, by a person different than the person who classified the leak as a phantom leak. *PSE gas safety standards manual* § 2625.1300.4.4.3.2. Appendix 1 contains a copy of this provision of PSE’s manual.

35 This “different person” requirement has a safety-related purpose: a different person might use different equipment to check the reported leak, look for different things, and otherwise investigate a bit differently, thereby possibly “catching” a leak the first person did not catch.

D. Nature of the Complaint and PSE’s Answer; Updated Number of Violations.

36 The Complaint states three causes of action,⁹ and alleges 209 gas safety rules violations.¹⁰ Complaint Attachment 1 states the specific facts supporting each violation. The Complaint notes that many of the violations are continuing violations. Continuing violations increase substantially the number of violations, substantially beyond 209.¹¹

37 Based on the discovery that has taken place to date, Staff is prepared to prove 156 of the 209 violations identified in the Complaint (before consideration of continuing violations). The main reason for the reduction in violations relates to Cause of Action 3, which alleges 43 violations whereby PSE had not maintained certain gas safety records. During the course of this proceeding, PSE was able to locate almost all of these records.

38 Of the 156 violations, 152 involve falsification of records, which are intentional violations. Moreover, 84 of the 156 violations are continuing violations, so the maximum penalty permitted by law remains very substantial.

39 In Appendix 3, we provide a detailed explanation of the status of each violation alleged in the Complaint.

⁹ Complaint at 4-5, Part V, ¶¶ 20-29.

¹⁰ Complaint at 5, ¶ 31.

¹¹ Complaint at 5-6, ¶ 31.

1. Cause of Action 1.

40 Cause of Action 1 alleges that PSE failed to comply with its gas safety standards manual by failing to have a different person do a phantom leak follow-up evaluation, or failed to meet the 30 day deadline for that evaluation, or both. 84 violations are alleged.¹² The factual basis for each of these violations is provided in "Incident 1" through "Incident 84," which are detailed in Attachment 1 to the Complaint.

41 Included in the allegations is that Pilchuck knew that the same person did follow-up leak evaluation, contrary to PSE's manual.¹³ We call these "Cause of Action 1 violations" in this Report. As we explain in Appendix 3, Staff is prepared to prove 72 of the 84 Cause of Action 1 violations. 70 of these 72 violations are intentional violations, involving falsification of records.

2. Cause of Action 2.

42 Cause of Action 2 is based on PSE's failure to maintain accurate leak evaluation records. 82 violations are alleged.¹⁴ These are continuing violations¹⁵ because a violation occurs each day PSE continues to maintain an inaccurate record. The factual basis for each of these violations is contained in Incident 1 through Incident 80 and Incident 83 and Incident 84, which are detailed in Attachment 1 to the Complaint.

43 Included in these allegations is that Pilchuck knew that these records were not accurate.¹⁶ We call these "Cause of Action 2 violations" in this Report. As we explain in detail in Appendix 3, Staff is prepared to prove all 82 Cause of Action 2 violations. Each of these violations is an intentional violation, involving falsification of records. These violations are continuing in nature, because PSE did not correct the records until late 2007.¹⁷

3. Cause of Action 3.

44 Cause of Action 3 is based on PSE's failure to maintain records.¹⁸ These are continuing violations,¹⁹ because a violation occurs each day PSE fails to maintain the record. The factual basis for each of these violations is contained in "Incident 85" through "Incident 127," which are detailed in Attachment 1 to the Complaint, including the allegation that PSE made these documents available only in a "screen print" format, which was generated from PSE's electronic data base.²⁰ We call these "Cause of Action 3 violations" in this Report.

¹² Complaint at 4, ¶¶ 20-22.

¹³ E.g., Complaint Attachment 1 at 1, ¶ 2, second sentence.

¹⁴ Complaint at 4-5, ¶¶ 23-26.

¹⁵ Complaint at 5, ¶ 25.

¹⁶ E.g., Complaint Attachment 1 at 1, ¶ 2, first sentence.

¹⁷ See PSE's First Amended Response to Staff Data Request 2.

¹⁸ Complaint at 5, ¶¶ 27-29.

¹⁹ Complaint at 5, ¶ 29.

²⁰ Complaint Attachment 1 at 29, ¶ 174.

45 As we explain in detail in Appendix 3, because PSE was able to provide virtually all of these documents, Staff is not pursuing Cause of Action 3 violations.

III. The conduct that violated Commission gas pipeline safety rules

46 Commission Staff conducted a detailed investigation as the basis for issuing the Complaint. After the Complaint was issued, and PSE filed its Answer, Staff engaged in additional discovery. Staff issued 32 written data requests and took depositions of eleven people: two current Pilchuck management employees, five current Pilchuck union employees, two former Pilchuck employees now employed by PSE, and two former Pilchuck employees now employed elsewhere. Based on the information obtained, Staff can describe below how the documents at issue were falsified by Pilchuck employees to give the appearance of compliance.

47 Overall, Staff's investigation indicates that the falsification of dates was likely done by a few individual Pilchuck employees, and there was likely no discussion between employees about this particular conduct.²¹ For the falsification of names, there was discussion between certain Pilchuck employees. However, it appears that certain of the Pilchuck's North Operating Base employees who were doing this did not discuss it with certain of the Pilchuck's Kent Base employees who were also doing this.

48 Consequently, while the conduct at the two bases was similar, the conduct was not related.

49 The employees who knew about the falsification of documents or participated in it in some way testified that the work was always done.^{22 23}

²¹ As we explain later, two Pilchuck employees testified that they altered dates on leak work orders. Ms. Shea testified that no one else knew about it. Deposition of Ms. Shea at Tr. 34:3-8; 38:16-25. Mr. Haugen testified that he believed Mr. Engel and others at the North Operating Base knew about it. Deposition of Mr. Haugen at Tr. 39:20 to 40:3. Mr. Engel indicated that he became aware of date alterations after Staff's investigation began, and Staff pulled the leak work orders for examination. Deposition of Mr. Engel at Tr. 33:21 to 34:2.

²² Depositions of: Mr. Morse at Tr. 37:19-25; Mr. Haugen at Tr. 28:15 to 29:1; Mr. Powe at Tr. 25:21 to 26:2; Mr. Matlock at Tr. 17:20 to 18:15; Ms. Gordon at Tr. 23:5-14; Mr. Goodrich at Tr. 14:19-24.

²³ In early January, 2008, Staff received allegations from a former Pilchuck foreman that some time in 2004, while he was employed at Pilchuck, a Pilchuck Superintendent instructed him to falsify follow-up leak work orders where the follow-up work was not to be performed. According to the allegations, the former foreman refused, an argument ensued, and another employee said he would take care of it. The incident took place at the beginning of the work day. The former foreman was upset and he left and did not return to work that day. He testified this was the only occasion he could recall where this sort of instruction occurred.

Staff took the deposition of the former Pilchuck foreman and a former Pilchuck office clerk who witnessed the incident. The office clerk testified she recalled an argument but that she did not know at the time what caused the argument. Another person said to be present during this incident was Mr. Morse, who was then a Pilchuck employee and who is now a PSE employee. Staff counsel interviewed Mr. Morse, and Mr. Morse later reviewed portions of the former foreman's deposition. Mr. Morse provided Staff a sworn declaration stating that he did not recall the incident. The declaration is PSE's Response to Staff Informal Information Request 2.

To analyze whether the Superintendent's instruction, if given, was carried out, Staff secured PSE and Pilchuck documents surrounding the days in 2004 when Mr. Morse, the office clerk and the

A. Violations of the “different person” requirements for a phantom leak follow-up leak evaluation.²⁴

50 Between February 2001 and May 2006, Pilchuck employees engaged in a practice whereby the person who did the initial phantom leak classification also did the follow-up leak evaluation. However, Pilchuck employees falsified the leak work order by intentionally changing the name of the follow-up inspector or putting in a different person’s name in the first place.

51 This directly violates § 2625.1300.4.4.3.2 of PSE’s gas safety standards manual, which requires a different person do the follow-up inspection of a phantom leak within 30 days after a leak was classified as a phantom leak. This also violates WAC 480-93-187, which requires the leak records to contain the person’s name that did the maintenance activity.

52 To facilitate the practice of using someone else’s name in place of the name of the person who actually did the work, the Pilchuck employee who actually did the follow-up leak evaluation would either enter another person’s name on the work order for the follow-up leak evaluation, or ask that other person to sign. One employee testified that on occasion, he simply turned in the work order filled out in full, except for the name. He assumed someone would fill in someone else’s name.²⁵ Sometimes, when an employee entered someone else’s name, he would tell the person that his or her name was being used. Another employee testified she changed names when she saw that the correct document showed non-compliance with the “different person” requirement.²⁶

53 This was intentional conduct; it was not the result of an honest mistake. Apparently, no Pilchuck employee whose name was used in this manner complained about it.²⁷ Pilchuck entered the incorrect person’s name into LMS.

54 One result of these efforts is that PSE’s leak evaluation records are not accurate. Staff asked PSE to provide corrected records,²⁸ and PSE has corrected the records, except for

Superintendent filed time sheets, but the foreman did not (*i.e.*, Staff assumed the former foreman did not file a time sheet on the day in question because he testified he promptly left work in the early morning that day, and did not return until the next day). Staff reviewed these documents and could not substantiate that the Superintendent’s direction was followed through. The documents are PSE’s Response to Staff Informal Information Request 3.

Due to the conflicting sworn testimony and other factors, Staff reached no definitive conclusions regarding this particular incident.

²⁴ The facts in this section are based on PSE Response to Staff Data Request 7, PSE’s First Amended Answer (July 31, 2007), and PSE’s response to Staff informal Information Request 1 (August 10, 2007) which provides a detailed answer to the facts alleged in Complaint Attachment 1. In that latter document, PSE admits the majority of the factual allegations contained in Attachment 1 to the Complaint related to Cause of Action 1 and 2. However, in PSE’s Answers, the Company raises a statute of limitations defense.

²⁵ Deposition of Mr. Morse at Tr. 23:10 to 24:1.

²⁶ Deposition of Ms. Shea at Tr. 14:24 to 15:15.

²⁷ For example, after being told his name was being used, one Pilchuck employee said “Yeah, that’s fine,” or words to that effect (Deposition of Mr. Matlock at Tr. 12:4 to 11), and another said “Okay.” Deposition of Mr. Goodrich at Tr. 11:9-13.

four Incidents regarding which PSE and Pilchuck said they were unable to determine the date the work was performed or the person performing the work.²⁹

1. How did Staff discover these "different person" violations?

55 Staff obtained from PSE a printout listing 6,313 leaks that PSE had identified between January 1, 2002 and the end of 2005. These were all active leaks during that period, except for leaks caused by third party damage. Because some of these leaks may have first been reported before 2002, some of the records Staff reviewed for such leaks are dated before 2002.

56 From this list of 6,313 leaks, Staff selected 749 phantom leaks for closer examination.³⁰ Of these 749 phantom leaks, Staff developed 84 "solid" violations of the "different person" requirement for phantom leak follow-up evaluations.³¹ This implies that over a four year period, PSE violated the "different person" requirement for roughly 10 percent of the phantom leaks.

57 To discover these violations, Staff painstakingly examined the hard copy versions of the work orders associated with these 749 phantom leaks.³² Staff examined the handwriting on the work orders and noticed that on occasion, different handwriting appeared on the same form. Staff also looked at employee time sheets to see if the person who purportedly did the follow-up leak inspection was working that day near the location of the reported leak. Staff also looked for a smudge or similar mark that might be an indication that a name had been altered.

58 On a few occasions, Staff found two versions of the same leak work order: one was the copy that was faxed (or scanned and emailed) to Pilchuck's North Operating Base, and the other was the original that was sent overland. In some of these documents, Staff noticed the documents contained different names. An example of this is Incident 25, where Mr. Powe's name was replaced with Mr. Banister's name. These work orders are contained in Appendix 4.

59 The culmination of these efforts was Complaint Attachment 1, which contains the detailed factual allegations surrounding each violation. As explained earlier, PSE has admitted most of these factual allegations.

²⁸ Staff Data Request 2.

²⁹ See PSE's First Amended Response to Staff Data Request 2.

³⁰ The selection process was intended to be random; Staff applied no criteria for selecting one phantom leak over another. Staff simply selected a few phantom leaks off each page of the printout PSE provided, and in the end, 749 phantom leaks were selected.

³¹ Staff found perhaps 20 or so Incidents that were suspicious, but Staff did not include these because not enough supporting evidence could be found to substantiate a violation.

³² PSE records did not always contain complete information. For example, Pilchuck's time sheets include space for the employee to fill in their activities for the day (e.g., location and type of work). However, a Pilchuck employee who was doing a main replacement (for example) and did only a couple leak evaluations on that day would often not report those leak evaluations on his or her time sheet. This prohibited Staff from using the time sheet as a reliable means to cross-check whether a Pilchuck employee actually did a leak evaluation, or whether that name was a falsification.

B. Violations of the 30-day time limit for completing a phantom leak follow-up evaluation.

- 60 From time to time over the 2001-2005 period, Pilchuck performed a leak evaluation outside the time period prescribed in PSE's O&M manual. On some of these occasions, Pilchuck employees falsified the date on the work order to show a date that complied with the deadline prescribed by PSE's manual.
- 61 Staff discovered significantly fewer falsifications of dates than falsifications of the names of the person doing the follow-up leak evaluation.
- 62 To facilitate this practice of "backdating" leak work orders to show a date that met the deadline required by PSE, a Pilchuck employee would simply change the date on the leak work order, in order to show compliance in instances where there was non-compliance.³³
- 63 In some of the backdating instances Staff found, the Pilchuck employee who filled out the leak work order entered the correct completion date, but Corla Shea, a Pilchuck clerical staff employee, altered the date to show compliance. An example of this is Incident 55, in which the date was altered from June 23 to June 20, the due date. These work orders are contained in Appendix 5. Ms. Shea testified that she believed other Pilchuck employees changed dates also, though she could specifically identify only two employees whom she believed did so. She based this testimony on her familiarity with these workers' handwriting.^{34 35}
- 64 In other instances of backdating, a Pilchuck foreman changed the date (or entered an incorrect date) when he was unable to get the work done by the deadline. For example, Mr. Haugen testified that on occasion, when he is doing follow-up leak evaluations, he would get called off that task to do another task. Some times he would not get back to leak evaluations until the next day, which was past the deadline. On some of those occasions, he testified that although he did the work, he backdated the leak work order to show compliance.³⁶ Staff did not find these particular examples in the sample.
- 65 This violates WAC 480-93-187, which requires the leak records to contain the date of the maintenance activity. This also was intentional conduct; it was not the result of an honest mistake.
- 66 Pilchuck then entered the incorrect date into LMS. One result of these efforts is that PSE's leak evaluation records are not accurate. Staff asked PSE to provide corrected records.

³³ E.g., Deposition of Ms. Shea at Tr. 31:6 to 32:9.

³⁴ Deposition of Ms. Shea at Tr. 47:14 to 48:14. The other (unidentified) employees were from Pilchuck's Lakewood base. Staff did not depose any employees from that base.

³⁵ The two employees she identified were Ms. Gordon and Mr. Schroeder. In her deposition, Ms. Gordon testified she did not change a date on a leak work order and was not aware of anyone else doing so. Deposition of Ms. Gordon at Tr. 22:12 to 23:4. Staff did not depose Mr. Schroeder.

³⁶ Deposition of Mr. Haugen at Tr. 36:10 to 37:1 and 37:15-24.

PSE has corrected the records, except for a few incidents where PSE and Pilchuck said they could not determine the date that the work was completed.³⁷

1. How did Staff discover these backdating violations?

67 Staff discovered these backdating violations while it was reviewing the documents associated with the 749 leaks Staff selected for evaluation. Staff noticed discrepancies between the completion date contained on the “original” version of a leak work order, and the date shown on the employee’s time sheet, or on the fax version of the leak work order, or when there were smudges on the original leak evaluation records, suggesting an alteration.

68 As we explain in Appendix 3, PSE has admitted the facts surrounding some of these Incidents, but for other Incidents, PSE said it had insufficient information upon which to either admit or deny the facts. Notwithstanding that, Staff believes there is sufficient evidence to prove these violations.

C. Failure to maintain leak evaluation records.

1. How did Staff discover these records were missing?

69 During its investigation, Staff asked PSE to provide specific leak files, but PSE could not provide the original versions of these documents. Instead, PSE provided only “screen prints,” *i.e.*, printouts from LMS containing the information reported on the leak work orders. This resulted in Cause of Action 3: PSE’s failure to maintain 43 of these original files.

70 PSE’s Answer claimed these records in fact exist, so Staff requested PSE to provide them. PSE provided all but four of these files, and PSE provided a sufficient explanation for two of these four files, so two violations remain.³⁸ For the reasons we explained earlier and in Appendix 3, Staff is not pursuing these violations.³⁹

IV. PSE’s Response to the Violations

71 In May 2006, when Staff notified PSE of its investigative findings, PSE and Pilchuck took prompt actions to address those findings.⁴⁰ However, Pilchuck had earlier information that these problems were occurring, and Pilchuck either did not take action to address that, or if action was taken, Pilchuck made no effort to determine the extent of the problem, and whether the action taken in fact addressed the problem.⁴¹

³⁷ See PSE First Amended Response to Staff Data Request 2.

³⁸ PSE Response to Staff Data Request 1.

³⁹ See ¶¶ 44 and 45 above, and Appendix 3, ¶¶ 16-18.

⁴⁰ Unless stated otherwise, the information contained in the discussion in this section is taken from PSE’s Responses to Staff Data Requests 12, 13, 14 and 15.

⁴¹ See the discussion in Part V.B below at ¶¶ 90-99.

- 72 In any event, after Staff notified PSE of the violations, PSE promptly investigated the matter, and concluded that inappropriate conduct took place. PSE then directed its efforts “toward adherence to PSE standards by both PSE and contractor personnel.”⁴² PSE asked Pilchuck to “immediately take steps to prevent their recurrence.”⁴³ PSE and Pilchuck reviewed leak record management processes and made changes to those processes to assure accuracy and compliance. PSE audited Pilchuck for compliance with new procedures.⁴⁴ All PSE employees have received training in the Company’s Corporate Ethics and Compliance Code (Ethics Code). PSE also sent all PSE employees an email addressing the importance of accurate record keeping.⁴⁵
- 73 PSE provided a “verbal review” of performance expectations to six current PSE employees who performed leak surveys, including part of PSE’s Ethics Code entitled “Accuracy, Retention and Destruction of Records and Documents.”
- 74 PSE also audited Pilchuck for compliance with the provisions of PSE’s gas safety standards manual at issue in this case.
- 75 Pilchuck also took action. Pilchuck gave “verbal reprimands” to its employees who were involved in the conduct alleged in the Complaint.⁴⁶ Pilchuck held meetings with its employees to specifically advise them on PSE’s leak evaluation policy. According to PSE, these meetings emphasized compliance with the “different person” requirement and the requirement that the date the work was done be the date recorded on the leak work order.⁴⁷
- 76 Pilchuck instituted policy changes. In May 2006, Pilchuck adopted a policy that a leak work order for a phantom leak will note the name of the person who did the phantom leak classification, “so the superintendent will not send the same person to re-evaluate.” In September 2006, Pilchuck adopted a policy that any changes that are made to a leak record must be initialed, and a note must be attached explaining the change. To allow easier monitoring and auditing, Pilchuck adopted a policy in which leak work orders are filed by completion year, by leak number. Pilchuck has written procedures for leak record management.⁴⁸
- 77 Pilchuck has also been auditing the records monthly for compliance. This process has provided additional opportunities for improvements in the recordkeeping processes.⁴⁹
- 78 It is clear from the depositions Staff took that the Pilchuck employees who were deposed understand the conduct at issue in this case cannot be repeated.

⁴² PSE Response to Staff Data Request 7.

⁴³ *Id.*

⁴⁴ PSE Response to Staff Data Request 15.

⁴⁵ PSE Response to Staff Data Request 12.

⁴⁶ There were no other sanctions, such as a written reprimand, loss of bonus, reduced bonus, or unpaid leave of absence.

⁴⁷ PSE Response to Staff Data Request 12.

⁴⁸ *Id.*

⁴⁹ *Id.*

V. Why did PSE and Pilchuck fail to detect the Cause of Action 1 and 2 violations?

79 It appears the practices of falsifying records to intentionally violate the “different person” requirement and intentionally violate the 30-day follow-up leak evaluation requirement occurred at PSE before PSE outsourced gas pipeline maintenance to Pilchuck in February 2001, and the conduct persisted until May 2006. Consequently, a central part of Staff’s investigation was to determine how these practices started, and how they were maintained for such a long period of time. Staff provides some answers to these questions, but we doubt we have the complete picture.

A. Why didn’t PSE management detect the violations?

80 PSE management apparently did not detect Pilchuck’s conduct regarding phantom leaks and deadlines until May 2006, when Staff notified PSE of the conduct.⁵⁰ There are at least four reasons why PSE management did not detect Pilchuck’s conduct.

81 First, Pilchuck altered records or filled out records incorrectly in order to create the appearance of compliance.

82 Second, while a PSE audit of the records might have exposed the violations, PSE never audited the records. PSE conducted on-site inspections of Pilchuck’s work, and PSE conducted audits of leak work order information in electronic form by accessing LMS. However, neither PSE nor any firm retained by PSE ever conducted an audit of the leak work order documents themselves.⁵¹

83 Third, the processes in place at Pilchuck at the time helped enable the “different person” violations. As explained earlier, it was common for one employee to be given a “stack” of leak evaluations to do. Pilchuck assigned this work without regard to whether that employee had done the prior phantom leak classification. Thus, the employee would go to the site to do the leak evaluation, and recall at that time that he had done the prior phantom leak classification. It was easier for him to just do the work and create a false document than bring the document back and have the task reassigned.

84 Fourth, no person used PSE’s system for reporting non-compliance. At least two former Pilchuck employees are now employed by PSE, and they knew about the conduct alleged in the Complaint, based on their prior employment at Pilchuck. However, neither of these persons used well-advertised PSE system for anonymously reporting non-compliance.

⁵⁰ PSE Response to Staff Data Request 18.

⁵¹ PSE Responses to Staff Data Request 3 and 4 list the sorts of audits PSE conducted for compliance with PSE’s O&M manual since January 1, 2002. The response lists site audits of Pilchuck’s work and certain audits using LMS (PSE’s electronic data base), but no audits of the hard copy records.

85 It appears this conduct also took place at PSE, at late as 2000.⁵² The extent to which PSE
was auditing its own records at that time is not clear.⁵³

B. Why didn't Pilchuck upper management detect the violations?

86 As we discuss in more detail below, two Pilchuck management employees, both of whom
were Superintendents, knew that Pilchuck employees were not observing the "different
person" requirement. At least one of these Superintendents knew the conduct was
intentional. It is not apparent that either Superintendent knew about the date alterations.

87 Apparently, no Pilchuck management above the Superintendent level (which we will call
"upper management" in this Report) knew about this falsification of documents by
Pilchuck employees.⁵⁴ Pilchuck upper management did not detect the violations because
neither of the two Superintendents nor any other employee reported it to upper
management, and upper management did not audit the records.⁵⁵

88 Moreover, as described above, the processes Pilchuck had in place at the time helped
enable the "different person" violations.

89 Staff took depositions of the two Pilchuck management employees who PSE identified as
knowing about the conduct involving the "different person" requirement: Superintendent
Mr. Gunner Anderson, and Superintendent Mr. Jerry Engle. Staff also took the depositions
of several current and former Pilchuck union employees who knew about the conduct.

90 **Superintendent Anderson.** Superintendent Anderson manages Pilchuck's Kent Base.⁵⁶
He testified that in the early part of the 2001-2005 period, he dealt with two instances in
which one of the Pilchuck employees in his group (Ms. Bev Gordon) had done a follow-up
leak evaluation, when she also had classified the leak as a phantom leak.

91 Superintendent Anderson testified that in the presence of Ms. Gordon and other foremen
(whose names he could not recall), he told the foremen that if they "trust[ed] her judgment,
you know, sign it off, if you don't trust her judgment, then, you know, check it." By "sign
it off" he meant that a foreman who did not do the follow-up leak evaluation would sign
the work order anyway.⁵⁷

92 Ms. Gordon's recollection is essentially the same, though she testified she recalled more
than two occasions involving this situation and Mr. Anderson. She also testified that in

⁵² Ms. Shea stated that she engaged in this conduct, and while she did not tell anyone she was doing it, she was aware of others that did the same conduct. She could not recall any names of these other people. Deposition of Ms. Shea at Tr. 10:19 to 11:16; Tr. 52:17 to 53:9; Tr. 50:18 to 51:19.

⁵³ PSE's activities before 2001 were not a major focus of Staff's investigation in this docket.

⁵⁴ PSE Response to Staff Data Request 17.

⁵⁵ PSE Responses to Staff Data Request 5 and 6 list the sorts of audits Pilchuck conducted for compliance with PSE's O&M manual since January 1, 2002. The response lists site audits of Pilchuck's work, but no audits of the hard copy records.

⁵⁶ Deposition of Mr. Anderson at Tr. 8:6-22.

⁵⁷ Deposition of Mr. Anderson at Tr. 17:24 to 19:3.

those situations, she had not yet done the follow-up leak evaluations, and that Superintendent Anderson told her to do the follow-up leak evaluation, knowing she had done the initial phantom leak classification.⁵⁸

93 These minor differences in recollections about whether Ms. Gordon had performed the follow-up leak evaluation already or not does not affect the central, apparently uncontested point that Superintendent Anderson directed his employees to violate the “different person” requirement.

94 Former Pilchuck employee Mr. Morse testified that in a few instances when he had done the initial phantom leak classification, Mr. Anderson instructed him to do the follow-up leak evaluation himself, or, if he had already done so, to have another Pilchuck foreman sign the follow-up leak work order.⁵⁹

95 Pilchuck employee Mr. Powe testified that sometime after the start of 2004, Superintendent Anderson told him to sign his name on a follow-up leak work order that had actually been completed by the person who had done the initial phantom leak classification. Mr. Powe testified that he did what Superintendent Anderson directed him to do on that occasion, and proceeded to do it on several other occasions.⁶⁰ Mr. Powe signed at least seven follow-up leak evaluation work orders where former Pilchuck employee Mr. Morse actually did the work. Mr. Powe acknowledged these work orders contained his signature.⁶¹

96 Mr. Anderson testified he did not recall either situation involving Mr. Powe or Mr. Morse.⁶²

97 **Superintendent Engel.** Pilchuck Superintendent Mr. Engel manages Pilchuck’s North Operating Base.⁶³ It appears that Superintendent Engel knew by late 2001 or early 2002 that Pilchuck employees were placing incorrect information of the leak work orders, of the sort alleged in the Complaint.^{64 65}

98 To prevent such conduct from recurring, Mr. Engel instructed his clerical staff to make “sticky notes” containing the name of the person classifying the phantom leak, and place

⁵⁸ Deposition of Ms. Gordon at Tr. 12:10-21.

⁵⁹ Deposition of Mr. Morse at Tr. 21:13-19 and Tr. 23:7-9.

⁶⁰ Deposition of Mr. Powe at Tr. 17:4-8 and Tr. 18:8-23.

⁶¹ Deposition of Mr. Powe at Tr. 11:24 to 17:8 and Deposition Exhibit 3.

⁶² Staff took Mr. Powe’s deposition after deposing Mr. Anderson, so Staff did not ask Mr. Anderson directly about Mr. Powe’s testimony. However, Staff asked Mr. Anderson if he recalled any instance, other than the one involving Ms. Gordon, where the “different person” requirement was not observed, and he testified he did not recall any such instance. Deposition of Mr. Anderson at Tr. 41:1-13.

⁶³ Deposition of Mr. Engel at Tr. 6:1-17.

⁶⁴ PSE Response to Staff Data Request 12.

⁶⁵ Early in his deposition, Mr. Engel confirmed that he became aware that a Pilchuck employee was putting incorrect names on the leak work orders, but later said he could not recall whether someone put their own name on the follow-up leak evaluation form, and that person had done the initial phantom leak classification (*i.e.*, he could not recall if the record was falsified, but he knew the “different person” requirement was not complied with). Deposition of Mr. Engel at Tr. 14:12-16; Tr. 58:1-5.

those notes on the follow-up work orders.⁶⁶ Later, Pilchuck clerical staff used the computer to place the initials of the person classifying the phantom leak on the work order,⁶⁷ although this practice was not consistently followed.⁶⁸

99 Neither of these measures (“sticky notes” or computer-printed initials) prevented the person who did the initial phantom leak classification from doing the follow-up inspection and falsifying the follow-up work order to create the appearance of compliance. Part of the reason these measures were ineffective is that Pilchuck did not investigate the extent of the conduct,⁶⁹ nor did it investigate whether these measures were working.

100 **Pilchuck Superintendent Anderson’s rationalization.**⁷⁰ Pilchuck management employee Mr. Anderson provided a rationalization for the falsification of the records. It is not clear if Mr. Anderson acted on this rationalization, *e.g.*, it is not clear that this rationalization deterred him from investigating the violations more thoroughly when he knew these violations were occurring “on his watch.” However, this is a very significant matter.

101 During his deposition, Mr. Anderson initially testified the conduct alleged in the Complaint was neither immoral nor illegal,⁷¹ but upon closer questioning, he agreed the conduct at issue was both immoral and illegal.⁷² Still, he testified that he thought the public safety was not impaired because the work was actually done.⁷³ For several reasons, this rationalization is unavailing and if this attitude is acted upon, it can lead to significant problems.

102 First, if Pilchuck’s failure to follow a gas safety procedure is “immoral” and “illegal,” that in and of itself should attract the immediate attention of PSE, Pilchuck, and the Commission, whether that failure impacts public safety or not.

103 Second, Superintendent Anderson’s rationalization defeats the very public safety purpose of the “different person” requirement: to have a second set of eyes, ears and instruments available to investigate a potential gas leak that could threaten public safety.⁷⁴

⁶⁶ Deposition of Mr. Engel at Tr. 57:13 to 58:13.

⁶⁷ Deposition of Mr. Engel at Tr. 32:18-24 and Deposition of Ms. Shea at Tr. 23:14 to 24:8.

⁶⁸ Staff found Leak Work Orders that had the printed initials of the person who initially classified the leak as a phantom leak (*e.g.*, the Leak Work Order 2 for Incident 17), but Staff found later Leak Work Orders that did not (*e.g.*, Leak Work Orders 2 and 3 for Incident 22).

⁶⁹ Deposition of Mr. Engel at Tr. 16:4-25.

⁷⁰ We are careful to attribute this rationale to the specific Pilchuck employee who stated it. Although he is a management employee, Staff has no indication this rationale is shared by Pilchuck management overall. Staff did not assume Mr. Anderson was speaking for Pilchuck management when he gave this testimony.

⁷¹ Deposition of Mr. Anderson at Tr. 48:11-14.

⁷² *Id.* at Tr. 49:8-13.

⁷³ *Id.* at Tr. 48:2 to 49:17.

⁷⁴ Mr. Anderson acknowledged that the “different person” requirement had resulted in finding a leak that was not found by a different employee when the leak was classified as a phantom leak. Deposition of Mr. Anderson at Tr. 50:4-10.

104 Third, it is simply not inappropriate for *any* person responsible for compliance with the gas safety rules to make a personal decision as to whether the public safety is impaired when those rules are not complied with, and when that person unilaterally decides the public safety is not impaired, to condone such non-compliance, or fail to pursue leads when non-compliance is reasonably suspected. In the end, this attitude can lead to selective disregard of the rules, tolerance of non-compliance of those rules, and/or indifference as to whether those rules are followed. Any one of these consequences is completely unacceptable.

105 Ultimately, it is the responsibility of the Commission to decide if a rule ought to be changed, or waived if it does not advance public safety. It is not acceptable for a pipeline maintenance employee to make that decision on an *ad hoc* basis, particularly when that person has the responsibility to assure compliance with applicable gas safety rules.

C. Why didn't Pilchuck's non-management employees⁷⁵ report the violations?

106 Based on the deposition testimony of six Pilchuck union employees and one non-union, non-management employee, there were many influences that led the union employees not to report these violations. Other union employees may have responded to the same or different influences.

107 First, as we discussed above, some employees testified they did not follow the "different person" requirement because that is what they were told to do by their Pilchuck managers. This testimony was supplied by Pilchuck employees Mr. Powe⁷⁶ and Ms. Gordon,⁷⁷ and former Pilchuck employee Mr. Morse.⁷⁸ Another former Pilchuck employee, Mr. Haugen, testified that he was told to do this by Ms. Shea, a Pilchuck clerk, who told him this was the way it was done; he understood this was "standard practice" at Pilchuck⁷⁹

108 Second, as we noted earlier, for Ms. Shea (a non-union, non-management employee), both the "different person" conduct and the alteration of dates started at PSE and carried over to Pilchuck when PSE outsourced the maintenance of its gas pipeline system.⁸⁰ At the time, she did not understand it was a requirement of PSE's manual to have a different person do

⁷⁵ In general, the union employees are those who actually do the pipeline installation and repair work; *i.e.*, the foremen and their crews. The exception is Ms. Corla Shea, who is a Pilchuck office worker, who is not a member of a union. We use the term "union" solely to distinguish these employees from Pilchuck "management" employees.

⁷⁶ Deposition of Mr. Powe at Tr. 17:4-8; Tr. 18:8-23; Tr. 19:21-23; Tr. 28:23 to 29:2.

⁷⁷ Deposition of Ms. Gordon at Tr. 12:10-21; Tr. 25:4-10.

⁷⁸ Deposition of Mr. Morse at Tr. 21:13-19; Tr. 23:7 to 24:1; Tr. 29:15-18; Tr. 35:21-22.

⁷⁹ Deposition of Mr. Haugen at Tr. 14:10 to 15:17; Tr. 19:7-21. Mr. Haugen testified that this event took place in the presence of at least three people: Ms. Shea, Mr. Matlock and Mr. Goodrich. Tr. 16:4-6. Neither Mr. Matlock nor Mr. Goodrich recalled the event. Deposition of Mr. Matlock at Tr. 13:3 to 14:4; Deposition of Mr. Goodrich at Tr. 10:4-18. Ms. Shea did not recall the specific event either, explaining that it was "so long ago," but she did testify she recalled telling Mr. Haugen that this conduct was what was done at PSE when she worked there previously, and she saw him write someone else's name on a follow-up leak work order. Deposition of Ms. Shea at Tr. 20:2-22; Tr. 52:6-13; Tr. 13:12-18.

⁸⁰ Deposition of Ms. Shea at Tr. 10:10-20; Tr. 33:25 to 34:2; Tr. 50:18-19; Tr. 52:17 to 53:9.

the follow-up leak evaluation, though she was aware at the time that it was wrong to change the dates.⁸¹

- 109 Third, no Pilchuck employees said Pilchuck “pressured” them to falsify records and not report it. However, some employees acknowledged there was pressure to get the work done. For some, such pressure was manageable, and provided no impetus to engage in conduct that violated the rules.⁸² For others, engaging in this conduct made it easier to get the work done.⁸³ Staff also considered whether there were economic reasons for employees to falsify records and not report it.
- 110 Pilchuck pays its employees on a salary basis (Superintendents) or hourly basis (union employees) but each such employee is also eligible for a bonus. Pilchuck tracks the work units each employee completes, and that is used in part to determine his or her bonus.⁸⁴ This could provide an incentive to do as much work as possible each day. If an employee is at a leak site and discovers that a different person must do the leak evaluation, that employee has an economic incentive to do the work and put another name on the document. Some of the union employees testified that they understood the bonuses were based on how much money they made for Pilchuck,⁸⁵ though it is not clear that this was a motivating factor for the conduct at issue.⁸⁶ Management employees are paid substantially higher bonuses than union employees, but again, whether or the extent to which this influenced the behavior of the Superintendants in this matter is not clear.
- 111 Fourth, most of the Pilchuck employees whom Staff deposed were asked if they were aware of avenues for reporting violations to PSE and Pilchuck. They responded that they were aware of such avenues, but none took advantage.
- 112 Finally, it is important to note that each union employee who was asked the question said they were remorseful for what they had done, and that it will not happen again.

⁸¹ Deposition of Ms. Shea at Tr. 16:13 to 17:13; Tr. 32:17-22.

⁸² “I’m not overly pressured to perform.” Deposition of Mr. Powe at Tr. 28:19 to 19:22.

⁸³ Deposition of Ms. Gordon at Tr. 24:12-19; Deposition of Ms. Shea at Tr. 49:6 to 50:3.

⁸⁴ Deposition of Mr. Engel at Tr. 48:16-18; Deposition of Mr. Anderson at Tr. 59:12 to 60:1.

⁸⁵ Deposition of Mr. Morse at Tr. 39:12-17; Deposition of Mr. Haugen at Tr. 48:6-13; Deposition of Ms. Gordon at Tr. 24:20-25.

⁸⁶ Ms. Gordon testified at Tr. 25:4-7 of her deposition that that neither the bonus nor “pressure” were factors in her engaging in this conduct:

Q: So just summing up, it appears that you approached your supervisor, you were directed to do this, so you did it?

A: Yes.

It is reasonable to expect that some employees sense pressure differently than others, and some may not perceive pressure at all, even when it exists. Suffice it to say, this was a very difficult subject for Staff to evaluate in this case.

VI. Conclusions

- 113 Staff's investigation shows that between February 2001 and May 2006, Pilchuck engaged in the falsification of PSE gas safety records. Staff is prepared to prove 156 violations of Commission rules (before consideration of continuing violations), as explained in detail in Appendix 3.
- 114 Pilchuck falsified the name of the person who performed certain follow-up leak evaluations. On substantially fewer occasions, Pilchuck falsified the completion date of certain leak evaluations. In each instance, Pilchuck intended to show compliance with PSE's gas safety standards, when in fact there was not compliance.
- 115 At least one Pilchuck superintendent (*i.e.*, management employee) knew that the "different person's" name was being falsified, and this was directly responsible for some of this conduct occurring, and continuing. To the extent Pilchuck superintendents did not know the entire extent of the "different person" violations, that is at least partly because Pilchuck did not thoroughly investigate that issue when it had the opportunity to do so. Moreover, during this period, when Pilchuck took some action to change its procedures, it failed to determine whether those changes worked.
- 116 Staff found no evidence that Pilchuck management knew about the date alterations, but it is possible Pilchuck could have discovered this if Pilchuck had audited the records.
- 117 PSE apparently did not know about any of this conduct, at least to the extent it occurred at Pilchuck. By the same token, it is possible PSE could have discovered this if PSE had audited the records.
- 118 PSE and Pilchuck have taken significant steps designed to assure this conduct does not recur. The Pilchuck employees deposed understand the conduct cannot be repeated.
- 119 Nonetheless, it is very important to more fully evaluate the root causes of this conduct. While it is not uncommon for an investor-owned utility such as PSE to outsource certain gas pipeline maintenance activities, when that happens, those activities are transformed into a profit center of PSE's contractor. This can affect the motivations and behaviors of the people doing, managing and auditing these activities. A third party (*i.e.*, independent) audit should be conducted to evaluate, among other things, PSE's relationships with its contractors, and whether adequate quality controls are in place.