

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Joint Application of)	DOCKET U-072375
)	
PUGET HOLDINGS LLC AND PUGET)	
SOUND ENERGY, INC.,)	ORDER 05
)	
For an Order Authorizing Proposed)	
Transaction)	GRANTING PUBLIC COUNSEL’S
)	MOTION TO REOPEN RECORD
.....)	

MEMORANDUM

- 1 On September 16, 2008, the Public Counsel Section of the Washington State Attorney General’s Office (Public Counsel) filed a Motion to Reopen the Record in this proceeding. Public Counsel proposes to include in the record twelve news articles and press releases taken from the online versions of various news sources such as the Wall Street Journal and Bloomberg. These documents report on various aspects of the current turmoil in U.S. and international financial markets. Public Counsel asserts that these reports are “evidence essential to the Commission’s decision that was unavailable at the time of the hearing.”¹

- 2 Puget Holdings LLC and Puget Sound Energy, Inc. (Joint Applicants) filed their response on September 19, 2008, as required by prior Commission Notice shortening the time for responses in consideration of the fact that briefs are due in this proceeding on September 24, 2008. Joint Applicants oppose Public Counsel’s motion, arguing that Public Counsel “failed to meet the threshold showing under WAC 480-07-830 that the materials Public Counsel seeks to enter into the record are essential to the outcome of this proceeding.”² In addition, Joint Applicant’s argue the material is “unnecessary, irrelevant and cumulative/duplicative to evidence in the record.”³ Joint Applicants identify eleven similar exhibits already in the record as Exhibits 195 – 236, which Public Counsel offered as cross-examination exhibits for Mr. Schmidt. Moreover, Joint Applicants

¹ Public Counsel Motion at p. 1.
² Joint Applicant’s Response at ¶ 1.
³ *Id.*

argue, there is no dispute in the record concerning the fact that “global and domestic financial markets are in the midst of a severe crunch.”⁴

3 Joint Applicants argue in the alternative that if the Commission reopens the record, it should also accept four documents tendered with Joint Applicant’s response as Exhibits A-D. Considering Joint Applicant’s extensive argument that the information submitted by Public Counsel actually supports Commission approval of the proposed transaction we infer that, with the addition of these four documents, the Joint Applicants do not argue that they are prejudiced if we reopen the record and receive all sixteen documents.

4 Commission Staff also filed a timely response. Although Staff states that it does not oppose the motion because it perceives no harm in allowing the information into the record, Staff argues that Public Counsel has not made the required showing that this is “evidence essential to the Commission’s decision.”⁵ Indeed, as Staff asserts, our record already includes a significant amount of information concerning the currently volatile state of the financial markets. According to Staff, this information provides a sufficient basis up which Public Counsel can base any argument it wishes to make regarding how the “health and stability of financial markets impacts the level of risk which this transaction poses for Puget and its customers.”⁶

5 In addition, Staff argues the record is sufficient in this regard from its perspective:

For example, if Public Counsel’s new information is relevant to PSE’s risk under the status quo to raise equity capital in current financial markets, the record contains ample evidence on that subject. In any event, Public Counsel’s new information firmly supports the proposed transaction, which provides for PSE’s equity capital needs, thus protecting PSE from that risk.

Or, if this new information is relevant to the risks at the new ownership level under the proposed transaction, the record contains ample evidence regarding how the ring fencing provisions in the Settlement Stipulation protect against such risk.⁷

⁴ *Id.* at ¶ 11.

⁵ Staff Response at ¶ 3

⁶ *Id.* at ¶ 6..

⁷ *Id.* at ¶¶ 7 and 8 (citing *E.g.*, Markell, Exh. Nos. 75CT at 3:2 -15:10 and exhibits cited therein; Reynolds, Exh. No. 133T at 10 – 15; and Pettit, Exh. No. 111CT at 10:11 – 19:13; Exh. Nos. 301, 302T, 304CT, 305C, 306 and 307.

Thus, it appears Staff does not view itself as being prejudiced if we admit the documents Public Counsel submitted with its motion.

- 6 Although the information Public Counsel now offers into the record is cumulative of evidence already in the record and, in any event, does no more than provide information concerning events about which the Commission is fully aware and can take administrative notice, we exercise our discretion under WAC 480-07-830 to reopen the record “for any other good and sufficient cause.” We elect to continue, to use Staff’s turn of phrase, to provide “Public Counsel every procedural courtesy in its challenge to the Settlement Stipulation.”⁸ We accordingly will reopen the record for the limited purpose of receiving the selection of news reports and press releases Public Counsel submitted with its motion. In addition, in fairness, we will also receive into the record the four documents submitted by Joint Applicants.

ORDER

- 7 The Commission grants Public Counsel’s motion. The record in this proceeding is reopened for the limited purpose of admitting the 12 documents appended to Public Counsel’s motion as Attachments A – L and the 4 documents appended to Joint Applicant’s response as Exhibits A – D. We will include Public Counsel’s 12 documents in our record as Exhibits 500 – 512. We will include Joint Applicant’s four documents as Exhibits 513 – 516.

Dated at Olympia, Washington, and effective September 22, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS
Administrative Law Judge

⁸ *Id.* at ¶ 4. We note, however, that we do not perceive the need for yet more evidence that global financial markets are currently volatile, a fact well-established on the record and as to which there is no controversy in this case.