**BEFORE THE**

# WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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| In the Matter of the Petition ofPUGET SOUND ENERGY, INC., andNW ENERGY COALITIONFor an Order Authorizing PSE to Implement Electric and Natural Gas Decoupling Mechanisms and to Record Accounting Entries Associated with the Mechanisms | )))))))))) | DOCKET NOS. UE-121697/UG-121705(Consolidated)and |

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| WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,Complainant,v.PUGET SOUND ENERGY, INC.Respondent. | )))))))))) | DOCKET NOS. UE-130137/UG-130138(Consolidated)INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES’ PETITION FOR ACCOUNTING ORDER |

**I. INTRODUCTION**

1. Pursuant to WAC § 480-07-370(1)(b), the Industrial Customers of Northwest Utilities (“ICNU”) petitions the Washington Utilities and Transportation Commission (“Commission”) for an accounting order requiring Puget Sound Energy, Inc. (“PSE” or the “Company”) to: (1) refund to customers amounts the Company has collected in rates between the effective date of its tariffs filed in accordance with Order 07, issued in the above-referenced dockets (“Order 07”), and the date of this Petition that were in excess of fair, just, reasonable and sufficient rates; and (2) defer, beginning from the date of this Petition, amounts the Company is currently collecting in rates that are in excess of fair, just, reasonable and sufficient rates.
2. ICNU is a nonprofit organization that is the leading advocate for northwest industry on issues related to the use and affordability of electric energy. The contact information for ICNU’s attorneys in this matter is included at the end of this Petition. ICNU’s contact information is:

Industrial Customers of Northwest Utilities

818 S.W. Third Ave, #266

Portland, OR 97204

1. The rules and statutes relevant to this Petition are: WAC § 480-07-370, RCW § 80.28.010, and RCW § 80.01.040.

**II. FACTUAL BACKGROUND**

1. On June 25, 2013, the Commission entered Order 07, in which it approved an expedited rate filing, a decoupling mechanism, and a rate plan for PSE.[[1]](#footnote-1)/ Despite the fact that the record evidence demonstrated that a reasonable return on equity (“ROE”) for PSE at the time Order 07 was issued was 9.3%,[[2]](#footnote-2)/ the Commission set PSE’s rates using the Company’s previously authorized ROE of 9.8%.[[3]](#footnote-3)/ ICNU and Public Counsel challenged this decision in Thurston County Superior Court (the “Court”).[[4]](#footnote-4)/ On July 25, 2014, the Court entered an order affirming in part and reversing in part Order 07 (“Court Order”).[[5]](#footnote-5)/ In a letter ruling attached to the Court Order, the Court found that the Commission’s decision to set PSE’s ROE at 9.8% was not based on substantial evidence in the record and improperly shifted the burden of proof away from PSE and onto other parties.[[6]](#footnote-6)/ The Court remanded Order 07 to the Commission “to establish fair, just, reasonable and sufficient rates to be charged under the rate plan, and to order any other appropriate relief.”[[7]](#footnote-7)/

**III. GROUNDS FOR THE PETITION AND RELIEF REQUESTED**

1. ICNU’s Petition seeks to effectuate the Court’s order on remand. Specifically, ICNU proposes to capture the difference between what PSE has collected, and continues to collect, in rates found to be unlawful, and the amount that is “just, fair, reasonable and sufficient” as required by RCW § 80.28.010(1) and the Court Order. PSE should be required to refund the amount, plus interest, it has over-collected from customers during the period between July 1, 2013, the effective date of PSE’s tariffs filed in compliance with Order 07, and the date of this Petition. Additionally, it should be required to defer from the date of this Petition, for later reduction to rates, the amount it is currently over-collecting from customers.

**A. Refunds**

1. The Commission’s accounting order should refund to customers amounts, with interest, PSE has already collected that are in excess of “just, fair, reasonable and sufficient” rates.[[8]](#footnote-8)/ “Just, fair, reasonable, and sufficient” rates are those that are “reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.”[[9]](#footnote-9)/
2. PSE has operated with unlawfully high rates since July 1, 2013, the date its tariffs approved by Order 07 became effective.[[10]](#footnote-10) / The amount PSE has over-collected since this date is known. The record establishes that a 9.3% ROE would have assured confidence in the Company’s financial soundness, and thus met the statutory requirements, at the time Order 07 was issued. ICNU’s witness, Michael Gorman, performed a full cost of capital study, including three versions of a discounted cash flow analysis, a risk premium analysis, and a capital asset pricing model analysis, which collectively supported this level of ROE as adequate and sufficient for PSE.[[11]](#footnote-11)/ This is “sufficient evidence in the record … to adjust the Company’s ROE.”[[12]](#footnote-12)/
3. The Commission’s accounting order, therefore, should order PSE to immediately refund to customers the amount PSE has unlawfully collected in rates between July 1, 2013, and the date of this Petition that represents the difference between the 9.8% ROE approved in Order 07 and the 9.3% ROE supported by the record, including interest at the Company’s overall cost of capital.

**B. Deferred Accounting**

1. ICNU also requests that the Commission’s accounting order require PSE to establish a deferred account to track, for later inclusion in rates, the amount PSE continues to over-collect in excess of “just, fair, reasonable and sufficient” rates.[[13]](#footnote-13)/  Because the Commission established rates to be in effect for the term of the rate plan, ICNU supports using an ROE of 9.3% to calculate PSE’s deferrals for the remainder of that rate plan, as supported by the record evidence. Under ICNU’s proposal for an accounting order, PSE would defer, for later refund through rates, plus interest, the difference between the amount the Company is currently collecting from customers with a 9.8% ROE and the amount the Company would be collecting with a 9.3% ROE.

**IV. CONCLUSION**

1. For the foregoing reasons, ICNU respectfully requests that the Commission enter an accounting order granting the relief requested in this Petition.

Dated in Portland, Oregon, this 30th day of July, 2014.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

*/s/ Melinda J. Davison*

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of Northwest Utilities

1. /  Order 07 ¶¶ 244-245. [↑](#footnote-ref-1)
2. / Order 07 ¶ 51; ICNU Ex. No. \_\_ (MPG-3). [↑](#footnote-ref-2)
3. / Order 07 ¶ 220. [↑](#footnote-ref-3)
4. / Docket Nos. UE-121697/UG-121705 and UE-130137/UG-130138, ICNU and Public Counsel Petitions for Judicial Review of Final Agency Action (July 24, 2013). [↑](#footnote-ref-4)
5. / The Court Order is attached to this Petition for the Commission’s convenience. [↑](#footnote-ref-5)
6. / Court Order, Appendix A at 4-5. [↑](#footnote-ref-6)
7. / Court Order at 3. [↑](#footnote-ref-7)
8. / RCW § 80.28.010(1). [↑](#footnote-ref-8)
9. / Bluefield Water Works & Imp. Co. v. Pub. Serv. Comm’n, 262 U.S. 679, 693 (1923). [↑](#footnote-ref-9)
10. / Docket Nos. UE-121697/UG-121705 and UE-130137/UG-130138, Commission Compliance Letter, June 28, 2013. [↑](#footnote-ref-10)
11. / ICNU Ex. No.\_\_(MPG-3). [↑](#footnote-ref-11)
12. /  Order 07, Separate Statement of Commissioner Jones ¶ 4. Additionally, in a separate motion filed concurrently with this Petition, ICNU requests that the Commission modify Order 07 to find that sufficient evidence existed in the record to find that a reasonable ROE for PSE was 9.3%. [↑](#footnote-ref-12)
13. / RCW § 80.28.010(1). [↑](#footnote-ref-13)