

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET PG-111723
TRANSPORTATION)	
COMMISSION,)	
)	ORDER 02
Complainant,)	
)	
v.)	FINAL ORDER APPROVING AND
)	ADOPTING SETTLEMENT
PUGET SOUND ENERGY, INC.,)	AGREEMENT ON CONDITIONS
)	
Respondent.)	
.....)	

1 **PARTY REPRESENTATIVES.** Donald Trotter, Assistant Attorney General, Olympia, Washington, represents Commission Staff.¹ Donna Barnett, Perkins Coie, Bellevue, Washington, represents Puget Sound Energy, Inc. (PSE or Company).

BACKGROUND

2 On Sunday, September 25, 2011, a windstorm caused an electric power line owned and operated by Seattle City Light to come down. The power line energized a metal fence post and eventually energized a PSE steel gas pipe serving the Pinehurst neighborhood of Seattle, Washington. Three gas leaks, all caused by electrical arcing, were reported to or identified by PSE that day. PSE repaired these leaks and conducted two leak surveys in the area that day and into the early morning hours of the next day.

3 On Monday, September 26, 2011, a natural gas explosion and fire injured two people, Mr. David Ingham and Mrs. Hong Ingham, and destroyed their house at 12312 5th Avenue N.E., Seattle. PSE had not become aware of or located or repaired the gas leak at the service line leading to the Ingham’s home on September 25, 2011.

¹ In a formal proceeding, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To ensure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See RCW 34.05.455.

- 4 On March 1, 2013, the Washington Utilities and Transportation Commission (Commission) by and through its Staff filed a complaint against PSE following the Commission's investigation of this incident. The complaint alleges that PSE violated WAC 480-93-188(4) by failing to complete leak surveys, and violated WAC 480-93-180 by failing to follow sections 4625.1140 and 4625.1130 of the Company's procedural manual. The complaint sought a monetary penalty of \$400,000.
- 5 PSE filed an answer on March 21, 2013, denying the alleged violations. PSE argued that the level of penalty sought by the complaint would be retributive in nature and not serve a corrective function.
- 6 Following a prehearing conference conducted by Administrative Law Judge (ALJ) Adam E. Torem on April 18, 2013, the Commission adopted a procedural schedule that set this matter for hearing on October 15, 2013.

SETTLEMENT AGREEMENT

- 7 On July 10, 2013, the parties filed with the Commission a full settlement and a joint supporting narrative. The Settlement Agreement includes (1) PSE's commitment to hire a third party consultant to evaluate PSE's public awareness program; (2) PSE hosting workshops for other utilities doing business in Washington state to develop or improve communication and coordination plans with neighboring or overlapping utilities in emergency, service outage or other similar situations for the benefit of public safety; (3) PSE reviewing its emergency procedures plans and contracts with service providers, vendors or consultants for potential gas leak situations; (4) the Company's concurrence that it violated Commission gas safety rules regarding leak surveys; and (5) a requirement that PSE pay a monetary penalty of \$275,000.
- 8 The parties agree that PSE promptly responded to the three gas leaks reported in the Pinehurst neighborhood on Sunday, September 25, 2011. The parties also agree that the leak in PSE's steel service line serving the home of Mr. David Ingham and Mrs. Hong Ingham was caused by electrical arcing and that PSE did not become aware of, locate, or repair this leak on September 25, 2011.
- 9 Commission Staff's investigation concluded that gas migrated from the leaking service line to the crawlspace under the Ingham's home and ignited. However, Staff could not eliminate the possibility that the electrical current running through the gas

pipe continued into the home and caused another leak in the Ingham's fuel line, furnace, or other facilities.

- 10 Staff acknowledges that electrical arcing events are relatively rare but contends that gas utility companies must be prepared to resolve such events when they arise. Staff believes that the Agreement will improve PSE's procedures and protocols for all gas leak incidents, particularly for those caused by electrical arcing events.
- 11 PSE agrees that the Company violated the Commission's gas safety rules. Although the Company does not admit to the specific violations set out in the complaint, Staff sees no useful purpose in proceeding to hearing to resolve specific factual disputes.
- 12 The parties agree that the \$275,000 monetary penalty imposed on the Company is a significant amount but also represents a compromise of litigation positions.
- 13 The Commission held a hearing on the proposed settlement on September 25, 2013, in Olympia, Washington before Chairman David W. Danner and Commissioner Jeffrey D. Goltz. Commissioner Philip B. Jones attended telephonically. ALJ Torem presided over the settlement hearing.

DISCUSSION AND DECISION

- 14 WAC 480-07-750(1) states in part: "The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission." Thus, the Commission considers the individual components of the Settlement Agreement under a three-part inquiry, asking:
- Whether any aspect of the proposal is contrary to law.
 - Whether any aspect of the proposal offends public policy.
 - Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.
- 15 The Commission must determine one of three possible results:
- Approve the proposed settlement without condition.
 - Approve the proposed settlement subject to conditions.
 - Reject the proposed settlement.

As further explained below, we approve the Settlement Agreement on two conditions and with one clarification.

- 16 There is no dispute that PSE failed to identify or locate the gas leak at the service line serving the Ingham's home. However, PSE did promptly notify the Commission about the explosion and fire. Further, the Company fully cooperated with Staff's investigation of the incident and conducted its own independent investigation into the event. This Agreement seeks simultaneously to hold the Company accountable and enhance public safety by strengthening PSE's programs on public awareness, preventive measures, and inter-utility communication and coordination regarding natural gas leaks.
- 17 The Agreement ensures that PSE's public awareness program will be objectively audited and, where appropriate, improved. The Agreement obligates PSE to initiate or renew cooperative relationships among utility companies sharing common boundaries or overlapping service areas, to the benefit and protection of the customers residing in those locations served by more than a single utility company. Further, the Agreement addresses Staff's concerns that the Company be prepared to vigorously respond to gas leak events on any day of the week and at any time of day or night by committing PSE to reviewing its emergency procedures plans and contracts with all of its service providers, vendors and consultants.
- 18 As part of the Settlement Agreement, PSE concedes that the Company violated the Commission's gas safety rules. The Agreement imposes a significant monetary penalty on PSE in an amount we believe should be sufficient to deter future violations of Commission rules in this regard.
- 19 Our approval of the Settlement Agreement is subject to two conditions and one clarification. First, the Company must submit its third party consultant's evaluation of PSE's public awareness program and its recommendation to Commission Staff for review and approval. The Commission delegates to the Executive Director and Secretary the authority to consider and approve the consultant's recommendation. Second, the Company must consult with Commission Staff on its plans to convene the inter-utility workshops and the agendas of those workshops. At the hearing, a representative of the Company agreed to these conditions. Finally, we wish to make clear that our approval is of the agreement reached by the parties as set out in paragraphs 12 through 24 of the Settlement Agreement. Without benefit of an evidentiary hearing, we make no findings or conclusions with regard to the

background information contained in paragraphs 4 through 11 of the Settlement Agreement.

- 20 The terms in the Settlement Agreement are not contrary to law or public policy and reasonably resolve all issues in this proceeding. We find that the Settlement Agreement is consistent with the public interest and should be approved subject to the conditions and clarification above.

ORDER

THE COMMISSION ORDERS:

- 21 (1) The Settlement Agreement filed by the parties on July 10, 2013, which is attached as Appendix A to this order and incorporated by reference, is approved and adopted as the final resolution of the disputed issues in this docket subject to the conditions set out above; and
- 22 (2) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective September 26, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

JEFFREY D. GOLTZ, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.

APPENDIX A

SETTLEMENT AGREEMENT