

WE-010891  
(F)

June 18, 2001

**VIA FEDERAL EXPRESS**

Carole J. Washburn  
Executive Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Dr. S.W.  
P.O. Box 47250  
Olympia, WA 98504-7250

01 JUN 19 09 51 13  
FEDERAL EXPRESS  
COMMERCIAL SERVICE

Re: City of SeaTac v. Puget Sound Energy, Inc.  
Complaint and Petition for Declaratory Relief


Dear Ms. Washburn:

Enclosed are the original and 19 copies of a Complaint and Petition for Declaratory Relief on behalf of the City of SeaTac. A 3-1/2 inch disk is also enclosed with the document formatted as Word Perfect 5.1 for DOS. Please return a file-stamped copy of the Complaint to us in the enclosed self-addressed envelope.

Thank you for your attention to this matter.

Very truly yours,

PRESTON GATES & ELLIS LLP

By   
Carol S. Arnold

CSA:jas

Enclosures

cc: Puget Sound Energy, Inc. (via facsimile followed by U.S. mail)  
Simon ffitch (via facsimile followed by U.S. mail)  
Thomas Schooley (via facsimile followed by U.S. mail)

**Posted**

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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CITY OF SEATAC,

Complainant and Petitioner,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

No. UE 010891

COMPLAINT AND PETITION FOR  
DECLARATORY RELIEF

The City of SeaTac ("City") for its Complaint and Petition for Declaratory Relief pursuant to RCW 34.05.240, RCW 80.04.110, WAC 480-09-230, 480-09-420(5)(a), RCW 34.05.482, and WAC 480-09-500, states as follows:

1. The name and address of petitioners is:

Mary E. Mirante  
City of SeaTac  
17900 International Boulevard, Suite 401  
SeaTac, WA 98188-4236  
Business: (206) 433-1800  
Fax: (206) 433-1833

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2. The attorneys representing petitioners are:

Carol S. Arnold  
Laura K. Clinton  
Preston Gates & Ellis LLP  
701 Fifth Avenue, Suite 5000  
Seattle, WA 98104-7078  
Business: (206) 623-7580  
Fax: (206) 623-7022

3. The City requests the Commission to resolve a dispute with Puget Sound Energy (“PSE”) regarding the interpretation of PSE’s Electric Tariff G, Schedule 70 (“Schedule 70”). Schedule 70, entitled “Conversion to Underground Service In Residential Areas,” sets forth the terms and conditions under which PSE shall remove its existing overhead lines and poles and install an underground system in residential areas.

4. The City is about to begin a major street improvement project in a residential area. In order to accommodate the street improvements, the City has directed PSE to relocate its facilities, remove aerial electric wires and poles that obstruct the street, and replace these with underground facilities. However, PSE refuses to comply with Schedule 70 in converting to underground service in the conversion area.

5. Schedule 70 requires that the City pay PSE for the underground conversion at the rate of \$20.33 per centerline foot of all public thoroughfares utilizing surface-mounted transformers plus the costs of trenching and restoration for the installation of the underground system. In spite of the clear language of Schedule 70, PSE refuses to perform the conversion to underground unless the City pays 30 % of the total cost of the conversion. PSE claims that the Schedule 70 payment is not applicable because the electrical system in the conversion area is not a single phase system, but a three phase system.

1           6.       Schedule 70 applies to a conversion in a residential area regardless of whether the  
2 conversion area contains a one or three phase system. The availability provisions of Schedule 70, in  
3 fact, make no reference at all to the phasing of the electrical system to be converted to underground.

4 Schedule 70 states in relevant part:

5                   Subject to availability of equipment and materials, the Company will provide and  
6 install a Main Distribution System and will remove existing overhead electric  
7 distribution lines of 15,000 volts or less together with Company-owned poles  
8 following the removal of all utility wires therefrom in areas which are zoned and used  
9 exclusively for residential purposes, provided that at the time of such installation the  
10 company shall have adequate operating rights, and provided further that the  
11 Conversion Area must be not less than one (1) city block in length, or in the absence  
of city blocks, not less than an six (6) contiguous building lots abutting each side of  
the public thoroughfare with all real property on both sides of each public  
thoroughfare to receive electric service from the Main Distribution System.

12           7.       To resolve this dispute, the City requests that the Commission declare as a matter of  
13 law that Schedule 70 applies to an underground conversion in a residential area regardless of  
14 whether the electrical system in the conversion area is single phase or three phase.

15           8.       The residential street improvements in SeaTac are ready to begin, but construction  
16 cannot proceed because PSE refuses to relocate its facilities until the City agrees to pay PSE on  
17 PSE's terms in contravention of Schedule 70. Unless this dispute is resolved expeditiously, the  
18 construction project will be delayed, the public will be inconvenienced by traffic congestion and  
19 hazards, and the City could be exposed to monetary claims for delay damages. For this reason, the  
20 City respectfully requests expedited resolution of this controversy.

21           9.       The City suggests that the Commission determine this matter in a brief adjudicative  
22 proceeding pursuant to RCW 34.05.482 and WAC 480-09-500. A quick resolution of the dispute is  
23 in the public interest, the public interest would not require the Commission to give notice and an  
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1 opportunity to participate to persons other than the parties, and a brief adjudicative hearing would be  
2 adequate to permit the Commission to consider the matter and issue a prompt and sound decision.

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4 RELIEF REQUESTED

5 The City respectfully requests that following a brief adjudicative proceeding pursuant to  
6 RCW 34.05.482 and WAC 480-09-500, the Commission issue an order as follows:

- 7 1. Declaring that Schedule 70 applies to an underground conversion in a residential area  
8 regardless of whether the electrical system in the conversion area is single phase or  
9 three phase;  
10 2. Directing PSE to proceed forthwith to relocate its facilities within the conversion area  
11 underground;  
12 3. Declaring that the maximum payment to PSE for such conversion to underground  
13 shall be the payment set forth in Schedule 70; and  
14 4. For all other just, equitable, and proper relief.

DATED this 8<sup>th</sup> day of June, 2001.

15 PRESTON GATES & ELLIS LLP

16  
17 By Carol S. Arnold  
18 Carol S. Arnold, WSBA # 18474  
19 Laura K. Clinton, WSBA # 29846

20 Attorneys for Petitioner and Complainant  
21 City of SeaTac  
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CERTIFICATE OF SERVICE

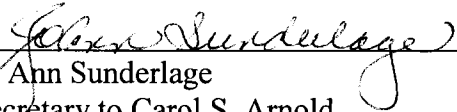
I HEREBY CERTIFY that I have this day served the COMPLAINT AND PETITION FOR DECLARATORY RELIEF in the proceeding upon the following:

Puget Sound Energy, Inc. (via facsimile followed by U.S. mail)  
411-108<sup>th</sup> Avenue N.E.  
Bellevue, WA 98004

Simon ffitch (via facsimile followed by U.S. mail)  
Office of the Attorney General  
900 Fourth Avenue, Suite 2000  
Seattle, WA 98164-1012

Thomas Schooley (via facsimile followed by U.S. mail)  
Policy Research Specialist  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Drive S.W.  
Olympia, WA 98504

DATED at Seattle, Washington this 18th day of June, 2001.

  
\_\_\_\_\_  
Jo Ann Sunderlage  
Secretary to Carol S. Arnold