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August 24, 2001

VIA HAND-DELIVERY

Carole S. Washburn
Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
Olympia, WA 98504-7250

**Re: Consolidated Docket Nos. UE-010891 and UE-011027
Cities of SeaTac and Clyde Hill v. Puget Sound Energy, Inc.**

Dear Ms. Washburn:

Enclosed are the original and 14 copies of Puget Sound Energy, Inc.'s Response to Motions for Summary Determination and Cross Motion for Summary Determination and Affidavit of Lynn F. Logen for filing in the referenced action.

We have also enclosed a disk with an electronic copy of the Response and Affidavit, in Word format.

Thank you for your assistance in this matter.

Very truly yours,


Kirstin S. Dodge

KSD:pi
Enclosures

cc: Service List (via hand delivery)

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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

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STATE OF WASH.
UTILITY & TRANSPORTATION

CITY OF CLYDE HILL, AN OPTIONAL
MUNICIPAL CODE CITY,

Complainant and Petitioner,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

NO. UE-011027

PUGET SOUND ENERGY, INC'S
RESPONSE TO MOTIONS FOR
SUMMARY DETERMINATION AND
CROSS MOTION FOR SUMMARY
DETERMINATION

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TO MOTIONS FOR SUMMARY
DETERMINATION AND CROSS MOTION
FOR SUMMARY DETERMINATION - i

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I. INTRODUCTION

1. Puget Sound Energy, Inc. ("PSE") hereby submits its response in opposition to the Motion of City of SeaTac for Summary Determination ("SeaTac Motion") and the City of Clyde Hill's Motion for Summary Determination ("Clyde Hill Motion"), and cross moves for summary determination in PSE's favor on all issues raised in the Petitions filed by SeaTac and Clyde Hill in this consolidated proceeding.

2. This proceeding brings into issue: RCW 34.05.240, WAC 480-09-230, RCW 80.28.080, RCW 80.28.090, RCW 80.28.100, WAC 480-09-426(2), and Schedules 70, 71 and 80 of PSE's Tariff WN U-60, Electric Tariff G.

3. SeaTac and Clyde Hill are not entitled to obtain conversions of PSE's existing overhead facilities to underground for their South 170th Street and 92nd Avenue N.E. projects under Schedule 70. Schedule 70 does not apply to those conversions because the areas in question are not "used *exclusively* for residential purposes." Although the dwellings along South 170th Street and 92nd Avenue N.E. are residential, the streets themselves are used for nonresidential purposes. More importantly, PSE's electric system along both streets is a three-phase feeder system, not a single-phase system of the type that serves exclusively residential purposes. The three-phase feeder that is to be converted to underground forms part of PSE's distribution backbone, and serves commercial as well as residential purposes. Undergrounding a three-phase system is significantly more expensive than undergrounding a single-phase system, and the Schedule 70 rate was set by reference to the costs of undergrounding single-phase distribution lines, not three-phase feeders. Instead, Schedule 71 applies to the conversions of overhead facilities along SeaTac's South 170th Street and Clyde

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PUGET SOUND ENERGY, INC'S RESPONSE
TO MOTIONS FOR SUMMARY
DETERMINATION AND CROSS MOTION
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1 Hill's 92nd Avenue N.E., and SeaTac and Clyde Hill must participate in paying a share of the
2 actual costs of the conversion pursuant to Schedule 71.
3

4 4. Clyde Hill is also not entitled to obtain conversions of PSE's existing overhead
5 facilities to underground under Schedule 70 or Schedule 71 with respect to facilities that are
6 located on private property rather than on public streets. Schedules 70 and 71 apply only to
7 facilities located on *public* streets or thoroughfares. In the present case, PSE is willing to
8 underground facilities located on private property within the Clyde Hill project, but only if
9 Clyde Hill agrees to pay PSE 100% of the costs of the conversion.
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16 5. Finally, although Clyde Hill did not present substantive argument on the issue,
17 Clyde Hill has requested that the Commission declare that "[t]he City of Clyde Hill and the
18 underground conversions described in Clyde Hill Local Improvement District No. 2001-01 are
19 vested under the now existing version of Schedule 70." Clyde Hill Motion at 10. Utility
20 customers do not have vested rights in tariff provisions or utility operating practices, and
21 Clyde Hill's request for relief should be denied.
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28 6. Therefore, for the reasons set forth below, the Commission should deny the
29 motions of Clyde Hill and SeaTac for summary determination, should grant PSE's cross-
30 motion for summary determination, and should issue a declaratory ruling in PSE's favor on all
31 issues that are before the Commission in this proceeding.
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37 II. STATEMENT OF FACT

38 7. Generally, the facts involved in the SeaTac and Clyde Hill conversions that are
39 the subject of this proceeding are relatively straightforward and not disputed. Instead, the
40 parties disagree over the application of Schedules 70 and 71 to the facts. PSE does not repeat
41 the facts set forth in SeaTac's Motion and Clyde Hill's Motion, and instead simply corrects
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1 certain factual statements that it believes are not entirely accurate. PSE further sets forth
2 additional facts that are not set forth in SeaTac's Motion or Clyde Hill's Motion.
3

4
5 **A. The SeaTac Project**

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7 8. SeaTac states that it has "directed" PSE to convert its overhead facilities to
8 underground, citing Stipulated Fact No. 1. Stipulated Fact No. 1 states that SeaTac has
9 "requested" that PSE convert its facilities to underground. PSE does not believe that SeaTac
10 has authority to "direct" PSE to convert these facilities other than pursuant to the terms of
11 PSE's lawful Tariff. This distinction could be important in other contexts, particularly if
12 SeaTac were to claim that its undergrounding ordinances provide it with authority to "direct"
13 PSE to undertake actions with respect to PSE's facilities that are contrary to Washington law.
14 However, PSE does not believe that any factual dispute over this distinction is material to the
15 issues that are before the Commission in this case. There is no dispute that PSE's overhead
16 facilities on the 170th Street project (the "SeaTac Conversion") are being converted to
17 underground. The question is whether SeaTac must pay for that conversion pursuant to
18 Schedule 70 or Schedule 71.
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31 9. Construction is now underway on the SeaTac Conversion because PSE and
32 SeaTac have entered into an interim agreement with reservations of rights under which the
33 overhead facilities will be converted to underground pursuant to either Schedule 70 or 71,
34 depending on resolution of issues raised in this proceeding and in Docket No. UE-010778.
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37 See Affidavit of Lynn Logen ("Logen Aff.") at ¶ 2.
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41 **B. The Clyde Hill Project**

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43 10. PSE notes that Clyde Hill's quotation of Schedule 70's requirement that an area
44 is "zoned and used exclusively for residential purposes" occasionally contains a typo that
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1 changes "and used" to "in use." See Clyde Hill Motion at 2, lines 19, 22. Clyde Hill also
2
3 paraphrases Schedule 70 inaccurately at page 5, lines 25-27 of its Motion.
4

5 11. Clyde Hill cites to Stipulated Facts Nos. 13, 14, 18 and 19 for the proposition
6 that "[t]he conversion area is zoned and used exclusively for residential purposes." Clyde Hill
7 Motion at 5 lines 15-17. Clyde Hill is correct that PSE has stipulated that the area within the
8 LID boundary is *zoned* residential. However, PSE has not stipulated that it is "used
9 exclusively for residential purposes." The phrase "used exclusively for residential purposes" is
10 tariff language that is in dispute in this case. PSE has stipulated that all of the *buildings* in the
11 conversion area along 92nd Ave. N.E. are *residential dwellings*. However, as described
12 below, the conversion area along 92nd Ave. N.E. is not "used exclusively for residential
13 purposes."
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22 12. The existing overhead facilities within the Clyde Hill LID area that PSE claims
23 do not meet the terms of Schedule 70 or 71 are located along *private drives and through*
24 *private property* running east of and perpendicular to 92nd Avenue N.E. and west of and
25 perpendicular to 94th Avenue N.E. See Stipulated Exhibit No. D, green highlighting. PSE's
26 existing overhead facilities in these areas are located on PSE easements, or by invitation of the
27 property owner, and *there is no public thoroughfare in these areas*. See Stipulated Facts No.
28 12.
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36 13. In addition, 92nd Avenue N.E. in Clyde Hill is not used exclusively for
37 residential purposes. Clyde Hill has two main through streets, 92nd Avenue N.E. and N.E.
38 24th Street. 92nd Avenue N.E. is significantly wider than the side streets that branch off of it.
39 It connects to N.E. 8th Street, which is a primary point of entry into Clyde Hill from
40 Bellevue's downtown commercial areas and continues all the way through Clyde Hill to
41 approximately N.E. 34th Street and the entrance to State Highway 520. This contrasts with
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1 the other public side streets in the Clyde Hill LID boundary, where PSE has agreed that
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3 Schedule 70 applies, as shown on Exhibit D, pink highlighting. Logen Aff. at ¶ 18; Stipulated
4
5 Exhibit No. G; Exhibit I. Clyde Hill's City Ordinance describes "92nd Avenue N.E., from
6
7 N.E. 12th Street to State Route 520" as a "Collector Arterial," and *not* as a "Local Access
8
9 Road." Clyde Hill Ordinance § 12.04.020, attached at Addendum 21-22.

10
11 **C. Additional Facts Relevant to Both Projects**

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13 14. PSE's existing overhead system along South 170th Street and 92nd
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15 Avenue N.E. are three-phase feeder systems not single-phase systems. Stipulated Facts
16
17 Nos. 8, 11.

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19 15. There are critical differences between a three-phase (600 amp) feeder system
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21 and a single-phase (200 amp) system when converting an overhead electric system to
22
23 underground. Logen Aff. at ¶ 4.

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25 16. A "feeder" circuit on PSE's distribution system is the backbone directly from
26
27 the substation. A feeder is a three-phase, heavy wire, high capacity circuit protected by the
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29 substation circuit breaker. A feeder is never single-phase. By contrast, a regular distribution
30
31 circuit consists of lighter, lower capacity conductors, and is separated from the feeder circuit
32
33 by fuses. Logen Aff. at ¶ 5.

34
35 17. Conversion of an above-ground three-phase feeder system to an underground
36
37 system is fundamentally different than conversion of a single-phase system to an underground
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39 system. Undergrounding of a three-phase feeder system such as the one in Clyde Hill or
40
41 SeaTac requires construction of a parallel single-phase underground system to serve
42
43 individual, single-phase customers that were formerly served by one phase of the overhead,
44
45 three-phase feeder system prior to the conversion. This is because an overhead feeder system
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47 contains conductors on each pole that can serve as points at which a regular distribution

1 circuit can be connected through a fuse or fuses to the three-phase feeder, while an
2 underground feeder system is encased in heavy insulation and does not contain open
3 conductors that provide access to the feeder. Logen Aff. at ¶ 6.
4
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7 18. Stipulated Exhibit No. H, which is PSE's Standard 6750.5000, Underground
8 Distribution System Design, demonstrates some of the above issues. Figure 1 on page 2
9 shows an electrical diagram of a single-phase system running parallel to a three-phase feeder.
10 The design criteria regarding "Switch Design" on page 3 further describes the purpose of the
11 parallel system, as follows:
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17 Design the system so that any switch may be taken off line without an
18 outage to customers. See Figure 1 as an example. The 200-amp
19 systems will usually be located adjacent and parallel to both sides of the
20 feeder to where this is possible.
21

22 The design criteria regarding "200-Amp Taps" on page 3 of Exhibit H describes the
23 requirement that all 200-amp (single-phase) taps from a feeder shall be fused. Logen Aff. at
24 ¶ 7.
25
26

27
28 19. In general, PSE installs single-phase systems in areas that are purely residential,
29 and does not install three-phase systems in a residential area unless load exists in the area that
30 needs such a system. Normally, residential areas are served by a single-phase branch of PSE's
31 system that at some point ties into one phase of PSE's three-phase distribution feeders. In
32 residential areas, any three-phase system is generally limited to feeder backbone to carry load
33 that the single-phase systems tap off of, or to carry load from one commercial area to another
34 through the residential area. By contrast, developed commercial areas in PSE's service
35 territory contain electrical systems that are all three-phase in order to provide power for three-
36 phase motors used for elevators, HVAC systems, refrigeration systems and other three-phase
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1 customer owned equipment. Residential customers typically do not own equipment that
2 requires three-phase electrical service. Logen Aff. at ¶ 8.
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4 20. Although the houses that tap off of the facilities to be converted to
5 underground along South 170th Street in SeaTac and along 92nd Avenue N.E. in Clyde Hill
6 are residential dwellings, with single-phase load, the three-phase feeder that they tap off of is
7 part of PSE's distribution backbone that carries three-phase load to these areas, as well as to
8 other areas in PSE's system that require three-phase service. Thus, the electric system in these
9 areas is not "used exclusively for residential purposes." Logen Aff. at ¶ 9.
10

11 21. The Declaration of Tom Gut dated August 10, 2001, at paragraph 5, lines 9-
12 12, could be misleading if not clarified. Mr. Gut is correct that the SeaTac plans call for
13 single-phase services to individual dwellings. His reading of the plans is consistent with the
14 above descriptions of how a parallel, single-phase system will need to be installed when the
15 existing overhead is converted to underground. However, his declaration speaks in terms of
16 "an isolated three-phase feeder circuit" and a "secondary cable system" providing services to
17 individual dwellings. It is the parallel, single-phase system that will be added and isolated
18 from the three-phase system to provide single-phase service with appropriate fusing. The
19 three-phase system will continue to connect to the rest of PSE's distribution system, as it does
20 now. Using the word "secondary" to describe the single-phase system could be confusing,
21 because the term "secondary" typically describes the voltage of the system, not the fact that
22 the system is the second (and parallel) system to the three-phase system. Logen Aff. at ¶ 10.
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40 22. PSE has estimated that the total cost for the SeaTac Conversion will be
41 \$454,870.00. If the existing overhead system along South 170th Street were a single-phase
42 rather than a three-phase system, PSE estimates that the cost of the conversion would be
43 \$222,632.39. Similarly, PSE has estimated that the total cost for converting the existing
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PUGET SOUND ENERGY, INC'S RESPONSE
TO MOTIONS FOR SUMMARY
DETERMINATION AND CROSS MOTION
FOR SUMMARY DETERMINATION - 7

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1 overhead facilities along 92nd Ave. N.E. in Clyde Hill will be \$382,521. If the existing
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3 overhead system along 92nd Ave. N.E. were a single-phase system, PSE estimates that the
4
5 cost of that conversion would be \$194,107.37. Logen Aff. at ¶ 11.
6

7 23. If SeaTac is permitted to pay for the SeaTac Conversion under Schedule 70
8
9 rather than Schedule 71, it will pay only \$20.33 per centerline foot of all public thoroughfares
10
11 within the Conversion Area utilizing surface-mounted transformers. PSE estimates this
12
13 amount at \$20.33 x 1,700 feet, or \$34,561.00. If Clyde Hill is permitted to pay for the
14
15 conversion of 92nd Ave. N.E. under Schedule 70 rather than Schedule 71, it will pay only
16
17 \$20.33 per centerline foot of all public thoroughfares within the Conversion Area utilizing
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19 surface-mounted transformers. PSE estimates this amount for the 92nd Ave. N.E. section of
20
21 the Clyde Hill Project at \$20.33 x 2,912.5 feet, or \$59,211.13. Logen Aff. at ¶ 12.
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23 24. PSE has consistently interpreted Schedule 70 to apply only to conversions of
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25 single-phase systems to underground, and has consistently interpreted Schedule 71 to apply to
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27 conversions of three-phase systems to underground. Logen Aff. at ¶ 13. Thus, the suggestion
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29 by SeaTac and Clyde Hill that they are being asked to pay more than other customers in their
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31 position for the underground conversions at issue, and thereby being discriminated against, is
32
33 incorrect. PSE is requiring SeaTac and Clyde Hill to pay exactly what any other customer
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35 would be required to pay who is seeking conversion of a three-phase overhead system to
36
37 underground. *Id.*
38

39 25. SeaTac's Motion at page 7, lines 16 and 17, states that "PSE does not even
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41 offer three-phase service to residential customers except under certain circumstances and at a
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43 special rate." This statement could be misleading. One could just as well say that PSE does
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45 not even offer *single-phase* service to residential customers except under certain
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47 circumstances and at a special rate. Three-phase service is available to any residential

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PUGET SOUND ENERGY, INC'S RESPONSE
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1 customer upon request, subject to charges associated with three-phase service, as is evident
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3 from reviewing Schedule 7 cited in SeaTac's Motion. Logen Aff. at ¶ 16.
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III. ARGUMENT

A. Standards

26. Pursuant to WAC 480-09-426(2), a party requesting summary determination must show that "the pleadings filed in the proceeding, together with any properly admissible evidentiary support, show that there is no genuine issue as to any material fact and the moving party is entitled to summary determination in its favor." The Commission considers motions for summary determination under "the standards applicable to a motion made under CR 56 of the civil rules for superior court." *Id.* The civil rules provide:

The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

CR 56(c). A material fact is one of such nature that it affects the outcome of the litigation. *Greater Harbor 2000 v. Seattle*, 132 Wn.2d 267, 279, 937 P.2d 1082 (1997).

27. Although SeaTac and Clyde Hill were not willing to stipulate to many of the additional engineering facts set forth above, PSE does not believe that they will be contested in any respect that is material to this proceeding, if at all. Instead, PSE believes that the parties fundamentally disagree not about the facts, but rather about the application of PSE's tariff to the facts. In such a case, summary determination is appropriate.

28. There is no question that filed and approved tariffs have the force and effect of state law, and that PSE is obligated to charge its customers pursuant to its tariffs. *See Gen. Tel. Co. v. City of Bothell*, 105 Wn.2d 579, 585, 719 P.2d 879 (1986); RCW 80.28.080. The

1 question in this case is whether PSE or the petitioners are correct with respect to what tariff
2
3 schedule applies to the conversions at issue, if any.

4
5 29. The standard for interpreting PSE's tariff is also uncontested.

6
7 When, as here, parties dispute what particular provisions require, [the
8 Commission] must look first to the plain meaning of the tariff. If the
9 tariff language is plain and unambiguous, there is no need to resort to
10 rules of construction.

11
12 *Air Liquide America Corp. et al. v. Puget Sound Energy, Inc.*, Docket No. UE-981410, Fifth
13 Supplemental Order Granting Complaint, Ordering Refunds and Other Relief, 1999 Wash.
14 UTC LEXIS 591 (Aug. 3, 1999), at *10-11 ("*Air Liquide*") (citations omitted). If tariff
15 language is not plain, or is ambiguous, the Commission applies rules of construction to
16 determine what the Commission intended in approving the tariff. *See id.* at *11-12. *See also*
17 *Nat'l Union Ins. Co. v. Puget Sound Power & Light Co.*, 94 Wn. App. 157, 171, 173, 972
18 P.2d 481 (1999).
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27 **B. Schedule 70 Does Not Apply to the SeaTac Conversion or the Clyde Hill**
28 **92nd Avenue N.E. Conversion**

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30 **1. Schedule 70 does not apply by its plain terms because the areas in**
31 **question are not used *exclusively* for residential purposes**

32
33 30. Schedule 70 is available for conversion of facilities to underground only "in
34 areas which are zoned *and used exclusively* for residential purposes." Schedule 70, § 2
35 (emphasis added). The conversion areas in SeaTac and along 92nd Avenue N.E. in Clyde Hill
36 are not "used exclusively for residential purposes."
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41 **a. South 170th Street and 92nd Avenue N.E. are not used**
42 **exclusively for residential purposes**

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44 31. These areas are not used *exclusively* for residential purposes in that the streets
45 containing facilities that are being converted to underground carry traffic not just to and from
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TO MOTIONS FOR SUMMARY
DETERMINATION AND CROSS MOTION
FOR SUMMARY DETERMINATION - 10

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1 the residential dwellings in the immediate area, but serve to route traffic through the
2 residential area to and from surrounding commercial areas and roadways. South 170th Street
3 is a collector arterial that provides access between Military Road South and International
4 Boulevard (Highway 99), as well as SeaTac Airport. International Boulevard and SeaTac
5 Airport are commercial areas. Stipulated Fact No. 3.¹ 92nd Avenue N.E. in Clyde Hill carries
6 traffic from commercial areas in Bellevue through Clyde Hill to State Highway 520, and is
7 otherwise used for purposes other than access to the residential dwellings in the conversion
8 area. See Logen Aff. at ¶ 18; Stipulated Exhibit D, yellow highlighting; Stipulated Exhibit G;
9 Addendum at 21-22. This contrasts with the other public side streets in the Clyde Hill LID
10 boundary, where PSE has agreed that Schedule 70 applies. See Logen Aff. at ¶ 18; Stipulated
11 Exhibit D, pink highlighting.
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22 32. SeaTac argues that a "Conversion Area" is not defined by a particular street
23 but rather as a "geographical area," and that the "geographical area" to be converted in
24 SeaTac "includes the side streets and the area on both sides of South 170th Street between
25 37th Avenue South and Military Road." SeaTac Motion at 6. SeaTac is correct that a
26 "Conversion Area" is a "geographical area," but a Conversion Area will often be defined
27 primarily by reference to a particular street, since PSE's facilities generally run along a street.
28 Such a Conversion Area includes the dwellings on each side of the street as well as the street
29 itself, but it may not include side streets or dwellings on those side streets if those facilities are
30 not being converted to underground. In the case of the SeaTac Conversion, only the facilities
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¹ SeaTac's Motion notes that such use of South 170th Street is likely to increase as the result of further development of the neighboring City Center area. See SeaTac Motion at 6.

1 along South 170th Street are being converted to underground. Conversion of side streets is
2 limited to conversion up to the first pole on each side street. Logen Aff. ¶ 14.
3

4
5 33. In any case, SeaTac's argument on this point is irrelevant. Schedule 70
6 requires that a Conversion Area be "used *exclusively* for residential purposes." Schedule 70,
7 § 2. Whether one looks only at South 170th Street or also at the surrounding side streets and
8 dwellings, South 170th Street cuts through the geographic area of the conversion. Thus, the
9 area is not used *exclusively* for residential purposes.
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15 **b. PSE's electric system in the conversion areas is not used**
16 **exclusively for residential purposes**
17

18 34. Even if the areas at issue did not contain thoroughfares that are not *exclusively*
19 residential, Schedule 70 would not apply to the conversions because PSE's electric system in
20 the conversion areas is not "used exclusively for residential purposes."
21
22

23
24 35. As described above, residential areas are typically served by a single-phase
25 branch of PSE's system that at some point taps into one phase of PSE's three-phase
26 distribution feeders. Only conversion of such a single-phase system, which is used exclusively
27 for residential purposes, falls under Schedule 70.
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32 36. By contrast, the facilities that PSE is to convert along South 170th Street and
33 92nd Avenue N.E. are not single phase. Instead, they are three-phase feeder. Stipulated
34 Facts Nos. 8, 11.² The three-phase feeder that is to be converted forms part of the backbone
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42 ² SeaTac points out that the service lines from the distribution facilities to individual dwellings
43 are single phase. SeaTac Motion at 7. However, that is irrelevant to the dispute at issue regarding
44 interpretation of Schedules 70 and 71. Schedule 70 provides that "Underground Service Lines shall be
45 installed as provided in Schedule 86 of this tariff." Schedule 70, § 8. "Underground Service Lines" are
46 the "electric service lines extending from service connections of the structure to the designated
47 secondary service connection point of a Main Distribution System." Schedule 70, § 1.b. Schedule 71

1 of PSE's distribution system, which is used for commercial as well as residential purposes.
2
3 Logen Aff. at ¶¶ 5, 8-9. Thus, these conversion areas are not "used exclusively for residential
4 purposes" and do not meet the requirements for conversion under Schedule 70.
5

6
7 37. Clyde Hill argues that its "Conversion Area" is the entire area described in
8 Stipulated Fact No. 9. Clyde Hill Motion at 7. Clyde Hill's suggestion that the entire area
9 within the LID boundary must be considered the "Conversion Area" under a single tariff
10 schedule does not make sense. One might just as well argue that transmission lines within a
11 conversion area must be converted to underground along with distribution lines, even though
12 transmission lines are not "distribution lines" and exceed 15,000 volts, in violation of Schedule
13 70, Section 2.
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21 38. The electric distribution system within the Clyde Hill LID boundary contains
22 two entirely different types of systems, single-phase and three-phase. *See* Stipulated Facts
23 Nos. 10, 11. In conversion projects containing a single-phase system in a portion of the
24 project area and a three-phase system in another portion, PSE converts the single-phase
25 portion of the system to underground under Schedule 70 and the three-phase portion of the
26 system to underground under Schedule 71. This is fully consistent with Schedules 70 and 71,
27 which each have their own requirements for determining whether they apply to a conversion.
28 Moreover, an applicant thereby obtains the benefit of Schedule 70 for portions of a project
29 that are single phase, while PSE preserves the distinctions in Schedule 70 and 71 that permit
30 PSE to better recover the additional costs involved in conversions of three-phase feeder to
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45 similarly carves out Underground Service Lines and provides that Schedule 86 applies to such lines.
46 Schedule 70, §§ 1.b, 7. Undergrounding of service lines is accomplished pursuant to Schedule 86
47 whether the lines are single- or three-phase.

PUGET SOUND ENERGY, INC'S RESPONSE
TO MOTIONS FOR SUMMARY
DETERMINATION AND CROSS MOTION
FOR SUMMARY DETERMINATION - 13

[07771-0879/BA012250.067]

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1 underground. Logen Aff. at ¶ 15. PSE has applied Schedules 70 and 71 to the Clyde Hill
2 LID in this manner, as set forth in Stipulated Facts Nos. 9 – 12 and Stipulated Exhibit D.
3

4
5 39. SeaTac and Clyde Hill seek to make much of the fact that Schedule 70 does
6 not contain the words "single-phase" or "three-phase."³ Perhaps Schedule 70 would be more
7 clear if it used these terms. However, as described above and in Mr. Logen's affidavit, the
8 "used exclusively for residential purposes" language serves the same purpose as would adding
9 the term "single-phase" to the restrictions in Schedule 70. Moreover, an untrained observer
10 cannot necessarily distinguish between three-phase and single-phase facilities just by looking
11 at them. Thus in any case, customers will continue to rely on communications with PSE to
12 determine whether Schedule 70 applies to a conversion.
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21 **2. The Commission did not intend that Schedule 70 would apply to**
22 **underground conversion of three-phase feeder when it approved**
23 **Schedule 70's \$20.33 per centerline foot rate**
24

25 40. At a minimum, the phrase "used exclusively for residential purposes" in
26 Schedule 70 is ambiguous with respect to whether it refers to the types of dwellings or streets
27 in an area, or whether it refers to PSE's use of the area with respect to PSE's electric system.
28 Thus, the Commission must apply rules of construction to determine what the Commission
29 intended in approving the tariff. *See Air Liquide* at *11-12; *Nat'l Union*, 94 Wn. App. at 173.
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35 41. The position of Clyde Hill and SeaTac that Schedule 70 must apply because
36 the dwellings along South 170th Street and 92nd Ave. N.E. are residential and take
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44
45 ³ SeaTac also complains that PSE's Underground Distribution Design standard does not
46 mention single-phase or three-phase service. SeaTac Motion at 7. The Standard does not use the
47 terms "single-phase" or "three-phase," but it does use the equivalent by referring to 200-amp and 600-
amp facilities and systems. *See* Logen Aff. at ¶¶ 4, 7; Stipulated Exhibit H.

1 residential, single-phase service ignores that there are also non-residential uses of the streets
2 containing the facilities that are to be converted. Stipulated Fact No. 3; Logen Aff. at ¶ 18.
3
4 The cities' position also ignores the fact that PSE uses the facilities in the area for non-
5 residential purposes as well as residential purposes. Logen Aff. at ¶¶ 8-9. Thus, the cities'
6 interpretation of Schedule 70 would read out of existence the word "exclusively" in Section 2
7 of Schedule 70, in violation of established rules of statutory construction. *See, e.g., City of*
8 *Seattle v. State of Washington*, 136 Wn.2d 693, 701, 965 P.2d 619 (1998).
9

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15 42. Even more importantly, the legislative history of Schedule 70 demonstrates
16 that the Commission did not intend to include conversion of three-phase feeder within
17 Schedule 70 when it approved the current \$20.33 per centerline foot rate. The Commission
18 should look to the legislative history of Schedule 70 as an aid in discerning its intent in
19 approving the tariff. *See, e.g., Cockle v. Dep't of Labor and Indus.*, 142 Wn.2d 801, 808, 16
20 P.3d 583 (2001); *In re Personal Restraint of Quackenbush*, 142 Wn.2d 928, 935-36, 16 P.3d
21 638 (2001).
22

23
24
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26
27
28
29 43. PSE filed for approval of the \$20.33 per centerline foot rate in Schedule 70 on
30 March 14, 1984. Addendum at 1.⁴ PSE submitted a cost study in support of that rate,
31 Addendum at 7. The Commission suspended the tariff for investigation of the reasonableness
32 and justness of the filing. *See Washington Utils. and Trans. Comm'n v. Puget Sound Power &*
33 *Light Co.*, U-84-22, Complaint and Order Suspending Tariff Revisions (April 12, 1984),
34 Addendum at 16. On September 12, 1984, the Commission approved the tariff revision. *See*
35 *Washington Utils. and Trans. Comm'n v. Puget Sound Power & Light Co.*, U-84-22, Order
36
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46 ⁴ The materials in the Addendum are a matter of public record in the Commission's files. PSE
47 attaches copies in the Addendum for the convenience of the Commission and parties.

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PUGET SOUND ENERGY, INC'S RESPONSE
TO MOTIONS FOR SUMMARY
DETERMINATION AND CROSS MOTION
FOR SUMMARY DETERMINATION - 15

[07771-0879/BA012250.067]

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1 Dismissing Complaint and Order Suspending Tariff Revisions and Granting Tariff Revisions
2
3 (Sept. 12, 1984), Addendum at 17.

4
5 44. PSE's cost study described the actual conversions it analyzed to arrive at the
6 requested rate as follows:
7

8
9 As a starting point, all five divisions were requested to submit a list of
10 all underground conversions that had been completed in the past two
11 years. In this period of time, thirty conversions were completed. Of
12 these, seventeen were selected for closer examination. Work sketches
13 were obtained for these conversions and it was found that only six were
14 in *residential plats* and suitable for further study. *Two of these had to*
15 *be eliminated because they included feeders running through these*
16 *areas.*
17

18
19 Addendum at 9 (emphasis added). Thus, it is clear that the rate the Commission approved in
20 Schedule 70 was not meant to include conversion of feeders, even if the feeders happened to
21 run through "residential plats."
22

23
24 45. This legislative history demonstrating that the Commission did not intend
25 feeders to be converted under Schedule 70 is consistent with PSE's institutional memory and
26 historical and current application of Schedule 70. During the eleven years that Mr. Logen has
27 been responsible for PSE's tariff interpretation and application, he has consistently interpreted
28 Schedule 70 to apply only to conversions of single-phase systems to underground, and he has
29 consistently interpreted Schedule 71 to apply to conversions of three-phase systems to
30 underground, whether or not the three-phase system happens to run through an area
31 containing residential dwellings. Logen Aff. at ¶ 13.
32

33
34 46. The exclusion of three-phase feeders from the Schedule 70 rate is important
35 because of the significant additional costs involved in converting feeders to underground, as
36 described above and in Mr. Logen's Affidavit. *See* Logen Aff. at ¶¶ 6, 11. PSE has estimated
37 that the total cost for the SeaTac Conversion will be \$454,870.00. If the existing overhead
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PUGET SOUND ENERGY, INC'S RESPONSE
TO MOTIONS FOR SUMMARY
DETERMINATION AND CROSS MOTION
FOR SUMMARY DETERMINATION - 16

[07771-0879/BA012250.067]

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1 system were a single-phase system rather than a three-phase system, PSE estimates that the
2 cost of the conversion would be \$222,632.39, half the cost of the three-phase conversion.
3
4 Similarly, PSE has estimated that the total cost for converting the existing overhead facilities
5 along 92nd Avenue N.E. in Clyde Hill will be \$382,521. If the existing overhead system along
6
7 92nd Avenue N.E. were a single-phase system, PSE estimates that the cost of that conversion
8
9 would be \$194,107.37, again approximately half the cost of the three-phase conversion.
10
11

12 Logen Aff. at ¶ 11.

13
14
15 47. If SeaTac is permitted to pay for the South 170th Street conversion under
16
17 Schedule 70 rather than Schedule 71, it will pay only \$20.33 per centerline foot of all public
18
19 thoroughfares within the Conversion Area utilizing surface-mounted transformers. PSE
20
21 estimates this amount at \$20.33 x 1,700 feet, or \$34,561.00. If Clyde Hill is permitted to pay
22
23 for the conversion of 92nd Avenue N.E. under Schedule 70 rather than Schedule 71, it will
24
25 pay only \$20.33 per centerline foot of all public thoroughfares within the Conversion Area
26
27 utilizing surface-mounted transformers. PSE estimates this amount for the 92nd Ave. N.E.
28
29 section of the Clyde Hill Project at \$20.33 x 2,912.5 feet, or \$59,211.13. Logen Aff. at ¶ 12.
30

31 48. Thus, the Schedule 70 rate, although insufficient to cover the entire cost of
32
33 single-phase conversions at today's prices, clearly comes much closer to covering those costs
34
35 than the costs to convert three-phase feeder. Conversion of three-phase feeder is significantly
36
37 more expensive than conversion of single-phase distribution lines, and the Commission did not
38
39 intend to require PSE to perform three-phase conversions under the Schedule 70 rate.
40

41 **3. Schedule 71 applies to the conversions of South 170th Street and**
42 **92nd Ave N.E.**
43

44 49. South 170th Street and 92nd Avenue N.E. are eligible for conversion under
45
46 Schedule 71. Schedule 71 applies to:
47

PUGET SOUND ENERGY, INC'S RESPONSE
TO MOTIONS FOR SUMMARY
DETERMINATION AND CROSS MOTION
FOR SUMMARY DETERMINATION - 17

[07771-0879/BA012250.067]

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1 those portions of municipalities which are zoned and used for
2 commercial purposes (*and...such other areas of such municipalities*
3 *which have electric load requirements which are comparable with*
4 *developed commercial areas.*)
5

6 Schedule 71, § 2 (emphasis added). Schedule 71 plainly applies not only to areas that are
7 zoned commercial, but also to "other areas" of municipalities "which have electric load
8 requirements which are comparable with developed commercial areas."
9

10
11
12 50. As set forth above, developed commercial areas in PSE's service territory
13 contain three-phase electrical systems. The conversion areas at issue contain three-phase
14 systems to meet load requirements of PSE's distribution backbone, including the requirements
15 of commercial, three-phase customers, and to meet load requirements of surrounding
16 residential areas that contain only single-phase distribution facilities which tap into PSE's
17 three-phase distribution backbone. Logen Aff. at ¶¶ 5, 8-9. Thus, the conversion areas along
18 South 170th Street and 92nd Avenue N.E. "have electric load requirements which are
19 comparable with developed commercial areas."
20
21

22
23
24 51. SeaTac argues that even if PSE's distribution system requires that three-phase
25 facilities run through a conversion area, "PSE's design requirements for customers outside the
26 Conversion Area cannot be used to measure the electrical load requirements of the residential
27 dwellings within the Conversion Area." SeaTac Motion at 7. SeaTac's argument is contrary
28 to the Tariff. If the load requirements of PSE's system require that three-phase feeder run
29 through an area, then that area has "electric load requirements which are comparable with
30 developed commercial areas." Nothing in Schedule 71 suggests that load requirements are to
31 be measured with respect to individual dwellings in an area, as opposed to with respect to
32 PSE's electric system.
33
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C00170

1 52. If the Commission determines that SeaTac and Clyde Hill are correct and that
2
3 Schedule 71 does not apply to the conversions at issue, then neither Schedule 70 nor Schedule
4
5 71 would apply. In that case, PSE would still be willing to convert these facilities to
6
7 underground, but SeaTac and Clyde Hill would have to pay 100% of the costs of the
8
9 conversions.

10
11 **4. PSE is not discriminating against SeaTac or Clyde Hill**

12
13 53. PSE is fully complying with its nondiscrimination and filed rate doctrine
14
15 requirements with respect to the SeaTac and Clyde Hill conversions.

16
17 54. In the past, PSE consistently has interpreted Schedules 70 and 71 to require
18
19 that Schedule 70 be applied only to conversions of single-phase electrical systems within
20
21 residential areas, and that Schedule 71 be applied to conversions of three-phase feeder, even if
22
23 the three-phase system runs through an area containing residential dwellings. Thus, SeaTac
24
25 and Clyde Hill are being treated exactly the same as any other PSE customer in the same
26
27 position. Logen Aff. at ¶ 13.

28
29 55. In conversion areas containing a single-phase system in a portion of the
30
31 conversion area and a three-phase system in another portion, PSE has converted the single-
32
33 phase portion of the system to underground under Schedule 70 and the three-phase portion of
34
35 the system to underground under Schedule 71. Thus, an applicant obtains the benefit of
36
37 Schedule 70 for portions of a project that are single phase, while PSE preserves the
38
39 distinctions in Schedule 70 and 71 that permit PSE to better recover the additional costs
40
41 involved in conversions of three-phase feeder to underground. In the present case, PSE has
42
43 similarly extended to Clyde Hill the benefit of a Schedule 70 conversion in areas of the LID
44
45 that contain a single-phase system (and that are not located on private property), while
46
47

000171

1 insisting that Schedule 71 applies to the three-phase feeder along 92nd Avenue N.E. See
2
3 Stipulated Fact No. 10; Stipulated Exhibit D, pink highlighting. Logen Aff. at ¶ 15.

4
5 56. SeaTac and Clyde Hill are asking to obtain more favorable terms for their
6
7 conversions than PSE extends to its other customers. PSE's refusal to do so fully complies
8
9 with RCW 80.28.090 and 80.28.100.

10
11 **C. The Clyde Hill Facilities Along Private Drives and Through Private**
12 **Property are Not Subject to Conversion Under Schedules 70 or 71, and**
13 **Clyde Hill Must Pay 100% of the Cost of Such Conversion**
14

15 57. PSE historically has interpreted Schedule 70 and Schedule 71 to apply only to
16
17 conversions of PSE's overhead facilities that are located in public rights of way, and not to
18
19 facilities that are located on private property and/or PSE easements. Where PSE's existing
20
21 overhead facilities are located on private property and/or PSE easement, PSE generally has
22
23 been willing to convert the facilities to underground, but requires the requester to pay 100%
24
25 of the costs of the conversion. Logen Aff. at ¶ 19.

26
27 58. PSE's position on this issue complies with its Tariff. Schedule 70 requires
28
29 that the Conversion Area must be not less than one (1) city block in
30
31 length, or in the absence of city blocks, not less than six (6) contiguous
32
33 building lots abutting each side of the *public thoroughfare* with all real
34
35 property on both sides of each *public thoroughfare* to receive electric
36
37 service from the Main Distribution System.

38
39 Schedule 70, § 2 (emphasis added).

40 59. The existing overhead facilities within the Clyde Hill LID area that PSE claims
41
42 do not meet the terms of Schedule 70 or 71 are located along *private drives and through*
43
44 *private property* running east of and perpendicular to 92nd Avenue N.E. and west of and
45
46 perpendicular to 94th Avenue N.E. (hereinafter referred to as "Facilities on Private Drives").
47
See Stipulated Exhibit No. D, green highlighting. PSE's existing overhead Facilities on

1 Private Drives are located on PSE easements, or by invitation of the property owner, and
2
3 *there is no public thoroughfare in these areas.* See Stipulated Facts No. 12. Thus, the
4
5 Facilities on Private Drives do not meet the conditions of a Schedule 70 conversion.

6
7 60. Moreover, if Schedule 70 were held to be applicable to the Facilities on Private
8
9 Drives, PSE essentially would be forced by the pricing section of Schedule 70 to convert
10
11 those facilities for free. An applicant for a conversion must pay PSE:

12
13 at the rate of \$20.33 per centerline foot of all *public thoroughfares*
14
15 within the Conversion Area utilizing surface-mounted transformers....

16 Schedule 70, § 3.b (emphasis added). PSE thus is not permitted to measure private drives in
17
18 calculating the number of centerline feet in a conversion area, and would not be able to charge
19
20 Clyde Hill for converting the Facilities on Private Drives.

21
22 61. Schedule 71 is also not applicable to conversion of the Facilities on Private
23
24 Drives. Like Schedule 70, Schedule 71 speaks in terms of *public* streets:

25
26 [T]he Conversion Area must be not less than two (2) contiguous city
27
28 blocks in length with all real property on both sides of each *public*
29
30 *street* to receive electric service from the Main Distribution System.

31 Schedule 71, § 2 (emphasis added). The Facilities on Private Drives are not located on any
32
33 public street.

34
35 62. Clyde Hill argues that the Facilities on Private Drives are part of the overall
36
37 Conversion Area within the LID boundary. As described above, Clyde Hill's suggestion that a
38
39 single tariff schedule necessarily applies within the entire LID boundary is incorrect. If a
40
41 project encompasses portions of PSE's system that have different characteristics, then different
42
43 Tariff schedules may apply within the overall project boundary.

44
45 63. There is good reason for Schedules 70 and 71 to speak in terms of "public
46
47 thoroughfares" and "public streets," and for PSE's historical understanding that Schedules 70

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PUGET SOUND ENERGY, INC'S RESPONSE
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DETERMINATION AND CROSS MOTION
FOR SUMMARY DETERMINATION - 21

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1 and 71 apply only to facilities located in rights of way, and not on private property. Where
2
3 PSE's facilities are located on private property on PSE easements or by prescriptive right, PSE
4
5 cannot be ordered by the owner of the underlying private property to do anything with its
6
7 facilities. *See, e.g., City of Seattle v. Nazaremus*, 60 Wn.2d 657, 665-66, 374 P.2d 1014
8
9 (1962) (owner of easement has the right to use the property subject to the easements for the
10
11 purposes stated in the easement); *Northwest Cities Gas Co. v. Western Fuel Co.*, 13 Wn.2d
12
13 75, 123 P.2d 771 (1942) (a prescriptive right, once acquired, is fixed by the extent of the use
14
15 and may not be disturbed by the owner of the servient estate). Thus, as against property
16
17 owners, PSE has and always has had a right to leave its existing overhead facilities on private
18
19 property in place.

20
21 64. Likewise, municipalities do not have authority to require PSE to convert its
22
23 overhead facilities that are located on private property to underground. *See, e.g., In re Public*
24
25 *Serv. Elec. & Gas Co.*, 35 N.J. 358, 173 A.2d 233, 240 (1961) (invalidating municipal
26
27 ordinance requiring the undergrounding of wires over a private railroad right-of-way);
28
29 *Duquesne Light Co. v. Monroeville*, 449 Pa. 573, 298 A.2d 252 (1972) (statute giving
30
31 boroughs the power to define a reasonable district within which wires shall be placed
32
33 underground did not confer upon a borough the power to compel undergrounding of a public
34
35 utility's wires); *Union Elec. Co. v. Crestwood*, 499 S.W.2d 480 (Mo. 1973) (city ordinance
36
37 prohibiting all overhead transmission, whether on public or private property, struck down).
38
39 Indeed, "where relocation of electrical wiring on private property to underground conduits is
40
41 required, a compensable 'taking' under the power of eminent domain will be deemed to have
42
43 occurred." *McQuillin Mun. Corp.* § 24.588 at 313 (3d Ed. 1998).
44
45
46
47

1 65. By contrast, municipalities have long been held to have authority to require at
2
3 least some undergrounding on public streets.⁵ See *Edmonds v. General Tel. Co.*, 21 Wn.
4 App. 218, 226, 584 P.2d 458 (1978) (distinguishing cases that have struck down
5
6 undergrounding ordinances because: "In the instant case, the ordinance in question is not a
7
8 general ordinance affecting all overhead facilities of the company located on both public and
9
10 private property...Rather, its effect is limited to one public street..."); *Union Elec. Co. v.*
11
12 *Crestwood*, 499 S.W.2d at 484 (authority may be found to justify an ordinance prohibiting
13
14 overhead wires which affected only public streets).
15

16 66. Thus, Schedules 70 and 71 were intended to set the terms and conditions for
17
18 the undergrounding of PSE's facilities that could potentially be subjected to mandatory
19
20 undergrounding: the facilities located in rights of way. By filing Schedules 70 and 71, PSE
21
22 ensured that municipalities or property owners requesting (and potentially ordering)
23
24 undergrounding of PSE's facilities located on public streets and thoroughfares would share in
25
26 the costs of such undergrounding, rather than requiring PSE to convert its facilities at PSE's
27
28 expense, and would provide adequate operating rights for the undergrounded facilities. PSE
29
30 also limited the circumstances in which undergrounding on rights of way would be made
31
32 available. There was no need for PSE to file any tariff schedule with respect to its facilities on
33
34 private property because PSE could, in its sole discretion, decide whether or not to convert to
35
36 underground at all, and on what terms. Schedules 70 and 71 must be interpreted to take into
37
38 account the context of the overall scheme of property rights and municipal powers that related
39
40
41
42
43

44
45
46 ⁵ Subject, of course, to the limitation that any such requirement may not violate a tariff or an
47 existing franchise. *Gen. Tel. Co. v. Bothell*, 105 Wn.2d at 586-87

1 to the placement and continued operation of PSE's facilities. *See Cockle*, 142 Wn.2d at 810-
2
3 13.

4
5 67. To interpret Schedules 70 and 71 to apply to PSE's facilities located on private
6
7 property would be contrary to the tariff language, which speaks in terms of "public
8
9 thoroughfares" and "public streets," would violate PSE's property rights, and would ignore the
10
11 historical and legal context in which the schedules were filed by PSE and approved by the
12
13 Commission.

14
15 **D. Clyde Hill Has No "Vested" Right to Demand Conversion Under the**
16 **Current Version of PSE's Tariff**

17
18 68. Clyde Hill asks the Commission to declare that "[t]he City of Clyde Hill and
19
20 the underground conversions described in Clyde Hill Local Improvement District No. 2001-01
21
22 are vested under the now existing version of Schedule 70." Clyde Hill Motion at 10. Clyde
23
24 Hill does not provide any support for the proposition that it is entitled to obtain the
25
26 conversion under the current version of Schedule 70, regardless of whether Schedule 70 is
27
28 clarified or amended in the future and regardless of when Clyde Hill performs the conversion,
29
30 and its vesting assertion is without merit.

31
32 69. Clyde Hill has no vested interest under Schedule 70. The term "vest" means
33
34 "[t]o give an immediate, fixed right of present or future enjoyment." BLACK'S LAW
35
36 DICTIONARY SIXTH EDITION at 1563. The concept of "vesting" has been applied to several
37
38 types of rights, including property rights, rights to pension fund assets and rights to certain
39
40 stock options. However, the concept of vesting does not extend to utility tariffs.

41
42 70. Customers take service under Schedule 70 *subject to subsequent changes to*
43
44 *such schedules adopted by the Commission*. Section 9 of Schedule 70 provides that
45
46
47

1 "[s]ervice under this schedule is subject to the General Rules and Provisions contained in this
2 tariff." Those general rules and provisions are found in Schedule 80, which states:

3
4
5 The schedules and conditions specified in this tariff for electric service
6 *are subject to change by order of the Washington utilities and*
7 *Transportation Commission or upon the effectiveness of a superseding*
8 *schedule* and in accordance with the laws of the state of Washington
9 regulating public service companies and any amendments thereto.
10

11 Schedule 80, § 4 (emphasis added). Clyde Hill's suggestion that it has a right to underground
12 conversion of its current Project under a particular version of Schedule 70, so that Clyde Hill
13 is immune from any revision to that Schedule, is in complete derogation of the express terms
14 of Schedules 70 and 80 and of the Commission's authority to order revisions to such schedules
15 under appropriate circumstances.
16
17

18
19
20
21 71. PSE's form Schedule 70 Underground Conversion Agreement contains a
22 qualification consistent with Schedules 70 and 80:
23

24
25 This Agreement is subject to the General Rules and Provisions set forth
26 in Schedule 80 of the Company's electric Tariff G and to Schedule 70
27 of such tariff, *as such Schedules may be revised from time to time upon*
28 *approval of the Washington Utilities and Transportation Commission.*
29 Provided, however, if either of the foregoing Schedules are revised, any
30 price quoted will be honored for sixty (60) days following such
31 revision. Any conflict in terms between this Agreement and the
32 Company's Schedules 70 and 80 of its tariff shall be resolved in favor of
33 such tariff provisions.
34
35
36

37 Schedule 70 Agreement, § 12 (emphasis added), attached to Logen Aff. at Exhibit J.
38

39 72. The only exception to the general rule that revisions to the Tariff control over
40 the prior version of the Tariff is the sixty (60) day freeze on quoted rates that PSE extends in
41 its Underground Conversion Agreement. That provision, however, does not support Clyde
42 Hill's contention that it has a vested right under Schedule 70. First, Clyde Hill has not entered
43 into an Underground Conversion Agreement with PSE, thus Clyde Hill may not rely on such
44
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PUGET SOUND ENERGY, INC'S RESPONSE
TO MOTIONS FOR SUMMARY
DETERMINATION AND CROSS MOTION
FOR SUMMARY DETERMINATION - 25

[07771-0879/BA012250.067]

000177

PERKINS COIE LLP
One Bellevue Center, Suite 1800
411 - 108th Avenue Northeast
Bellevue, WA 98004-5584
(425) 453-6980

1 provision. Second, the only quote PSE has given to Clyde Hill with respect to the
2
3 underground conversion of the Clyde Hill Project at issue was calculated pursuant to PSE's
4
5 interpretation of Schedules 70 and 71. PSE has never quoted the Clyde Hill Project solely on
6
7 the basis of Schedule 70. *See* Stipulated Exhibit No. E.

8
9 73. While PSE has not found any Washington case law on point, the California
10
11 Public Utilities Commission has refused to insulate utility customers from the effects of tariff
12
13 modifications, and has explicitly ruled that the concept of vesting has no application with
14
15 respect to utility tariffs or operations. *See Hargrave Secret Service v. PT&T*, 78 CPUC 201,
16
17 1975 Cal. PUC LEXIS 306 (1975) ("We hold that utility customers do not have vested rights
18
19 in tariff provisions or operating practices.").

20 21 IV. CONCLUSION

22
23 74. For the reasons set forth above, PSE respectfully requests that the Commission
24
25 grant PSE's motion for summary determination and issue an order:

- 26
27 a. Declaring that Schedule 71, rather than Schedule 70, applies to the conversion
28
29 of PSE's overhead facilities to underground along South 170th Street between
30
31 37th Avenue South and Military Road South in the City of SeaTac;
32
33 b. Declaring that Schedule 71, rather than Schedule 70, applies to the conversion
34
35 of PSE's overhead facilities to underground along 92nd Avenue N.E. in the
36
37 City of Clyde Hill;
38
39 c. Declaring that neither Schedule 70 nor Schedule 71 applies to the conversion
40
41 of PSE's overhead facilities to underground on private drives connecting to
42
43 92nd Avenue N.E. and 94th Avenue N.E. in the City of Clyde Hill, and that
44
45 Clyde Hill must pay 100% of the cost of the conversion to PSE; and
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d. Dismissing the petitions and complaints of the City of SeaTac and the City of Clyde Hill in these dockets, with prejudice.

DATED: August 24, 2001.

PERKINS COIE LLP



By _____
Kirstin S. Dodge
William R. Bue
Attorneys for Puget Sound Energy, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document, along with the accompanying Declaration of Lynn F. Logen, to be served upon all parties of record in this proceeding, by hand-delivery to:

Dennis J. Moss
Administrative Law Judge
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
Olympia, WA 98504-7250


Carol S. Arnold
Laura K. Clinton
Preston Gates & Ellis LLP
701 Fifth Avenue
Suite 5000
Seattle, WA 98104-7078

Mary Tennyson
Senior Assistant Attorney General
1400 S. Evergreen Park Drive, S.W.
P.O. Box 40128
Olympia, WA 98504-0128

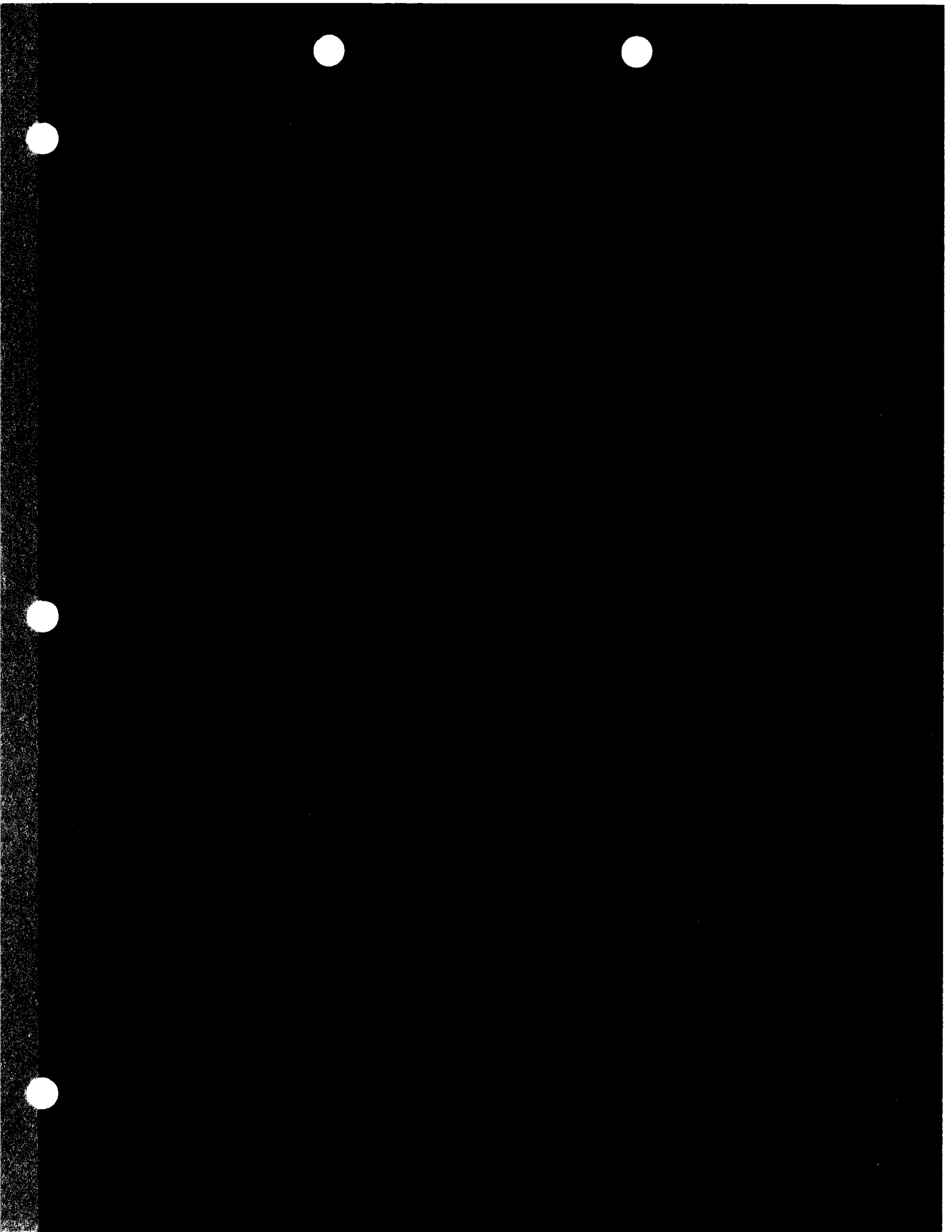
Simon ffitch
Office of the Attorney General
Public Counsel
900 - 4th Avenue, Suite 2000
Seattle, WA 98164-1012

John D. Wallace
Greg Rubstello
Ogden Murphy Wallace, P.L.L.C.
1601 Fifth Avenue, Suite 2100
Seattle, WA 98101-1686

Dated at Bellevue, Washington, this 24th day of August, 2001.


Kirstin S. Dodge

C00180



**PUGET
POWER**

March 14, 1984

**FILE COPY
DO NOT REMOVE**

Mr. Barry M. Mar
Administrative Manager and Secretary
Washington Utilities and Transportation Commission
Highways and Licenses Building
Olympia, Washington 98054

Dear Mr. Mar:

Pursuant to WAC 480-80-050 and 480-80-060 Revised Code of Washington and the Commission's Rules and Regulations, we are forwarding herewith three (3) copies of the following proposed revisions to tariff sheets:

WN U-60, Tariff G:

First Revised Sheet No. 70-a - Conversion to Underground Service
in Residential Areas (Continued)

First Revised Sheet No. 71-a - Conversion to Underground Service
in Commercial Areas (Continued)

The purpose of this filing is to bring the rates in Schedule 70 to a current status to reflect more closely the cost to convert overhead primary distribution facilities to underground in residential areas, and to reflect in Schedule 71 a greater sharing by municipalities and property owners of the costs to convert overhead primary distribution facilities to underground in commercial areas.

The present rates in Schedule 70 were based on a study in 1981 of certain residential areas utilizing estimates of the cost to convert. This filing is predicated on current estimated costs for the same group of residential areas and, in addition, on actual costs in those areas where the Company has actually converted facilities to underground. The rates reflected in this filing are the average of the estimates and actual cost studies. If the proposed rates were applied to the actual conversion areas included in the study, cash contributions to the Company would have increased by approximately \$84,899 utilizing padmounted transformers, or \$107,004 utilizing total underground transformers, or 75 per cent overall during the two-year period since the previous filing of Schedule 70. Enclosed for staff reference is the engineering study used as the basis for the proposed rates.

The Company is proposing an increase in the sharing of costs from 40 per cent to 70 per cent in Paragraph 3.b.(1) of Schedule 71 and in those instances where one full lane is added to an arterial, the level of sharing has been increased from 15 per cent to 30 per cent. If the new percentages were applied to conversions completed during 1983, cash contributions to the Company would have increased by approximately \$50,620 for the twelve (12) months ended December 31, 1983.

A copy of Forms No. 1 and No. 2 postings is enclosed. The tariff sheet described herein reflects an issue date of March 14, 1984, and an effective

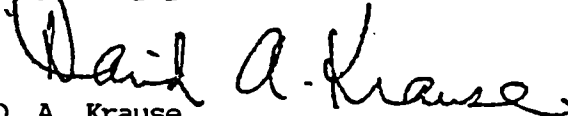
C00182

ADD. 1

Mr. Barry M. Mar
Page Two
March 14, 1984

date of April 13, 1984. Notice of the proposed changes, as required by law and the Commission's Rules and Regulations, is being given to the public immediately prior to or coincident with the date of this transmittal letter.

Very truly yours,



D. A. Krause
Vice President, Rates
and Investor Relations

DAK/BBB/ra
Enclosures
cc: J. Hipke
D. S. Little

C00183

WN U-60

PUGET SOUND POWER & LIGHT COMPANY
Electric Tariff G

For Commission's Receipt Stamp

SCHEDULE
70

CONVERSION TO UNDERGROUND SERVICE
IN RESIDENTIAL AREAS
(Continued)

and shall be in a form satisfactory to the Company.

b. The Contract shall obligate said governmental authority, or property owners, to do the following:

- (1) Pay the Company at the rate of \$20.33 per centerline foot of all public thoroughfares within the Conversion Area utilizing surface-mounted transformers; or pay the Company at the rate of \$25.54 per centerline foot of all public thoroughfares within the Conversion Area utilizing subsurface-mounted transformers. (I)

- (2) Provide all Trenching and Restoration required for the installation of the Main Distribution System. (I)

c. The Contract shall provide for payment to the Company on the following terms:

- (1) If the conversion is accomplished pursuant to a contract with a governmental authority, said amounts shall be payable to the Company within thirty (30) days following the date the Main Distribution System is energized.

- (2) If the conversion is accomplished pursuant to a contract with any other person(s) or entity, said amount shall be payable to the Company prior to the commencement of construction, or in lieu thereof, said amount shall, prior to the commencement of construction, be placed in escrow with an escrow agent satisfactory to the Company pursuant to written instruction obligating said escrow agent to pay said amount to the Company within thirty (30) days following the date the Main Distribution System is energized. In addition, the person(s) or entity shall furnish to the Company adequate assurance of its ability to fulfill the provisions of 3.b.(2) above.

4. OWNERSHIP FOR FACILITIES - The Company shall own, operate, and maintain all electrical facilities which it installs pursuant to this schedule.

5. OPERATING RIGHTS - Adequate legal rights for the construction, operation, repair, and maintenance of the Main Distribution System in a form or

ISSUED March 14, 1984 EFFECTIVE April 13, 1984

C00184

ISSUED BY PUGET SOUND POWER & LIGHT COMPANY

BY D. A. Krause TITLE Vice President, Rates

WN U-60

PUGET SOUND POWER & LIGHT COMPANY
Electric Tariff G

For Commission's Receipt Stamp

SCHEDULE
71

CONVERSION TO UNDERGROUND SERVICE
IN COMMERCIAL AREAS
(Continued)

herein) for the installation of such systems, which Contract shall be consistent with this schedule and shall be in a form satisfactory to the Company.

b. The Contract shall obligate said municipality, or property owners, to do the following:

- (1) Pay the Company 70% of the total cost of the conversion project excluding trenching and restoration; or, when the Company's overhead system is required to be relocated due to addition of one full lane or more to an arterial street or road, pay the Company 30% of the cost of the conversion project, excluding trenching and restoration. (C)
- (2) Provide all trenching and restoration for duct and vault systems and provide surveying for alignment and grades of vaults and ducts. (C)

c. The Contract shall provide for payment to the Company on the following terms:

- (1) If the conversion is accomplished pursuant to a contract with a municipality, said amount shall be payable to the Company within thirty (30) days following the completion of construction of the conversion project.
- (2) If the conversion is accomplished pursuant to a contract with any other person or entity, said amount shall be payable to the Company prior to the commencement of construction or, in lieu thereof, said amount shall, prior to the commencement of construction, be placed in escrow with an escrow agent satisfactory to the Company pursuant to written instruction obligating said escrow agent to pay said amount to the Company upon the completion of construction.

4. OPERATING RIGHTS - The owners of real property within the conversion area shall, at their expense, provide space for all underground electrical facilities which in the Company's judgment shall be installed on the property of said owners. In addition, said owners shall provide to the Company adequate legal rights for the construction, operation, repair, and maintenance of all electrical facilities installed by the

ISSUED March 14, 1984

EFFECTIVE April 13, 1984

ISSUED BY PUGET SOUND POWER & LIGHT COMPANY

000185

BY

D. A. Krause
D. A. Krause

TITLE Vice President, Rates

ADD. 4

Exhibit 1

SUMMARY OF CHANGE IN SCHEDULE 70 RATE

<u>Present</u>	<u>Proposed</u>	<u>Incr.</u>	<u>% Incr.</u>
\$11.65 (pad)	\$20.33	8.68	75
\$14.60 (tut)	25.54	10.94	75

Increase in contributions based on actual conversions included in 1983 study.

<u>Pedestal-Mounted Transformers</u>			<u>Contribution</u>
Present	\$11.65	9,781 cntrline feet	\$113,949
Proposed	20.33	9,781 cntrline feet	<u>198,848</u>
		Increase	\$ 84,899 - 75%

<u>Total Underground Transformers</u>			<u>Contribution</u>
Present	\$14.60	9,781 cntrline feet	\$142,803
Proposed	\$25.54	9,781 cntrline feet	<u>\$249,807</u>
		Increase	\$107,004 - 75%

C00186

Exhibit II

LIST OF CONVERSIONS - SCHEDULE 71
12 MONTHS ENDED DECEMBER 31, 1983

Name	<u>Present</u>		Contri- bution	%	<u>Proposed</u>		
	Gross IR Costs	%			Contri- bution	Incr. Contri- bution	% Incr.
Quadrant Loop Auburn	\$22,680	40	\$ 9,072	70	\$15,876	\$ 6,804	75
City of Kent	<u>20,000</u>	40	<u>8,000</u>	70	<u>14,000</u>	<u>6,000</u>	75
			\$17,072		\$29,876	\$12,804	75
City of Kent	\$40,000	15	\$ 6,000	30	\$12,000	6,000	100
City of Redmond	\$212,108	15	<u>\$31,816</u>	30	<u>\$63,632</u>	<u>\$31,816</u>	100
			<u>\$54,888</u>		<u>\$105,508</u>	<u>\$50,620</u>	

C00187

SCHEDULE 70

CONVERSION TO UNDERGROUND SERVICE
IN RESIDENTIAL AREAS

R. F. Henricksen
T & D Engineering
July 7, 1983

000188

SCHEDULE 70
CONVERSION TO UNDERGROUND SERVICE
IN RESIDENTIAL AREAS

1.0 INTRODUCTION

A study of conversion to underground service in residential areas was undertaken in order to answer a request by the Rates Department to support the filing of Schedule 70.

In a previous study, the rate was based on average amounts found by making cost estimates on six overhead plats in the Bellevue area.

C00189

2.0 DISCUSSION

2.1 Basis of Cost

As a starting point, all five divisions were requested to submit a list of all underground conversions that had been completed in the past two years. In this period of time, thirty conversions were completed. Of these, seventeen were selected for closer examination. Work sketches were obtained for these conversions and it was found only six were in residential plats and suitable for further study. Two of these had to be eliminated because they included feeders running through these areas.

Since only four of these conversion projects could be used as a basis for determining the appropriate charges for Schedule 70, it was deemed advisable to include conversions based on estimated costs. For this purpose, the six plats now served by overhead distribution lines in the Bellevue area used in the previous study were utilized. These included two small plats, two medium sized plats and two large plats. The cost estimates that were made for these plats were updated and revised.

All trenching, boring or pushing under streets or driveways, restoration and services were not included. Conduit was provided only for street crossings. Transformers were located as centrally as possible without disturbing landscaping.

CG0190

Table III, attached, lists the pertinent details of each conversion and the cost per centerline foot. Estimates were prepared for both padmounted and total underground transformers. The cost of the completed conversions was obtained from the CICS Job 3 screen.

Three summaries are included; (a) one for the six estimated costs, (b) one for the four actual conversions, and (c) one for the combined estimated and actual conversions.

The four conversions summarized in (b) averaged 17 percent higher in cost when completed than their original estimates. Two reasons are given for this difference:

1. The time between the estimate and the beginning of construction was always more than a year and inflation increased the costs.
2. Installing an underground system in an already developed area has some hidden costs which are not anticipated in the computer cost index used to make these estimates. The prices in the index are for new construction and not for conversions.

The estimated costs of the six plats summarized in (a) that were based on the computer index were multiplied by 1.17 to include this difference.

000191

2.2 Comparison of costs

A comparison of the average estimated costs per centerline foot of the six plats and the average cost of the four conversion plats and related data are shown in Table I. The converted plats did not have total underground transformer but an estimate was made and the cost added for this type installation.

TABLE I
COST AND RELATED DATA
COMPARISONS

TYPE TRANSFORMER	COST PER CENTERLINE FOOT	COST PER LOT	CENTERLINE FOOT PER LOT	AVERAGE LOT WIDTH	LOTS PER TRANSFORMER
PAD MOUNTED					
ESTIMATED PLATS	\$ 17.47	\$ 845.35	48.40	91.77	6.34
CONVERTED PLATS	\$ 26.43	\$2,637.51	99.81	125.98	3.00
TOTAL UNDERGROUND					
ESTIMATED PLATS	\$ 22.35	\$1,081.50	48.40	91.77	6.34
CONVERTED PLATS	\$ 32.34	\$3,227.59	99.81	125.98	3.00

000192

This comparison shows that there is a considerable difference in in cost between the estimated plats and the converted plats.

Three items are included in the table to help understand why there is a difference.

It will be noted that there is a large difference in the centerline feet per lot. This is partially caused by the difference in the average lot width and partially because the lots in these converted areas are mainly on one side of the street.

The width and location of the lots has an influence on the number of lots served per transformer. Since the transformer and the supporting handhole are high cost items, the more lots served per transformer the lower the centerline cost will be.

Since both types of plats will be found in conversion requests, it is suggested that the charges be based on the average cost of all these plats as shown in Table II. In the future when a sufficient number of of conversions have been made the actual cost basis can be used for determining the rates for Schedule 70.

C00193

TABLE II
AVERAGE COSTS AND RELATED DATA
FOR ALL PLATS

TYPE TRANSFORMER	COST PER CENTERLINE FOOT	COST PER LOT	CENTERLINE FOOT PER LOT	AVERAGE LOT WIDTH	LOTS PER TRANSFORMER
PAD MOUNTED	\$ 20.33	\$1,177.88	57.44	105.44	5.00
TOTAL UNDERGROUND	\$ 25.54	\$1,479.83	57.94	105.44	5.00

000194

SCHEDULE 70 OH TO UG CONVERS:

TABLE III

PLAT	TYPE TRANSF'R	NO. OF LOTS SERVED	CENTERLINE DISTANCE FEET	U.G. SYSTEM COST	TRANSF'R COST	U.G. SYSTEM & TRANSF'R \$/C.L. FT.	U.G. SYSTEM & TRANSF'R COST/LOT	AVERAGE C.L. FT. PER LOT	AVERAGE LOT WIDTH	AVERAGE LOTS SERVED PER TRANSF'R
1. TALL FIRS ESTATES	PAD MOUNT	29	1780	\$13,050.00	\$8,552.00	\$12.14	\$744.90	61.38	112.59	4.83
1. TALL FIRS ESTATES	TOTAL UG	29	1780	\$22,872.00	\$8,997.00	\$17.92	\$1,099.62	61.38	112.59	4.83
2. IMPERIAL EAST	PAD MOUNT	135	6739	\$86,576.00	\$34,924.00	\$18.03	\$900.00	49.92	105.00	5.87
2. IMPERIAL EAST	TOTAL UG	135	6739	\$126,169.00	\$34,924.00	\$23.90	\$1,193.28	49.92	105.00	5.87
3. LAKE HILL 51 & 52	PAD MOUNT	118	5808	\$80,690.00	\$27,758.00	\$18.67	\$919.05	49.22	89.37	6.28
3. LAKE HILL 51 & 52	TOTAL UG	118	5808	\$98,794.00	\$29,061.00	\$22.01	\$1,083.52	49.22	89.37	6.28
4. CHERRY-WOOD	PAD MOUNT	51	2375	\$18,152.00	\$11,833.00	\$12.63	\$587.94	46.57	83.82	6.51
4. CHERRY-WOOD	TOTAL UG	51	2375	\$23,891.00	\$12,370.00	\$15.27	\$711.00	46.57	83.82	6.51
5. HIGHLAND HILLS #3	PAD MOUNT	83	3689	\$56,830.00	\$17,257.00	\$20.98	\$392.61	44.45	84.34	7.55
5. HIGHLAND HILLS #3	TOTAL UG	83	3689	\$78,070.00	\$17,892.00	\$26.01	\$1,156.17	44.45	84.34	7.55
6. 169TH FL. N.E.	PAD MOUNT	14	420	\$4,740.00	\$3,137.00	\$18.75	\$562.64	30.00	75.00	7.00
6. 169TH FL. N.E.	TOTAL UG	14	420	\$8,717.00	\$3,269.00	\$28.54	\$856.14	30.00	75.00	7.00
7. AVERAGE 6 FLATS	PAD MOUNT	72	3,469	\$43,339.67	\$17,243.50	\$17.47	\$615.35	48.40	91.77	6.34
82. AVERAGE 6 FLATS	TOTAL UG	72	3,469	\$59,758.30	\$17,782.17	\$22.35	\$1,001.50	48.40	91.77	6.34

C00195

7. HOLLY- HILL MERCER IS.	PAD MOUNT	20	1	\$35,939.00	\$12,153.00	\$35.71	\$0	65.50	122.10	2.5
7. HOLLY- HILL MERCER IS.	TOTAL UG	20	1310	\$44,860.00	\$16,384.00	\$46.75	\$3,627.20	65.50	122.10	2.5
8. SKY MOUNTAIN SE 46TH ST.	PAD MOUNT	14	1545	\$36,585.00	\$6,980.00	\$28.13	\$3,104.64	110.36	102.70	2.33
8. SKY MOUNTAIN SE 46TH ST.	TOTAL UG	14	1545	\$46,282.00	\$8,093.00	\$35.19	\$3,883.93	110.36	102.70	2.33
9. NE 51 ST 156 AVE NE	PAD MOUNT	25	4335	\$78,114.00	\$10,166.00	\$20.36	\$3,531.20	173.40	182.20	4.17
9. NE 51 ST 156 AVE NE	TOTAL UG	25	4335	\$89,986.00	\$10,594.00	\$23.20	\$4,023.20	173.40	182.20	4.17
10. 171 AVE NE 20 TO 95	PAD MOUNT	39	2591	\$56,852.00	\$21,787.00	\$30.35	\$2,016.38	66.44	96.90	3.00
10. 171 AVE NE 20 TO 95	TOTAL UG	39	2591	\$76,182.00	\$21,923.00	\$38.64	\$2,866.80	66.44	96.90	3.00
<hr/>										
E1. AVERAGE 4 FLATS	PAD MOUNT	25	2,445	\$51,872.50	\$12,746.50	\$26.43	\$2,637.51	99.81	125.98	3.00
E2. AVERAGE 4 FLATS	TOTAL UG	25	2,445	\$64,627.50	\$14,248.50	\$32.34	\$3,277.59	99.81	125.98	3.00
<hr/>										
C1. AVERAGE 10 FLATS	PAD MOUNT	53	3,059	\$46,752.00	\$15,444.70	\$20.33	\$1,177.98	57.94	105.45	5.00
C2. AVERAGE 10 FLATS	TOTAL UG	53	3,059	\$61,784.30	\$16,350.70	\$25.54	\$1,477.83	57.94	105.45	5.00
<hr/>										

C00196

SERVICE DATE

APR 12 1984

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,)	
)	
Complainant,)	CAUSE NO. U-84-22
)	
vs.)	
)	COMPLAINT AND ORDER
PUGET SOUND POWER & LIGHT COMPANY,)	SUSPENDING TARIFF
)	REVISIONS
Respondent.)	
.....)	

Puget Sound Power & Light Company, March 14, 1984, filed (WUTC No. UTF-577) in this Cause revisions to its Tariff WN U-60 designated as First Revised Sheet No. 70-a and First Revised Sheet No. 71-a.

It appearing that the filing herein would increase charges and rates for electric service rendered by Respondent and that the rights and interests of the public might be injuriously affected thereby, it is the decision of the Commission to enter upon public hearing or hearings concerning such changes and the reasonableness and justness thereof and to suspend the operation of the above tariff revisions, pending such hearing or hearings and decision thereon.

In accordance with RCW 80.04.130, the burden of proof to show that such increases are just and reasonable shall be upon the Respondent.

IT IS THEREFORE ORDERED:

1. The operation of the filing herein, March 14, 1984, is hereby suspended.
2. A hearing or hearings, on the Commission's own motion, shall be held at such times and places as may be required.
3. No change or alteration shall be made in the tariff revisions filed herein, during the period of suspension, unless authorized by the Commission.

DATED at Olympia, Washington and effective this 11th day of April, 1984.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Robert W. Bratton
ROBERT W. BRATTON, Chairman

Mary D. Hall
MARY D. HALL, Commissioner

A. J. "Bud" Pardini
A. J. "BUD" PARDINI, Commissioner

100-1

C00197

SERVICE DATE

SEP 12 1984

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	CAUSE NO. U-84-22
)	
vs.)	
)	ORDER DISMISSING COMPLAINT
PUGET SOUND POWER & LIGHT)	AND ORDER SUSPENDING TARIFF
COMPANY,)	REVISIONS AND GRANTING
)	TARIFF REVISIONS
Respondent.)	
.....)	

Puget Sound Power & Light Company, March 14, 1984, filed (WUTC No. UTF-577) in this Cause revisions to its Tariff WN U-60 designated as First Revised Sheet No. 70-a and First Revised Sheet No. 71-a, Conversion to Underground Service.

It appearing that the above tariff revisions would increase charges and rates for electric service rendered by Respondent and that the rights and interests of the public might be injuriously affected thereby, the Commission, April 12, 1984, issued a Complaint and Order Suspending Tariff Revisions pending an investigation concerning the changes and the reasonableness and justness thereof.

A complete and thorough investigation conducted by staff reveals that the aforesaid tariff revisions establish charges and rates which are fair, just and reasonable and not contrary to the public interest. In view thereof, it is deemed appropriate that the Complaint and Order Suspending Tariff Revisions herein be dismissed and that said tariff revisions become effective September 1, 1984.

FINDINGS

1. Puget Sound Power & Light Company is engaged in the business of furnishing electric service for hire within the State of Washington and, as such, is a public service company subject to regulation by the Washington Utilities and Transportation Commission.
2. The First Revised Sheet No. 70-a and First Revised Sheet No. 71-a currently under suspension herein, are not considered to be unreasonable.
3. It is not contrary to the public interest that the Complaint and Order Suspending Tariff Revisions in this Cause be dismissed and that the First Revised Sheet No. 70-a and First Revised Sheet No. 71-a to Respondent's Tariff WN U-60 become effective September 13, 1984.

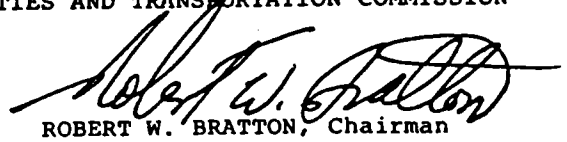
C00198

O R D E R

THE COMMISSION THEREFORE ORDERS That the Complaint and Order Suspending Tariff Revisions in this Cause, dated April 12, 1984, be and the same is hereby dismissed and that the First Revised Sheet No. 70-a and First Revised Sheet No. 71-a to Respondent's Tariff WN U-60 be and the same shall become effective September 13, 1984.

DATED at Olympia, Washington and effective this 12th day of September, 1984.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION


ROBERT W. BRATTON, Chairman


MARY D. HALL, Commissioner


A. J. "BUD" PARDINI, Commissioner

000199



Clyde Hill Municipal Code

(Current through Ord. 828, passed December 12, 2000)

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Title 1 GENERAL PROVISIONS

Chapters:

- 1.01 Code Adoption
- 1.04 General Provisions
- 1.06 Contractors' Bonds
- 1.08 General Penalty
- 1.10 City Classification

Chapter 1.01 CODE ADOPTION

Sections:

- 1.01.010 Adoption.
- 1.01.020 Title - Citation - Reference.
- 1.01.030 Codification authority.
- 1.01.040 Ordinances passed prior to adoption of code.
- 1.01.050 Reference applies to all amendments.
- 1.01.060 Title, chapter and section headings.
- 1.01.070 Reference to specific ordinances.
- 1.01.080 Effect of code on past actions and obligations.
- 1.01.090 Effective date.
- 1.01.100 Constitutionality.

1.01.010 Adoption.

Pursuant to the provisions of RCW 35.21.500 through 35.21.570 there is adopted the "Clyde Hill Municipal Code," as compiled, edited and published by Code Publishing Company, Seattle, Washington. (Ord. 786 § 1, 1998; Ord. 456 § 1, 1982)

1.01.020 Title - Citation - Reference.

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Title 12 STREETS, SIDEWALKS AND PUBLIC PLACES
**Title 12
STREETS, SIDEWALKS AND PUBLIC PLACES**
Chapters:

- 12.04 Street Improvement and Construction Specifications**
12.08 Street Opening Permits
12.12 Repealed
12.14 Public Place Use Permits

**Chapter 12.04
STREET IMPROVEMENT AND CONSTRUCTION SPECIFICATIONS**
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12.04.011 Definitions.
12.04.015 Adoption of Standard Specifications by reference.
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12.04.030 Submission of plans and profiles - Approval.
12.04.040 Plans - Information.
12.04.050 Fee for checking and inspecting plans.
12.04.060 Inspection of work.
12.04.070 Compliance by applicant.
12.04.080 Correction of unsatisfactory work.
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12.04.100 Guaranty.

Article II. Construction Specifications

- 12.04.105 Compliance with Standard Specifications.**
12.04.110 Cross-sections of streets.
12.04.120 Subgrade of streets.
12.04.130 Underground utilities.
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12.04.190 Unfavorable weather.

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- 12.04.200 Standard details.**
12.04.210 Repealed.
12.04.220 Repealed.
12.04.230 Storm sewer pipe.
12.04.240 Repealed.
12.04.250 Repealed.

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- 12.04.260 Manholes.**
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- 12.04.290 Design.**
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- 12.04.320 - 12.04.440 Repealed.**

Article I. General Provisions

12.04.010 Scope.

The purpose of this chapter is to provide minimum standards for improvements to existing streets or construction of new streets within the town. Homeowners, property owners, or real estate developers are required to comply with these standards when improving any portion of the existing streets or when platting and/or developing new streets. As used in this chapter, "street" refers to the paved portion of any right-of-way contained within the corporate limits of the town. (Ord. 127 § 1, 1961)

12.04.011 Definitions.

For the purposes of this title, the following words shall have the following meanings:

- A. "Base course" means the lower portion of the roadway base, consisting of one and one-quarter-inch minus crushed surfacing.
- B. "Construction stakes" means physical markers, such as wooden stakes, used to establish the horizontal alignment, profile and cross-sections of the roadway improvements.
- C. "Profile of street" means the centerline grade of the improved portion of the right-of-way.
- D. "Standard Specifications" means the Standard Specifications for Road, Bridge and Municipal Construction, 1996 Edition, as the same now exists or is hereafter amended, and as prepared jointly by the Washington State Department of Transportation and the American Public Works Association, Washington State Chapter.
- E. "Subgrade" means the top surface of the soil, either native or imported, upon which is placed the roadway base and pavement.
- F. "Suitable material" means soil, native or imported, which meets the requirements of Chapter 12.04 CHMC for the intended use.
- G. "Top course" means the upper portion of the roadway base, consisting of three-quarter-inch minus crushed surfacing used as a leveling course. (Ord. 744 § 1, 1996)

12.04.015 Adoption of Standard Specifications by reference.

The Standard Specifications for Road, Bridge and Municipal Construction, 1996 Edition, and as prepared jointly by the Washington State Department of Transportation and the American Public Works Association, Washington State Chapter, is hereby adopted by reference, as if the same were fully set forth herein. (Ord. 744 § 2, 1996)

12.04.020 Street classifications.

Streets within the town shall be classified as follows:

A. Principal Arterials and State Routes.

1. State Route 520 (SR520).

B. Minor Arterials.

1. N.E. 12th Street, from 84th Avenue N.E. to 86th Avenue N.E.; and
2. 84th Avenue N.E., from N.E. 12th Street to State Route 520 (SR520).

C. Collector Arterials.

1. N.E. 24th Street, from 84th Avenue N.E. to 98th Avenue N.E.;
2. 92nd Avenue N.E., from N.E. 12th Street to State Route 520 (SR520); and
3. Points Drive, from 84th Avenue N.E. to 92nd Avenue N.E.

D. Local Access Roads.

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1. All other streets not otherwise identified above, within the corporate limits of the town. (Ord. 681 § 1, 1993; Ord. 127 § 2, 1961)

12.04.030 Submission of plans and profiles - Approval.

No work will be allowed on town right-of-way without first submitting plan and profiles of the proposed improvements and obtaining an approval from the town for the proposed development or activity. (Ord. 744 § 3, 1996; Ord. 127 § 4 (1), 1961)

12.04.040 Plans - Information.

The plans shall show the location, extent and details of the proposed improvement. Three sets of plans shall be submitted, of which one approved set will be returned with the approval. (Ord. 744 § 4, 1996; Ord. 127 § 4(2), 1961)

12.04.050 Fee for checking and inspecting plans.

Upon completion of the project and before acceptance by the town, the applicant shall pay the applicable fee, set by the town council by resolution, for the town's costs associated with plan checking and inspection. (Ord. 744 § 5, 1996; Ord. 127 § 4(3), 1961)

12.04.060 Inspection of work.

Inspection of the work will be required periodically during each phase of the project and before starting the following phase. The following inspections constitute a minimum:

- A. Drainage - upon completion, except for backfill;
- B. Drainage backfill and compaction;
- C. Subgrade preparation - upon completion;
- D. Base course - upon completion;
- E. Top course - upon completion;
- F. Surfacing - during placement and upon completion;
- G. Final inspection before acceptance by the town. (Ord. 744 § 6, 1996; Ord. 127 § 4(4), 1961)

12.04.070 Compliance by applicant.

It shall be the responsibility of the applicant to furnish materials and workmanship in accordance with these specifications and the approved plans. (Ord. 744 § 7, 1996; Ord. 127 § 4(5), 1961)

12.04.080 Correction of unsatisfactory work.

Any unsatisfactory material or workmanship discovered shall immediately be removed or corrected by the applicant before proceeding with further portions of the project. (Ord. 744 § 8, 1996; Ord. 127 § 4(6), 1961)

12.04.090 Surety bond.

The town engineer may require that the applicant post with the town treasurer a bond, cash or other method of security in an amount and with surety and conditions satisfactory to the town engineer and town attorney, providing for and securing to the town the actual construction and installation of such improvements within a specified time and in accordance with the requirements of this chapter. The town shall enforce all bonds or other methods of security authorized under this section by appropriate legal and equitable remedies. The bond, deposit or securities shall be subject to forfeiture at the discretion of the town council if the improvements are not constructed within the specified time. Cash and/or certified checks shall be held in escrow pending the satisfactory completion of the required work by the specified time. The town engineer may authorize the release of a portion of such funds to the applicant in accordance with a prearranged time schedule. (Ord. 744 § 9, 1996; Ord. 127 § 4(7), 1961)

12.04.100 Guaranty.

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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

NO. UE-011027

CITY OF CLYDE HILL, AN OPTIONAL
MUNICIPAL CODE CITY,

Complainant and Petitioner,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

AFFIDAVIT OF LYNN F. LOGEN

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

LYNN F. LOGEN being first duly sworn upon oath, states as follows:

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STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

000204

1 1. I am the Tariff Consultant for Puget Sound Energy, Inc. ("PSE"). My job
2
3 duties include overseeing implementation and application of PSE's tariffs, including Schedules
4
5 70 and 71 of Electric Tariff G, which are at issue in this proceeding.
6

7 2. I have been PSE's Tariff Consultant since 1997. Prior to that, I held the
8
9 position of Manager, Rates and Tariffs for seven years. In that position, I had the same job
10
11 duties as I currently have as Tariff Consultant. For approximately 15 years prior to that, I
12
13 held various management positions for Puget Power in rates and regulation, billing and
14
15 customer service departments, which required extensive knowledge of PSE's tariffs. My
16
17 training and responsibilities in my current position include understanding PSE's electrical
18
19 system, including system requirements and costs.
20

21 3. In order to avoid any delays to the street improvements on the City of
22
23 SeaTac's 170th Street Project, PSE and SeaTac negotiated and entered into an interim
24
25 agreement with reservations of rights under which PSE's overhead facilities will be converted
26
27 to underground, with the ultimate terms and conditions of that undergrounding to depend on
28
29 resolution through litigation of issues raised in this proceeding and in Docket No. UE-
30
31 010778. Based on the interim agreement, PSE has begun ordering and delivering materials to
32
33 the project, and SeaTac's contractors have begun work, without any delay to the City's
34
35 project.
36

37 4. There are critical differences between a three-phase (600 amp) feeder system
38
39 and a single-phase (200 amp) system when converting an overhead electric system to
40
41 underground.
42

43 5. A "feeder" circuit on PSE's distribution system is the backbone directly from
44
45 the substation. A feeder is a three-phase, heavy wire, high capacity circuit protected by the
46
47 substation circuit breaker. A feeder is never single-phase. By contrast, a regular distribution

000205

1 circuit consists of lighter, lower capacity conductors, that is separated from the feeder circuit
2
3 by fuses.

4
5 6. Conversion of an above-ground three-phase feeder system to an underground
6
7 system is fundamentally different than conversion of a single-phase system to an underground
8
9 system. Undergrounding of a three-phase feeder system such as the one in Clyde Hill or
10
11 SeaTac requires construction of a parallel single-phase underground system to serve
12
13 individual, single-phase customers that were formerly served by one phase of the overhead,
14
15 three-phase feeder system prior to the conversion. This is because an overhead feeder system
16
17 contains conductors on each pole that can serve as points at which a regular distribution
18
19 circuit can be connected through a fuse or fuses to the three-phase feeder, while an
20
21 underground feeder system is encased in heavy insulation and does not contain open
22
23 conductors that provide access to the feeder.

24
25 7. Stipulated Exhibit No. H, which is PSE's Standard 6750.5000, Underground
26
27 Distribution System Design, demonstrates some of the above issues. Figure 1 on page 2
28
29 shows an electrical diagram of a single-phase system running parallel to a three-phase feeder.
30
31 The design criteria regarding "Switch Design" on page 3 further describes the purpose of the
32
33 parallel system. The design criteria regarding "200-Amp Taps" on page 3 describes the
34
35 requirement that all 200-amp (single-phase) taps from a feeder shall be fused. A true and
36
37 correct copy of Stipulated Exhibit No. H is attached hereto for the Commission's
38
39 convenience.

40
41 8. Developed commercial areas in PSE's service territory contain electrical
42
43 systems that are all three-phase. By contrast, PSE installs single-phase systems in areas that
44
45 are purely residential, and does not install three-phase systems in a residential area unless load
46
47 exists in the area that needs such a system. In residential areas, any three-phase system is

000206

1 generally limited to feeder backbone to carry load that the single-phase systems tap off of,
2 and/or to carry load from one commercial area to another through the residential area.
3

4 9. Although the houses that tap off of the facilities to be converted to
5 underground along South 170th Street in SeaTac and along 92nd Avenue N.E. in Clyde Hill
6 are residential dwellings, with single-phase load, the three-phase feeder that they tap off of is
7 part of PSE's distribution backbone that carries three-phase load to these areas, as well as to
8 other areas in PSE's system that require three-phase service. Thus, from PSE's perspective,
9 the electric system in these areas is not "used exclusively for residential purposes" within the
10 meaning of Schedule 70, Section 2.
11

12 10. The Declaration of Tom Gut dated August 10, 2001, at paragraph 5, lines 9-
13 12, could be misleading if not clarified. Mr. Gut is correct that the South 170th Street plans
14 call for single-phase services to individual dwellings. His reading of the plans is consistent
15 with my descriptions, above, of how a parallel, single-phase system will need to be installed
16 when the existing overhead is converted to underground. However, his declaration speaks in
17 terms of "an isolated three-phase feeder circuit" and a "secondary cable system" providing
18 services to individual dwellings. It is the parallel, single-phase system that will be added and
19 isolated from the three-phase system to provide underground single-phase service with
20 appropriate fusing. The three-phase system will continue to connect to the rest of PSE's
21 distribution system, as it does now. Using the word "secondary" to describe the single-phase
22 system could be confusing, because the term "secondary" typically describes the voltage of
23 the system, not the fact that the system is the second (and parallel) system to the three-phase
24 system.
25

26 11. PSE has estimated that the total cost for the SeaTac Conversion will be
27 \$454,870.00. If the existing overhead system were a single-phase rather than a three-phase
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1 system, PSE estimates that the cost of the conversion would be \$222,632.39. Similarly, PSE
2
3 has estimated that the total cost for converting the existing overhead facilities along 92nd
4
5 Ave. N.E. in Clyde Hill will be \$382,521. If the existing overhead system along 92nd Avenue
6
7 N.E. were a single-phase system, PSE estimates that the cost of that conversion would be
8
9 \$194,107.37.

10
11 12. If SeaTac is permitted to pay for the SeaTac Conversion under Schedule 70
12
13 rather than Schedule 71, it will pay only \$20.33 per centerline foot of all public thoroughfares
14
15 within the Conversion Area utilizing surface-mounted transformers. PSE estimates this
16
17 amount at \$20.33 x 1,700 feet, or \$34,561.00. If Clyde Hill is permitted to pay for the
18
19 conversion of 92nd Ave. N.E. under Schedule 70 rather than Schedule 71, it will pay only
20
21 \$20.33 per centerline foot of all public thoroughfares within the Conversion Area utilizing
22
23 surface-mounted transformers. PSE estimates this amount for the 92nd Ave. N.E. section of
24
25 the Clyde Hill Project at \$20.33 x 2,912.5 feet, or \$59,211.13.

26
27 13. During the eleven years that I have been responsible for PSE's tariff
28
29 interpretation and application, I have consistently interpreted Schedule 70 to apply only to
30
31 conversions of single-phase systems to underground, and I have consistently interpreted
32
33 Schedule 71 to apply to conversions of three-phase systems to underground. I am not aware
34
35 of any cases in which three-phase systems have been converted to underground under
36
37 Schedule 70. Thus, the suggestion by SeaTac and Clyde Hill that they are being asked to pay
38
39 more than other customers in their position for the underground conversions at issue, and
40
41 thereby being discriminated against, is incorrect. PSE is requiring SeaTac and Clyde Hill to
42
43 pay exactly what any other customer would be required to pay who is seeking conversion of
44
45 a three-phase overhead system to underground.
46
47

000208

1 14. A "Conversion Area" under Schedules 70 and 71 is often defined primarily by
2
3 reference to a particular street, since PSE's facilities generally run along a street. Such a
4
5 Conversion Area includes the dwellings on each side of the street as well as the street itself,
6
7 but it may not include side streets or dwellings on those side streets if those facilities are not
8
9 being converted to underground. In the case of the SeaTac Conversion, only the facilities
10
11 along South 170th Street are being converted to underground. Conversion of side streets is
12
13 limited to conversion up to the first pole on each side street.

14
15 15. For conversion projects containing a single-phase system in a portion of the
16
17 project area and a three-phase system in another portion, PSE converts the single-phase
18
19 portion of the system to underground under Schedule 70 and the three-phase portion of the
20
21 system to underground under Schedule 71. Thus, an applicant obtains the benefit of
22
23 Schedule 70 for portions of a project that are single phase, while PSE preserves the
24
25 distinctions in Schedule 70 and 71 that permit PSE to better recover the additional costs
26
27 involved in conversions of three-phase feeder to underground. PSE has applied Schedules 70
28
29 and 71 to the Clyde Hill LID in this manner, as set forth in Stipulated Facts Nos. 9 – 12 and
30
31 Stipulated Exhibit No. D. A true and correct copy of Stipulated Exhibit No. D is attached
32
33 hereto. The significance of the highlighting is described in Stipulated Facts Nos. 10-12. I
34
35 drew the highlighting on Exhibit No. D.

36
37 16. PSE's cost estimate to Clyde Hill in June 2000 was broken down consistent
38
39 with PSE's interpretation of the tariff, as explained in Stipulated Fact No. 16 and shown in
40
41 Stipulated Exhibit E. A true and correct copy of Stipulated Exhibit E is attached hereto.

42
43 17. SeaTac's Motion at page 7, lines 16 and 17, states that "PSE does not even
44
45 offer three-phase service to residential customers except under certain circumstances and at a
46
47 special rate." I believe this statement is misleading. One could just as well say that PSE does

000209

1 not even offer *single-phase* service to residential customers except under certain
2
3 circumstances and at a special rate. Three-phase service is available to any residential
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5 customer upon request, subject to charges associated with three-phase service, as is evident
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7 from reviewing Schedule 7 cited in SeaTac's Motion.

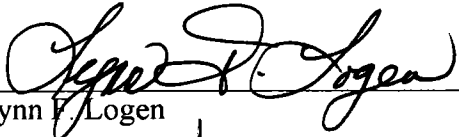
8
9 18. I have personally inspected 92nd Avenue N.E. in Clyde Hill and the
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11 surrounding area. 92nd Avenue N.E. is significantly wider than the side streets that branch
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13 off of it. Clyde Hill has two main through streets, 92nd Avenue N.E. and N.E. 24th Street,
14
15 as evidenced on the Thomas Bros. Maps, a copy of which is attached hereto as Exhibit I, and
16
17 as shown in Stipulated Exhibit No. G submitted by Clyde Hill, a copy of which is also
18
19 attached hereto. 92nd Avenue N.E. connects to N.E. 8th Street, which is a primary point of
20
21 entry into Clyde Hill from Bellevue's downtown commercial areas. It continues all the way
22
23 through Clyde Hill to approximately N.E. 34th Street and the entrance to State Highway 520.
24
25 This contrasts with the other public side streets in the Clyde Hill LID boundary, where PSE
26
27 has agreed that Schedule 70 applies, as shown on Exhibit D, pink highlighting.

28
29 19. During the eleven years that I have been responsible for PSE's tariff
30
31 interpretation and application, I have consistently interpreted Schedule 70 and Schedule 71 to
32
33 apply only to conversions of PSE's facilities located in rights of way, and not on private
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35 property under a PSE easement or by prescriptive right. This interpretation of Schedules 70
36
37 and 71 was passed on to me by my predecessor, Bill Baker, under whom I worked for six
38
39 years prior to his retirement. Where PSE's existing overhead facilities are located on private
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41 property under a PSE easement or by prescriptive right, PSE generally has been willing to
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43 convert the facilities to underground, but requires the applicant to pay 100% of the costs of
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45 the conversion.
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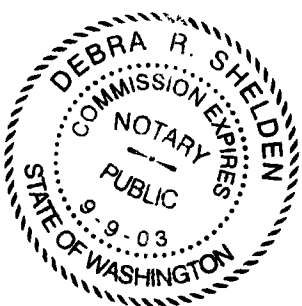
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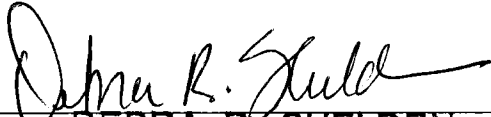
20. Attached hereto as Exhibit J is a sample of PSE's form Schedule 70 Underground Conversion Agreement. This particular sample was filled in for the Schedule 70 portion of the Clyde Hill project, but has not been executed.


Lynn F. Logen

SUBSCRIBED and SWORN to before me this 23rd day of August 2001 by

LYNN F. LOGEN




Print Name: DEBRA R. SHELDEN
Notary Public in and for the State of Washington.
My commission expires: 9/9/03

000211

Project Estimate

Clyde Hill 92nd Ave. Conversion

Type	Location	Cost	City Portion	Comments
Sch. 71	92nd Ave	\$ 382,521	\$ 267,764	70/30 split under Sch. 71
Sch. 70	Public Side Streets	\$20.33X3020	\$ 61,397	Incl. 13th St., 520' (\$10,572)
Full	Private Side Streets	\$ 48,592	\$ 48,592	Schedules N/A
Admin.	Project	\$ 48,000	\$ 33,600	Applied Sch. 71
		TOTAL	\$ 411,353	

Estimate:

- 1) Does not include trenching, backfill & restoration (staking/grading required)
- 2) Presumes well-executed trenching coordination
- 3) Presumes timely house conversions
- 4) Does not include street lights
- 5) Provides for padmount transformers (not T.U.T.)
- 6) Presumes cooperation with property owners (transformer, landscaping, etc.)
- 7) Presumes standard locates issues

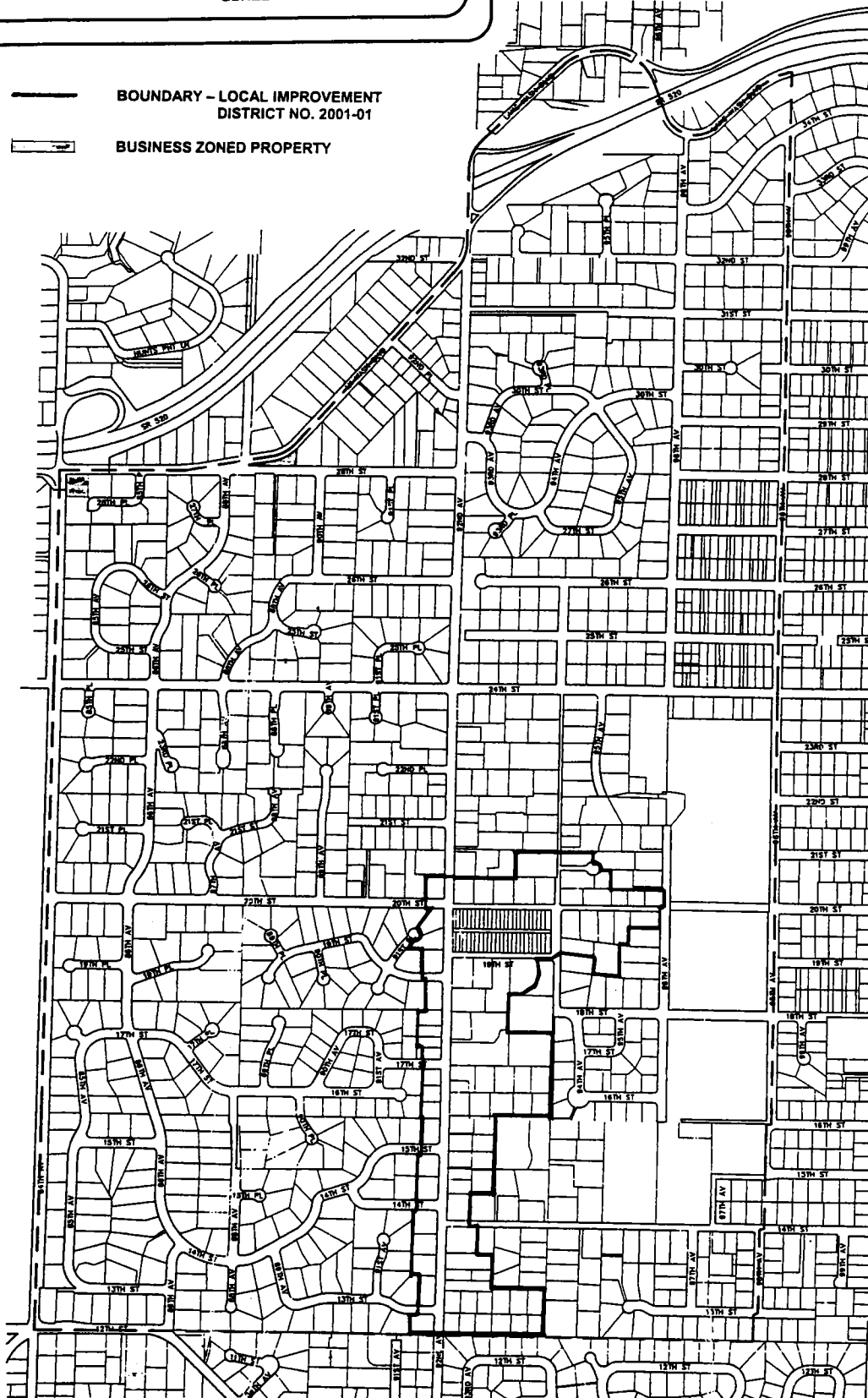
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ZONED R-1 (RESIDENTIAL)

EXHIBIT B

- BOUNDARY - LOCAL IMPROVEMENT DISTRICT NO. 2001-01
- ▭ BUSINESS ZONED PROPERTY



000215

Exhibit G

Underground Distribution System Design

6750.5000

Scope

This standard documents the design criteria and associated rules for the equipment selection and placement of 600-amp underground feeder systems in suburban areas.

There are four areas to take into consideration when designing these systems.

- Conduit Systems
- Equipment
- Design Criteria
- Structure Spacing and Location

Conduit Systems

When designing the actual conduit system, be aware of these design rules.

Conduit

Feeder cables are usually under hard surfaces and therefore should be in conduit. In rural areas, however, direct-buried cables may be the most feasible.

Preferred Conduit Size

Refer to Standard Practice 6800.0030 for preferred conduit size.

Bends

Bends dramatically increase pulling tension and should be avoided whenever possible. Bends shall have a minimum 48-inch radius and located no closer than 6 feet from a vault.

Bedding

There shall be 3 inches of sand above and below all feeder conduits.

Vault Entrance

Conduit shall enter a vault at one of its short sides because of cable pulling considerations. Use the lower knockout positions first so as to reserve higher positions for future circuits. Refer to Standard Practice 6800.6000.

000217



Underground Distribution System Design

6750.5000

Equipment

Keep these requirements in mind when selecting equipment for the underground feeder.

Cable

Standard practice cables for feeder are 750-kcmil aluminum for 12 kV systems and 500-kcmil copper for 35 kV systems. Refer to Standard Practice 0600.0205 for ampacities of these cables.

Preferred Equipment

Padmounted devices are preferred to below-grade devices.

Straight Splices vs. Hammerheads

Straight splices are preferred for cost and space reasons.

Hammerhead splices shall be limited to these applications:

- When cable routing requires cables on either end of the splice head to be in the same direction as shown in Figures 2 and 4 of Standard Practice 6875.3030, Racking of 600 A Hammerhead Elbows.
- With express feeder systems with numerous vaults between switches, install hammerhead splices in every *fifth* pulling vault to aid in future fault locating efforts.

Separate cable numbers are required for each cable joined by a hammerhead splice.

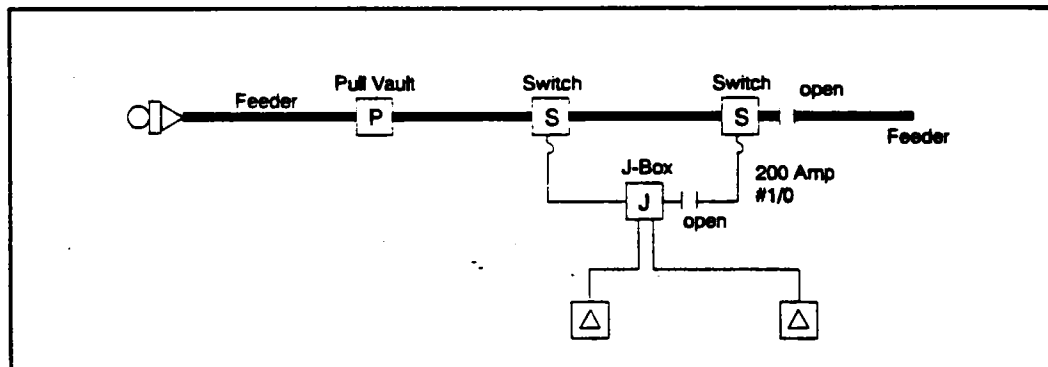
Vaults

See Standard Practice 6775.0030, Vault and Handhole Selection and Application, to select the correct pulling vault. Note that smaller pulling vaults are allowed in certain applications.

Figure 1 shows the typical equipment involved with underground feeder systems.

Figure 1

Typical feeder circuit



000218

Underground Distribution System Design

6750.5000

Design Criteria

Looping

Feeders will almost always be interconnected or looped with other feeder circuits. In low load density areas, it may not always be economical to provide these interconnections.

Advantages of looping are faster service restoration in the event of equipment failures, load shifting for maintenance work, and load shifting to balance feeder and substation loads.

Future Load

The proposed feeder system should plan for area growth and system needs for the next *ten* years. In planning for future developments, spare conduits may be justified, but defer high cost items such as vaults and switches unless absolutely necessary. No more than *one* spare conduit should be installed for unscheduled future loads.

Sectionalizing

Design feeder interconnections so that equipment failures can be sectionalized or isolated with the least possible switching operations.

Switch Design

Design the system so that any switch may be taken off line without an outage to customers. See Figure 1 as an example. The 200-amp systems will usually be located adjacent and parallel to both sides of the feeder to where this is possible. In low load density areas, it may not always be economical to provide this capability.

Loading

Design interconnections so that adjacent supply circuits won't be overloaded or voltage limits exceeded during emergency conditions. Cable ampacity is usually the limiting factor. See Standard Practice 0600.0205 for primary cable ampacities.

Trench

Joint trench construction is a way to share trenching and paving costs. It should be used whenever possible.

200-Amp Taps

All 200-amp taps from a feeder shall be fused.

Unneeded Vaults

Vaults such as those set directly outside a substation fence where construction jurisdictions change will no longer be installed.

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Structure Spacing And Location

Spacing

Structures should be spaced as far apart as cable-pulling tensions will allow, up to 1,500 feet. Refer to Standard Practice 0600.0225. Cable pulls over 1,500 feet will require specialized pulling equipment. 750 kcmil cable is normally available on 2,000-ft reels and 500-kcmil cable on 1,700-ft reels.

Location

- The preferred location for structures is on private property with easement, and in a non-traffic area with good access for equipment needed to construct and maintain the system. Refer to Standard Practice 6825.6100. The second choice would be in light traffic areas not subject to truck traffic, such as parking lots and driveways. Full traffic locations are least desirable, but sometimes can't be avoided; allow for traffic to be safely rerouted around construction vehicles.
- Structures should be placed in locations with adequate clearance from other utilities. Refer to Standard Practice 6800.6000.
- Locate structures away from likely vehicular damage such as turnarounds and loading zones. Install guard posts when necessary.

References

The following Puget Sound Energy documents apply to this standard:

Distribution Planning Guidelines

0600.0205	Cable Ampacity
0600.0225	Cable Pulling Tension
6041.1000	12 and 34 kV Elbows
6043.1020	600 A Terminal Poles
6051.2000	12 kV Feeder Pulling and Splicing Vaults
6056.1000	PMH Padmount Switches
6775.0030	Vault and Handhole Selection and Application
6775.0035	Vault and Handhole Location
6800.0030	Conduit Size Standards
6800.4050	Depth of Burial Requirements for Underground Cable
6800.6000	PVC Conduit Installation
6800.6500	Application of Conduit Plugs and Seals
6825.6100	Cable Pulling
6875.3010	600 A Elbow System
6875.3030	Racking of 600 A Hammerhead Elbows

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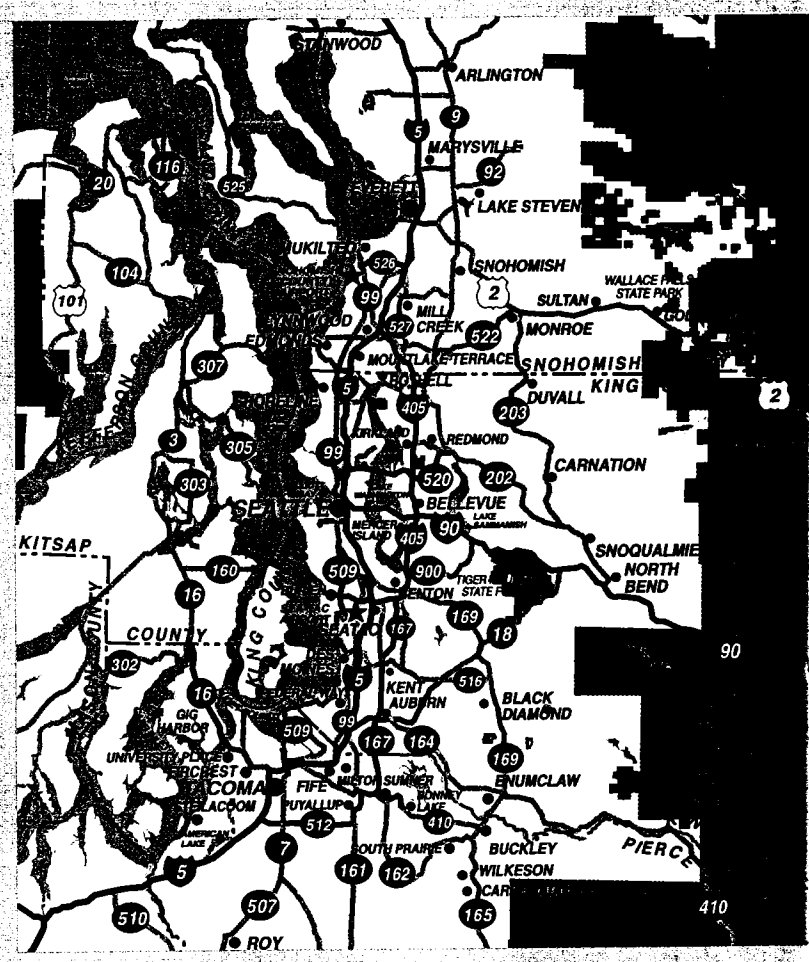
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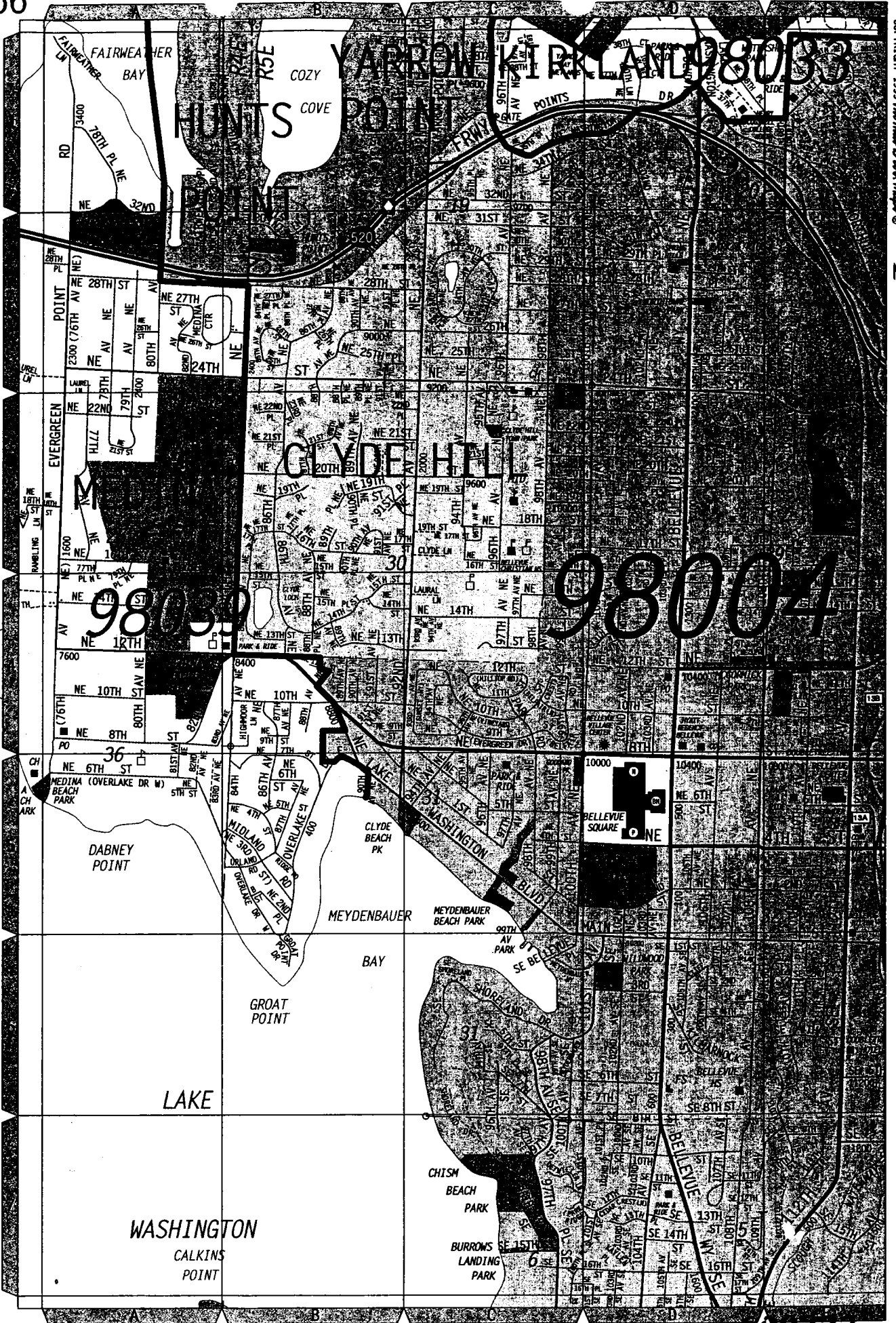
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Exhibit I
C00222



SEE 565 MAP



SCHEDULE 70 UNDERGROUND CONVERSION AGREEMENT

THIS Agreement, dated as of this ____ day of _____, 2001, is made by and between the CITY OF CLYDE HILL, Washington, a Municipal Corporation ("City") and PUGET SOUND ENERGY, Inc., a Washington Corporation (the "Company").

RECITALS

A. The Company is a public service company engaged in the sale and distribution of electric energy and, pursuant to its franchise from the City, currently distributes electricity within the City.

B. The City is undertaking a street improvement project on 92nd Avenue N.E. from approximately N.E. 13th Street to approximately N.E. 20th Street, such improvements being within an area that is more specifically identified on Company work order No. 101006678 ("Conversion Area"). The street improvement project includes conversion of the existing overhead electrical system to underground. The City is also participating with the Company to convert the existing overhead electrical system to underground on N.E. 13th Street, N.E. 19th Street, N.E. 20th Street and 94th Avenue N.E. under the provisions of Schedule 70, and to convert the existing overhead electrical system to underground on several private (non-City) streets entirely at the City's expense.

C. The City has requested that the Company participate in the conversion of the existing overhead power distribution system within the Conversion Area to a comparable underground power distribution system utilizing above ground transformers. Although overhead and underground distribution systems are

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inherently different, the underground system to be installed is to be the operational equivalent of the existing overhead system.

D. The parties wish to execute this written agreement in accordance with Schedule 70 of the Company's Electric Tariff G to govern the installation of such a system.

AGREEMENT

The Company and the City therefore agree as follows:

1. "Main Distribution System," "Underground Service Lines" and "Trenching and Restoration" shall have the meaning set forth in Schedule 70. "Temporary Service" shall have the meaning set forth in Schedule 80 of the Company's Electric Tariff G and in addition shall mean (a) limited overhead facilities left in place within the Conversion Area at the request of the City with the Company's approval, and/or (b) limited overhead or underground facilities installed concurrently with the installation of the Main Distribution System at the request of the City with the Company's approval, which are utilized to provide short term overhead service within the Conversion Area. Temporary Service shall be for a maximum duration of one and one half years, except in unusual circumstances approved by the Company (for example, to accommodate other demolition or construction projects within the Conversion Area). "Operating Rights" shall mean:
 - a. adequate legal rights are rights for the construction, operation, repair, and maintenance of the Main Distribution System installed under this schedule over, under, across, or through all property, including property within the Conversion Area owned or not owned by the City. All rights shall be in a form acceptable to the Company and shall be at no cost to the Company.
 - b. The cost to the Company of obtaining any such space and rights on any property other than public rights-of-way shall be reimbursed in full by the City. The cost to obtain space and rights shall

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include, but not be limited to, the actual amount paid for any space and rights, staff costs (including overheads), the actual cost of any easement, fee, permit, attorney fee, court cost, permit fee, and any survey fee.

- c. The Company, in its sole discretion, will install cable and conduit within the rights-of-way under its franchise within the Conversion Area, but will require all other underground and pad-mounted electrical facilities, including, but not limited to, vaults for junctions, vaults for pulling cable, transformers and associated vaults, and switches and associated vaults, to be installed on private property.
- d. The Company's standard easement provides an adequate legal right for facilities that will be placed on private property. A franchise in a form satisfactory to the Company provides an adequate legal right for cable and conduit that will be placed within rights-of-way. Where zoning or other land use regulations allow for limited or zero set-back of structures from the property line, thereby leaving inadequate space for the Company's equipment that is usually installed on private property, the Company, in its sole discretion, may request that the space and rights be within the structure and meet the Company's specifications.
- e. Where the Company determines it is not physically or economically feasible to obtain space and/or adequate legal rights on private property for facilities that are required to be installed on private property, such facilities may, in the sole judgment of the Company, be installed on public rights-of-way under the following conditions: (1) there is, in the sole judgment of the Company, sufficient area within the public rights-of-way to allow for the safe maintenance and operation of the equipment; and (2) the governmental authority owning or controlling the rights-of-way has provided assurances deemed adequate by the Company that the location will continue to meet the

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Company's standards by not allowing any encroachments unless approved by the Company; and (3) the governmental authority owning or controlling the rights-of-way has agreed to pay one hundred percent (100%) of the cost of any future relocation of facilities located on rights-of-way under this provision which are requested, required or otherwise caused by actions of the governmental authority.

2. Subject to the availability of equipment and materials, the Company shall:
 - a. furnish and install a Main Distribution System within the Conversion Area, in accordance with the Company's standard design and construction specifications. The Company will first evaluate and consider locating its facilities under existing rights-of-way but the location of all facilities shall be at the Company's discretion. Upon mutual agreement by the City and the Company, and subject to the Company's standard design and construction specifications, the City or the City's contractor may install the duct and vault portion of the Main Distribution System. The cost of installing the duct and vault by the City or the City's contractor, if any, shall be subject to approval by the Company. A Company inspector will be required on-site during installation of the duct and vaults and the cost of the Company inspector will be included in the cost of the conversion. And,
 - b. obtain, at the City's expense, any and all Operating Rights required by the Company. However, upon request of the City and approval of the Company, the City may obtain such Operating Rights. The Company [has /has not] approved such a request. The Company may postpone performance of its obligations hereunder until it has obtained or been furnished with such Operating Rights.
 - c. upon request, the Company shall provide periodic reports of progress identifying changes in estimated cost, work completed to date, work yet to be completed and an estimate regarding whether the conversion is on target with respect to estimated cost and schedule.

3. Upon connection of those persons or entities to be served by the Main Distribution System and removal of facilities of any other utilities that are connected to the poles of the overhead system, the Company shall remove the existing overhead system (including associated wires and Company-owned poles) of 15,000 volts or less within the Conversion Area except for Temporary Services.

4. (A) The City shall, at its expense, perform the following within the Conversion Area, all in accordance with the Company's specifications.

- (i) Trenching (including shoring, flagging and barricades) and Restoration (including backfill, restoration of streets, sidewalks and private property); and
- (ii) surveying for alignment and grades for vaults and ducts. Other utilities may be permitted by the City to use City-provided trenches for the installation of their facilities so long as such facilities or the installation thereof do not interfere with the Company's Main Distribution System or the installation or maintenance thereof.

(B) In addition the City shall, at its expense provide the following:

- (i) Any and all Operating Rights required by the Company to allow the Company to construct, operate, repair and maintain the Main Distribution System within the City rights-of-way in the Conversion Area. An existing Franchise in a form acceptable to the Company is acceptable to the Company to convey these rights within the City rights-of-way.
- (ii) In addition, if the Company has approved the City's request to obtain any and all Operating Rights required by the Company on property other than public rights-of-way, the City shall obtain all such Operating Rights.

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The Company may postpone performance of its obligations hereunder until it has been furnished with such Operating Rights.

5. The City shall, within thirty (30) days after the completion of the work to be performed by the Company pursuant to paragraphs 2 and 3 above, remit to the Company a payment of:

(A) Fifty Nine Thousand, Two Hundred Eleven dollars and 13 cents (\$59,211.13) based upon the currently effective Schedule 70 rate per centerline foot of all public thoroughfare within the Conversion Area and based on an estimate of two thousand nine hundred twelve and one half (2,912.5) centerline feet; provided, however, the foregoing amount is subject to change for reasons that include, but are not limited to the following:

- (i) construction has not started within 180 days of the date of this Agreement; or
- (ii) the conversion has not been completed within 12 months of the date of this Agreement; or
- (iii) the City revises its construction plans, as reflected in Company work order No. 101006678, in a manner which changes the length of the Conversion Area; or
- (iv) adjustment to the actual number of centerline feet; and

(B) the installed costs of facilities installed at the time of the conversion to provide Temporary Service plus the cost of removal of such facilities less salvage value of any such removed facilities (the cost of removal and salvage value of any existing overhead facilities utilized to provide Temporary Service are included in the per centerline foot charges in 5(A) above);

(C) the costs, if any, of any and all space and Operating Rights obtained by the Company pursuant to Paragraph 2.b. above;

- (D) any increase in costs resulting from any changes to the Main Distribution System (except changes covered in 5.(A)(iii) above) caused by the City revising its construction plans or changes to the Main Distribution System at the request of the City, if such change(s) arise(s) from circumstances within the control of the City;
- (E) any costs resulting from delays in the Company's installation of the Main Distribution System due to the City, its contractor(s) or others allowed in the trench by the City;
- (F) any increase in cost resulting from the City's request for expedited installation of the Main Distribution System including, but not limited to, increases in the cost of labor (including overtime labor pursuant to Paragraph 10 below), materials, overheads, and permitting.
6. The Company shall own, operate and maintain all electrical facilities installed pursuant to this Agreement including, but not limited to, the Main Distribution System and Underground Service Lines installed by the Company pursuant to this Agreement.
7. Upon commencement of the work contemplated by this Agreement, the City shall notify all persons and entities within the Conversion Area that service to such persons and entities must be converted from overhead to underground service within ninety (90) days following written notice from the City that service from underground facilities is available in accordance with RCW 35.96.050. Upon the request of any person or entity, other than for a single-family residence, within the Conversion Area, the Company will remove the overhead system and connect such persons' and entities' Underground Service Lines or primary voltage service to the Main Distribution System. The parties acknowledge that single-family residences within the Conversion Area must (a) provide a service trench and conduit, in accordance with the Company's specifications, from the underground meter base to the point of service provided during the conversion, and (b) pay for the Underground Service Lines as defined in

Schedule 86 of the Company's Electric Tariff G. The City shall exercise its authority to order disconnection and removal of overhead facilities with respect to persons or entities failing to convert service lines from overhead to underground within the timelines provided in RCW 35.96.050. To the extent that the City requests or directs the Company to install Temporary Services, as defined in Paragraph 1 of this Agreement, within the Conversion Area the City agrees to pay 100% of the costs associated with the installation and removal of such Temporary Services less salvage value of the removed facilities. The cost of underground facilities installed to provide Temporary Service that can be subsequently used to provide permanent underground service shall be included in the cost of the conversion. These overhead Temporary Services shall be removed within one and one half (1 & 1/2) years (unless extended as provided in Paragraph 1) or the City agrees it will be responsible for payment of either: (i) 100% of the costs of the conversion under this Agreement or (ii) 100% of the costs of converting the Temporary Services to underground, pursuant to the terms and conditions set forth in this Agreement. The City shall have the choice between (i) and (ii) above.

8. If the owners of real property to be served from the Main Distribution System are participants in the conversion through a Local Improvement District ("LID") or other process, the parties acknowledge that under Schedule 70, said owners or the City must provide, at their expense, space for all underground and surface mounted electrical facilities to be located on privately owned property, and must grant such Operating Rights as may be necessary to permit the Company to construct, operate, repair and maintain all electrical facilities installed by the Company pursuant to this Agreement. Where the owners of real property are not participants in the conversion, the Company shall obtain necessary Operating Rights, but shall not be required to bear the costs of any Operating Rights. The cost of obtaining Operating Rights on privately owned property shall be reimbursed in full by the City pursuant to paragraph 5(C) above. Such cost shall include, but not be limited to, staff costs (including

overheads), the actual cost of any easement, fee, permit, attorney fee, court cost, permit fee or survey fees required by governmental agencies or property owner. The City may, upon agreement of the Company, obtain at its expense such Operating Rights acceptable to the Company.

9. The City shall be responsible for coordinating all work to be performed in connection with any street improvement program within the Conversion Area. The Company shall not be required to install the Main Distribution System until the area in which such System is to be installed has been established to final grade. Upon performance by the City of the necessary preliminary work, the City shall give the Company a minimum of ten (10) working days advance written notice requesting the Company to commence installation of the Main Distribution System and shall schedule such construction to minimize interference from the installation of other improvements.

10. The Company's performance hereunder shall be commenced within ten (10) working days of the date requested in the written notice pursuant to Paragraph 9 above. The Company shall use reasonable diligence in performing its work hereunder, but shall not be liable for any delays resulting from circumstances beyond its control including, but not limited to, failure to receive necessary Operating Rights pursuant to Paragraphs 2b, 4(B) and 8 above. The City agrees that work performed by the Company shall be scheduled to avoid premium labor charges to the Company. If the Company mutually agrees with the City that the Company's normal straight-time eight hour labor day must be changed within the hours of 6:00 a.m. to 6:00 p.m., the City must provide sufficient advance notice to allow the Company to provide IBEW Local Union No. 77 with five (5) days advance notice in accordance with the Company's collective bargaining agreement with the union. Any overtime labor provided by the Company at the request of the City may increase the Company's project cost, which will result in an increased cost to the City.

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11. (A) The City releases and shall defend, indemnify and hold the Company harmless from all claims, losses, harm, liabilities, damages, costs and expenses (including, but not limited to, reasonable attorneys' fees) caused by, arising out of or in connection with the performance of the City's duties under this Agreement. During the performance of such activities the City's employees or contractors shall at all times remain employees or contractors, respectively, of the City.

(B) The Company releases and shall defend, indemnify and hold the City harmless from all claims, losses, harm, liabilities, damages, costs and expenses (including, but not limited to, reasonable attorneys' fees) caused by, arising out of or in connection with the performance of the Company's duties under this Agreement. During the performance of such activities the Company's employees or contractors shall at all times remain employees or contractors, respectively, of the Company.

12. This Agreement is subject to the General Rules and Provisions set forth in Schedule 80 of the Company's electric Tariff G and to Schedule 70 of such Tariff, as such Schedules may be revised from time to time upon approval of the Washington Utilities and Transportation Commission. Provided, however, if either of the forgoing Schedules are revised, any price quoted will be honored for sixty (60) days following such revision. Any conflict in terms between this Agreement and the Company's Schedules 70 and 80 of its tariffs shall be resolved in favor of such tariff provisions.

13. Notwithstanding any provision to the contrary in any franchise agreement now in place or subsequently entered into by the Company and the City, in the event the City requires (or takes any action which has the effect of requiring) the relocation of any of the facilities installed on public rights-of-way under this Agreement prior to the expiration of twenty (20) years after completion of the conversion hereunder, the City shall reimburse the Company for costs incurred by the Company in connection with relocation. Facilities installed on private property or facilities installed in public rights-of-way under the provisions

of a separate agreement between the City and the Company whereby the City agrees to pay for relocation in perpetuity will be relocated at the City's expense in perpetuity.

14. In the event that the City cancels the project proposed hereunder, the City shall reimburse the Company for all costs reasonably incurred by the Company in connection with the work to be performed under this Agreement prior to the date canceled.

15. Nothing in this Agreement shall in any way affect the rights or obligations of the Company under any previous agreements pertaining to existing or future facilities of greater than 15,000 Volts within the Conversion Area.

CITY OF CLYDE HILL

PUGET SOUND ENERGY, INC.

BY _____

BY _____

ITS _____

ITS _____

Date Signed _____

Date Signed _____

Approved as to form:
