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BEFORE THE WASHINGTON UTILITIES AND

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TRANSPORTATION COMMISSION

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OPEN MEETING

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In re)

7 Schedule 48 Compliance Filing)

of PUGET SOUND ENERGY,)

8 Docket Number UE-960696)

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An Open Meeting in the above matter was held

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on January 12, 2001, at 9:10 a.m., at 1300 South

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Evergreen Park Drive Southwest, Olympia, Washington,

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before Chairwoman MARILYN SHOWALTER and Commissioner

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RICHARD HEMSTAD.

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Joan E. Kinn, CCR, RPR

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Court Reporter

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P R O C E E D I N G S

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CHAIRWOMAN SHOWALTER: Good morning, this is
3 a continuation of an open meeting of the Washington
4 Utilities and Transportation Commission. It was
5 continued from our open meeting yesterday for the
6 convenience of the parties because we want to take up a
7 docket number, which is UE-001952, which is relevant to
8 the parties in the complaint proceeding that is
9 following this, so we thought it would be a convenient
10 time to raise it so that the interested parties were
11 here.

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I want to turn to Mr. Goltz. Where is
13 Mr. Goltz? There he is. Jeff Goltz to explain what the
14 filing is and what our options are today.

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MR. GOLTZ: My name is Jeff Goltz. I'm with
16 the Attorney General's office, and actually the docket
17 number is UE-960696.

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CHAIRWOMAN SHOWALTER: I'm sorry, I was
19 reading off the wrong one.

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MR. GOLTZ: On December 29th in that docket
21 number, Puget Sound Energy refiled its Schedule 48 with
22 only a few minor revisions from the preexisting tariff
23 filing, and this was pursuant to the Commission's
24 October 30th, 1996, order, which approved Schedule 48
25 with conditions. And among the conditions was the

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1 following:

2 Within 60 days after receipt of notice
3 from the Commission, but no later than
4 January 1, 2001, Puget Power shall
5 refile Schedule 48 with the Commission
6 along with updated supporting data
7 including such information set forth in
8 any such Commission notice.

9 CHAIRWOMAN SHOWALTER: Be sure to slow down
10 for the court reporter.

11 MR. GOLTZ: (Reading.)

12 The Commission may approve the terms of
13 or revisions to Schedule 48 or may,
14 after hearing, issue an order
15 terminating or revising Schedule 48. In
16 any such proceeding, Puget Power is
17 committed to bearing the burden of
18 proof.

19 And that appears in the Commission's October
20 30th Schedule 48 order, page six. And I have been asked
21 for my opinion on what's the appropriate action
22 procedurally to do with this refiled Schedule 48.

23 It's my recommendation that the Commission
24 suspend the filing and place it into the adjudication
25 process. And this would provide the Commission with

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1 sort of maximum procedural options on how it may wish to
2 proceed in the future. I'm not recommending and I don't
3 see a need for the Commission to note at this time in
4 this continued open meeting to set it for hearing or
5 providing notice or anything like that. But once you
6 suspend it and put it into the adjudication context,
7 then those things can follow at the Commission's
8 discretion when the Commission wishes to do that.

9 There may be some question as to whether you
10 should suspend this or you could just set it for
11 hearing. That's ambiguous in the Schedule 48 order. As
12 a practical matter, there may be no difference.
13 However, I do understand there are a few minor
14 differences between the refiled Schedule 48 and the
15 preexisting one. So by suspending it, that makes it
16 clear that it's the preexisting one that is still in
17 effect, so there's no ambiguity in that regard.

18 Further, in effect, I believe this is a
19 compliance filing, and the Commission's compliance
20 filing rule, WAC 48-809-340, gives the Commission the
21 options of approval, rejection, or suspension, so it
22 would seem to fit more in lines with that rule if this
23 is a compliance filing to suspend, although that rule
24 also says they should file with a different docket
25 number, but I don't think it's significant that this is

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1 under the old docket number.

2 One final point, that the refiled schedule
3 shows an effective date of January 1, 2001, and I don't
4 think that was proper. It probably should have been
5 showing an effective date at least 30 days after the
6 filing. So I don't believe that the January 1 stated
7 effective date really impacts your ability to suspend
8 that.

9 So in sum, my recommendation is that in
10 Docket Number 960696 that you suspend that filing, and
11 I'm available if you have any questions.

12 CHAIRWOMAN SHOWALTER: I just want to clarify
13 three points. I hope I'm just repeating what you said.
14 That if we suspend this filing, the effect is to leave
15 in place the current Schedule 48 pending our
16 determination of what to do with the new filing?

17 MR. GOLTZ: That's correct.

18 CHAIRWOMAN SHOWALTER: That's point one.
19 Point two is that we could give this a new docket
20 number, or we could keep it under the docket number
21 under which it was filed, that that is a technicality
22 that doesn't affect what it is we can or can't do with
23 the filing.

24 MR. GOLTZ: That's correct.

25 CHAIRWOMAN SHOWALTER: And I forgot my third

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1 point. Oh, and the third point was that the stated
2 effective date of the new filing being January 1, 2001,
3 can not control the actual effective date, because there
4 has to be at least 30 days.

5 MR. GOLTZ: I believe that's true, otherwise
6 -- because they made some minor revisions, and I don't
7 see how it could have been contemplated by your Schedule
8 48 order that they could simply file something right
9 before January 1 with an effective date of January 1 and
10 the Commission would be without ability to control that
11 in some way. So I think it makes more sense to suspend
12 it because that clarifies that that's the preexisting
13 Schedule 48 that controls.

14 CHAIRWOMAN SHOWALTER: Thanks. Any other
15 questions?

16 COMMISSIONER HEMSTAD: I don't have any
17 questions.

18 CHAIRWOMAN SHOWALTER: All right, Melinda
19 Davison has signed up to comment. This is an open
20 meeting.

21 MS. DAVISON: Right. Thank you. Good
22 morning, commissioners. I'm Melinda Davison, I'm here
23 on behalf of the Industrial Customers of Northwest
24 Utilities, and we support suspension. There was
25 certainly nothing that I heard from Mr. Goltz this

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1 morning that we would disagree with at all.

2 I think the only very brief point I would
3 want to make is that we see the compliance filing as
4 covering a different time frame than the issues in the
5 1952 docket. And that's the only point I would really
6 want to make this morning. Thank you.

7 CHAIRWOMAN SHOWALTER: No one else has signed
8 up to comment, but would anyone like to?

9 Mr. Berman.

10 MR. BERMAN: Hello, I'm Stan Berman of the
11 law firm Heller Ehrman White & McAuliffe on behalf of
12 Puget Sound Energy. We think it's important when
13 looking at this compliance filing to consider the
14 context of the compliance filing and why it was made,
15 and to understand that context requires looking back to
16 where things were when this Docket UE-960696 was
17 approved, when the agreement in that docket was approved
18 by the Commission.

19 At that time, there was a significant concern
20 by Staff and Public Counsel and I think was shared by
21 the Commissioners that Schedule 48 would be
22 non-compensatory, meaning that Schedule 48 would not
23 provide adequate revenues to Puget Sound Energy because
24 the rates at that time were expected by many parties to
25 be lower than the rates that were paid by other

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1 industrial customers and other customer classes. So
2 there was a significant concern because of that, that
3 the company would end up coming in and saying, our rates
4 are too low, and therefore we want to raise the rates to
5 what the customer class is.

6 You will remember that when this rate
7 schedule was enacted, it was shortly before the merger
8 rate plan was put into effect. The deal that said that
9 the merger rate plan would hold rates constant for five
10 years had not yet been approved, and so there was a
11 significant amount of concern that there could be a rate
12 increase for other parties.

13 We think it's clear when looking at the order
14 that approved this and the Staff/Public Counsel
15 recommendations that led to that order that the reason
16 for the compliance filing today was to review and make
17 sure that Schedule 48 was, in fact, compensatory, that
18 is to make sure that it recovered enough revenues for
19 the company to alleviate any concern that the company
20 would choose to shift costs to other customer classes
21 because it was not recovering enough. We think it's
22 clear that the current Schedule 48 is, in fact,
23 compensatory. We're, in fact, facing a complaint from
24 our customers saying we get too much money.

25 But given that no one is arguing that we get

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1 too little money from these customers, we think that the
2 reason why this compliance filing requirement is there
3 has been satisfied. Accordingly, we think it's
4 appropriate that the Schedule 48 compliance filing be
5 accepted.

6 CHAIRWOMAN SHOWALTER: You may have outlined
7 the reason or a reason, but on its face, isn't it the
8 case that the matter is required to come before us, and
9 if we are going to approve a new filing, the sufficiency
10 is only one of the elements, it must also be fair, just,
11 reasonable, and sufficient?

12 MR. BERMAN: I think it's correct that when
13 you analyze a filing that comes before you that it is
14 necessary and appropriate that you analyze it in
15 accordance with the statutory standard. But I think
16 it's also appropriate in looking at it to consider the
17 reason why this requirement was put in place, and with
18 which I said was the concern about cost shifting.

19 And we note that the cost shifting concern is
20 a continuing one, because now we do have a merger rate
21 plan, and the merger rate plan works in conjunction with
22 the Schedule 48 rates because the company has certainty
23 with respect to rate recovery from each of their classes
24 of customers. But if that certainty with respect to
25 rate recovery from one class of customers is altered,

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1 that, in fact, puts into the place the various sorts of
2 concerns that the Commission was hoping to avoid when
3 they set this compliance filing into effect.

4 CHAIRWOMAN SHOWALTER: Thank you.

5 Would anyone else like to comment?

6 Okay, well, I will just comment that I think
7 that, first, what we're doing here is getting before the
8 Commission all aspects of Schedule 48 that are in play,
9 if you will, and one is the complaint, and the other is
10 this filing. And so by suspending this, we then have
11 before us the ability to make ultimate determinations
12 after appropriate process on both the complaint and the
13 filing in Schedule 48. So as a matter of efficiency, I
14 think it makes sense to do that. Whether or not these
15 are consolidated or run in parallel fashion is something
16 to be worked out later. But for now, it just puts them
17 in front of us.

18 The other question on whether we should
19 simply approve the new filing today versus suspend it I
20 think is answered by two points. One is the new filing
21 is not identical to current Schedule 48. There are some
22 elements that are different. But second, there have
23 been sufficient questions raised in the complaint to
24 justify the Commission taking a look at the new filing
25 for the determination of whether it is, in fact, fair,

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1 just, reasonable, and sufficient. So I think a
2 suspension is the appropriate action of the Commission.

3 COMMISSIONER HEMSTAD: I agree with those
4 comments, and I really have nothing further to add.

5 So accordingly, apparently in Docket 960696
6 with regard to the compliance filing, and with that, I
7 move that the Commission suspend that filing.

8 CHAIRWOMAN SHOWALTER: I will second the
9 motion. The motion carries.

10 Is there any other business to come before
11 the open meeting?

12 If not, then the meeting is adjourned.

13 (Open Meeting adjourned at 9:25 a.m.)

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