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April 4, 2013

**SENT VIA EMAIL AND ABC LEGAL MESSENGER**

Steven V. King  
Acting Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250

**Re: WUTC v. NW Natural Gas, Docket UG-121434  
WUTC v. Avista Corporation, Docket UG-121501  
WUTC v. Puget Sound Energy, Inc., Docket UG-121569  
WUTC v. Cascade Natural Gas, Dockets UG-121592 and UG-121623**

Dear Mr. King:

At the March 22, 2013, recessed Open Meeting, the Commission requested that Staff and Public Counsel conduct further analysis and return with a recommendation regarding which one or two dockets to continue and set for hearing. This letter presents Public Counsel's recommendation. Additionally, this letter outlines how our recommendations could be accomplished procedurally.

Summary of Public Counsel Recommendations

1. The Commission should continue the docket for Cascade Natural Gas and set this matter for hearing. The Commission should immediately issue a protective order in this docket and provide that discovery is available per WAC 480-07-400 through -425.
2. The Commission should order Staff to organize and lead a Technical Collaborative with the participation of Public Counsel and all four companies to develop recommendations to the Commission on appropriate price hedging guidelines, policies and technical aspects of an effective hedging program, including percentages of the gas supply to be hedged, the length or window in which to hedge and acceptable hedging tools to minimize hedging costs.
3. The Commission should commence a CR-101, after the litigation and Technical Conference has concluded, to modify and strengthen the PGA initial filing requirements and the subsequent gas cost reconciliation, as well as to address general hedging guidance.

Further Analysis and Recommendation Regarding Which Dockets to Continue

Both Staff and Public Counsel requested additional data from NW Natural, Avista, Puget Sound Energy (PSE), and Cascade, generally pertaining to their internal oversight committees and analysis conducted as they operated their hedging programs. With few exceptions, the

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information received did not provide significant new data as Companies either failed to provide the data requested, failed to provide all data requested, or heavily redacted data that was produced.

Companies provided some data in their various committee minutes showing the market was soft at the time they entered into hedging contracts affecting the 2011-2012 PGA year. This supports Public Counsel's analysis that the companies may have acted imprudently based on information available to them at the time of their decisions. In particular, it appears the Companies had information that the markets were soft (that prices were weak and conditions indicated they would continue to decline), that market prices were low compared to recent history, and that large losses were mounting from hedges put in place to date. The fact that, while in possession of this information, they proceeded to hedge and did not engage in corrective action with due speed, raises legitimate questions of prudence that require further investigation as we suggest.

Additionally, it appears that the companies do not routinely, or even occasionally, assess whether their hedging policies are beneficial or harmful to customers. They do not evaluate the gains or losses incurred by their hedging programs. Public Counsel would argue that this failure to evaluate indicates imprudence.

Our preference would be for the Commission to evaluate the prudence of all four companies' hedging activities. However, we recognize that resources are finite and time has become an issue. To answer the Commission's directive to narrow the field, Public Counsel recommends that the Commission proceed with prudence review of Cascade and set that matter for hearing. Additionally, Public Counsel has analyzed additional transaction information, and the recommended disallowance amount has increased from \$1.2 million to \$4.6 million based on transactions entered into after June 2011, affecting the 2011/2012 PGA year.

Roadmap for Accomplishing Recommendation

With respect to the litigated matters, the Commission is required to issue an order by September 1, 2013. The following is a potential schedule:

Company testimony:	May 10, 2013
Staff/Public Counsel testimony:	June 7, 2013
Company rebuttal:	June 28, 2013
Hearings:	July 18-19, 2013
Briefing:	August 5, 2013
Suspension Date:	September 1, 2013

With respect to the technical collaborative, six to eight weeks should be sufficient to accomplish the goals of these proceedings. In further evaluating this recommendation, we will recommend that the technical collaborative be given its own independent docket with the UTC. One collaborative, with confidential protections and side meetings with individual companies, should

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be sufficient. The goal is to improve the companies' hedging programs and develop policy recommendations. Public Counsel believes these collaborative can occur simultaneously with the prudence review because the analysis in the collaborative is forward-looking. The goal is not to rehash what happened in past years, but rather what should happen going forward. It may be possible to stipulate that information shared in the collaborative will not be used in the prudence case. The collaborative could be completed by mid-June if they are commenced by April 15, 2013.

The technical collaborative would feed into the rulemaking proceeding. The policy recommendations will inform the general hedging guidance the Commission may want to establish. However, Public Counsel recommends that the rulemaking should also focus on improving the PGA review process to allow for more rigorous regulatory review of all gas purchasing practices, including hedging. As we noted in our earlier filings with the UTC, several states are moving towards more robust procedures with respect to PGA filings, including Michigan, Maryland, New Jersey, Ohio, and Pennsylvania.

There was some concern expressed at the March 22, 2013, recessed Open Meeting that everything be completed by the time the companies file the next round of PGA filings. The technical collaborative could be completed well in advance of the next round of PGA filings and could provide guidance to the companies. The rulemaking is not likely to be completed prior to the next round of PGA filings. This is not detrimental, and Public Counsel would suggest that the Commission and interested stakeholders take the time needed to carefully consider changes and their impact rather than rushing to have something in place within five months from now. Given the other matters before the Commission,<sup>1</sup> Public Counsel estimates that a reasonable timeframe for the rulemaking is between six to nine months.

Public Counsel will be present at the April 5, 2013, recessed Open Meeting to discuss its recommendations with the Commission and parties.

Sincerely,



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LWG:cjb

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<sup>1</sup> Currently, PSE has multiple complex matters before the Commission, two major telecommunications companies have significant petitions under consideration, and the Commission recently commenced a comprehensive rulemaking.