

**BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION
COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION
COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

DOCKETS UE-111048
and UG-111049 (*consolidated*)

DECLARATION OF SIMON
FFITCH IN RESPONSE TO PSE
MOTION OBJECTING TO ICNU
CONFIDENTIALITY STATUS

1. I, Simon ffitich, hereby declare under penalty of perjury under the laws of the State of Washington that the following is true and correct:
2. I am a Senior Assistant Attorney General with the Public Counsel Section of the Washington State Attorney General's Office (Public Counsel). I am appearing as lead counsel for Public Counsel in the above-captioned matter. I have personal knowledge of the matters set forth in this Declaration.
3. I am filing this Declaration regarding matters that relate to Puget Sound Energy's (PSE) objections to the confidentiality status of the Industrial Customers of Northwest Utilities (ICNU) in this proceeding.
4. I have executed, filed with the Commission, and served on PSE the agreement required by Order 01, the Protective Order in this case, which entitles Public Counsel to receive and review highly confidential information.

DECLARATION OF SIMON FFITCH IN
RESPONSE TO PSE MOTION
OBJECTING TO ICNU
CONFIDENTIALITY STATUS
DOCKETS UE-111048/UG-111049

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5. In June 2011, Public Counsel retained Scott Norwood as an expert witness in this case to review power cost issues. Mr. Norwood has executed Exhibit C to the Protective Order agreeing to protect highly confidential material in this case. Exhibit C has been filed with the Commission, and served on PSE.
6. On or about August 24, 2011, ICNU agreed to co-sponsor Mr. Norwood as a joint witness for Public Counsel and ICNU on certain power cost issues. Public Counsel was aware of the different levels of confidentiality agreement signed by ICNU attorneys and consultants, as well as Ms. Davison's August 17 letter requesting change in confidentiality status.
7. In discussing the terms of the co-sponsorship, in recognition of the fact that Jesse Cowell was the only ICNU attorney who would be reviewing Highly Confidential material, Melinda Davison, Jesse Cowell and I specifically discussed the need to ensure that highly confidential information was not inadvertently disclosed at the Davison Van Cleve law firm or to their consultants. Ms. Davison expressly stated her concern that she not review any highly confidential information in the docket. We agreed that, in order to protect the highly confidential information, in the ordinary course of the co-sponsorship, Jesse Cowell would be the point of contact for Public Counsel and Mr. Norwood in written and electronic communications and conferences regarding Mr. Norwood's discovery and testimony.
8. Public Counsel and ICNU agreed that highly confidential information would only be provided to Mr. Cowell. We further agreed that in the event that there was a need to include other ICNU attorneys or consultants in discussions during the case regarding Mr. Norwood's issues, that both ICNU and Public Counsel would ensure that those communications did not refer to highly confidential information. ICNU counsel represented to me that highly confidential

material provided to Mr. Cowell would be not be disclosed to others within the law firm who had not signed the requisite protective order. Based on these discussions, Public Counsel is satisfied that it can proceed with a co-sponsorship with ICNU of Mr. Norwood without improper disclosure of highly confidential information.

9. Public Counsel staff and Mr. Norwood have been specifically instructed orally and in writing not to provide highly confidential information to any ICNU counsel or consultant other than Mr. Cowell.
10. In PSE's 2006 general rate case, Docket Nos. UE-060266/UG-060267, all Public Counsel attorneys and experts did not have uniform confidentiality status. Public Counsel expert witness Jim Lazar signed only the Confidential Protective Order agreement. Other Public Counsel witnesses in the case signed the Highly Confidential Protective Order, and Public Counsel attorneys signed the required portion of the agreement entitling them to receive highly confidential information. PSE did not object to this arrangement.
11. DATED and SIGNED this 1st day of September, 2011.

ROBERT M. McKENNA
Attorney General

Simon J. Ffitch
Senior Assistant Attorney General
Public Counsel