

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

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| In the Matter of the Petition of |) | |
| |) | |
| PUGET SOUND ENERGY, INC. |) | |
| |) | DOCKET NO. UE-011170 |
| for an Order Authorizing Deferral of |) | |
| Certain Electric Energy Supply Costs. |) | |
| |) | |
| |) | |
| WASHINGTON UTILITIES AND |) | |
| TRANSPORTATION COMMISSION, |) | |
| |) | |
| Complainant, |) | DOCKET NO. UE-011163 |
| |) | |
| v. |) | |
| |) | |
| PUGET SOUND ENERGY, INC., |) | |
| |) | |
| Respondent, |) | |
| |) | |

**REPLY OF COMMISSION STAFF TO ANSWER OF PUGET
SOUND ENERGY, INC. TO MOTION TO DISMISS**

On September 21, 2001, Puget Sound Energy, Inc. (PSE) answered the Motion to Dismiss of Public Counsel and the Response of Commission Staff in Support of Motion to Dismiss. In doing so, PSE mischaracterizes Staff's position in two fundamental areas. Staff, therefore, replies briefly to correct those errors.¹

¹ We have limited the Staff reply in light of the requirement that we address only new matters raised by PSE. Third Supplemental Order at 3. This limitation does not constitute Staff's agreement with the Company's remaining arguments.

Mischaracterization No. 1

The Company devotes considerable effort discussing generally interim rate relief as a tool for prompt response to financial hardship that threatens a utility's ability to discharge its public service obligations. Answer at 3-6 and 13-16. Against that discussion, PSE argues that Staff's position would "bar the Commission from even entertaining the question of interim relief." Answer at 6-7 and 13, ¶ 32.

That has never been the substance, intent or effect of Staff's position. Staff has argued only that PSE should fulfill its commitments under the Merger Order when it seeks interim rate relief at any time during the Rate Plan period. This includes PSE's agreement to submit the information required by WAC 480-09-330 (along with tariffs and testimony supportive of the amount of interim relief requested). Providing that information should not be burdensome to PSE given the Company's plan to submit it anyway in a general rate case to be filed by November 1, 2001.² Answer at Exhibit A. Presumably, that information could have been provided even sooner since its preparation likely precedes preparation of the general rate case testimony, tariffs, studies and other evidence.

It is, therefore, PSE's refusal to comply with the Merger Order, rather than any position taken by Staff, that constitutes a bar to consideration of interim rate relief.³ PSE's insistence on a PCA, with all of its inherent policy and factual issues, only serves to raise that bar even higher.

² The Company's plan to file a general rate case by November 1, 2001 undermines clearly its complaint that interim rate relief becomes a useless tool if it cannot be employed until the months required for preparation of a general rate case have passed. Answer at 11, ¶ 26. Moreover, the Merger Order allowed PSE to file a general rate case as early as February 1, 2001, with a effective date of January 1, 2002. Any responsibility for delay in preparation of a general rate case, therefore, falls on PSE.

³ The Company makes two arguments in an attempt to avoid blame. First, the Company admits that it has not filed a general rate case in compliance with Commission rules. Answer at 6, ¶ 13. But, it argues, its commitment to file a general rate case and the consolidation of unresolved issues in that case means practically that a general rate case has been initiated. Answer at 6, fn 3. The Company also argues that its commitment to file a general rate case constitutes substantial compliance with the Merger Order. Answer at 12-13.

Mischaracterization No. 2

PSE argues that Staff places form over the substance of determining whether interim rate relief is needed now.⁴ Answer at 2-3, 7. The requirement that interim rate relief be accompanied with specifically identified information, testimony and analysis was an element, among many, of the “deal” PSE made for approval of the merger. It is not a matter of process to hold PSE to that deal.

Moreover, important substantive rationale underlie the Merger Order requirements regarding interim rate relief. The Commission has not examined the total cost of electric service for this Company since a general rate case decided finally in 1994. Since that time, the Merger has occurred with the promise by PSE of significant cost savings in several major areas including merger synergies, “best practices” and “power stretch” efforts. It is, therefore, vital and was intended that PSE comply with the interim rate relief commitments of the Merger Order since compliance will allow the Commission to review all post-Merger costs and revenues that may support the need for emergency relief, or may demonstrate that offsetting factors eliminate or reduce the need for emergency relief. This would include especially review of a normalized power supply study necessary to analyze the proposed PCA, a remedy the Company alone elected to tie inseparably to its request for interim rate relief.⁵

Both arguments are belied by reality. It has not filed testimony, tariffs or other evidence required for a general rate case filing. It, therefore, has not initiated a general rate case for any purpose. It has failed completely to satisfy the interim rate relief requirements of the Merger Order regarding rate case information.

⁴ Interestingly, the Company accuses Staff of placing form over substance at the same time it moves to strike pleadings of the Industrial Customers of Northwest Utilities solely on technical, procedural grounds. Motion to Strike of Puget Sound Energy, Inc., filed September 21, 2001.

⁵ The Company argues that Staff would have PSE meet a different standard for interim relief than the standard established in the *PNB* case. Answer at 8, ¶ 18 and 20, ¶ 45. That is not true. The Company is required to meet the financial hardship test laid out in *PNB*. However, because the Company chose to request a PCA, rather than an amount of relief necessary to meet emergency circumstances, it must also resolve the policy and factual issues raised by that chosen remedy. This requires the information identified by WAC 480-09-330, contrary to PSE’s assertion that such evidence should not and need not be considered in resolving its interim rate request. Answer at 7, ¶¶ 15-

Absent the cost and revenue information required by the Merger Order, the Commission is forced to set rates without knowledge that they are just and reasonable. The Commission is also forced unreasonably and unnecessarily to engage in “single-issue” ratemaking under the pressure and time constraints brought to bear by a request for emergency relief. The Commission has rejected such an approach before.⁶ *WUTC v. Washington Natural Gas Co.*, Cause No. U-80-111, Second Suppl. Order at 3 (March 1981) (“A surcharge is not intended to be employed nor will it be considered by this Commission as a stopgap or piecemeal approach to a utility’s overall financial requirement, including rate of return, interest and earnings coverages.”); *WUTC v. The Washington Water Power Co.*, Cause No. U-83-26, Fourth Suppl. Order (October 1983) (interim surcharge rejected when proposed to recover the cost of the Kettle Falls generation facility before the facility was proven to be prudent). It should do so now, especially given the Company’s commitments in the Merger Order and its failure to demonstrate that it is prejudiced by compliance with those commitments.

For the reasons stated above and in the Staff Response in Support of Motion to Dismiss, the Commission should grant the Motion to Dismiss of Public Counsel.

DATED This 25th day of September, 2001.

Respectfully submitted,

ROBERT D. CEDARBAUM
Senior Counsel

16. That information is especially important given, as discussed above, the potential consequences of the Merger on the Company’s total cost of service.

⁶ PSE admits that the Commission has not considered a PCA in interim rate request cases. Answer at 19-20.

