



ATTORNEY GENERAL OF WASHINGTON

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November 8, 2013

SENT VIA E-MAIL AND ABC/LMI

Steven V. King
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

RE: *In the Matter of the Petition of PUGET SOUND ENERGY, INC. and NW ENERGY COALITION, For an Order Authorizing PSE to Implement Electric and Natural Gas Decoupling Mechanisms and to Record Accounting Entries Associated with the Mechanisms*
Dockets UE-121697 and UG-121705

Dear Mr. King:

Enclosed please find an original and twelve (12) copies of Public Counsel's Response to Joint Responses and Joint Testimony of Northwest Industrial Gas Users, Nucor, Kroger, Northwest Energy Coalition, Commission Staff and Puget Sound Energy and Certificate of Service.

Sincerely,

Simon J. Fitch
Senior Assistant Attorney General
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SJf:cjb

Enclosure

cc: ALJ Dennis Moss (E-mail)
Service List (E-mail & U. S. Mail)

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

PUGET SOUND ENERGY, INC.,
and NW ENERGY COALITION

For an Order Authorizing PSE To
Implement Electric and Natural Gas
Decoupling Mechanisms and To
Record Accounting Entries
Associated With the Mechanisms

DOCKETS UE-121697 and
UG-121705

PUBLIC COUNSEL RESPONSE TO
JOINT RESPONSES AND JOINT
TESTIMONY OF NORTHWEST
INDUSTRIAL GAS USERS,
NUCOR, KROGER, NORTHWEST
ENERGY COALITION,
COMMISSION STAFF AND PUGET
SOUND ENERGY

I. INTRODUCTION

1. Public Counsel respectfully submits these comments regarding the Joint Responses and Testimony filed by Puget Sound Energy, Inc. (PSE), NW Energy Coalition (NVEC), the Northwest Industrial Gas Users (NWIGU), Nucor Steel Seattle Inc. (Nucor), Kroger and Commission Staff (Joint Parties), addressing the pending Petitions for Reconsideration in these dockets.¹ Public Counsel was a full participant with the Joint Parties in the collaborative process established by the Commission in response to the reconsideration requests to allow for the review of alternative approaches for large, non-residential gas and electric customers that might be “better suited to meeting decoupling’s goals.”²

¹ NWIGU, Nucor Steel Seattle, and Kroger filed petitions for reconsideration.

² Order 07, ¶ 129.

2. Public Counsel has had the opportunity to review the proposed alternatives to decoupling recommended by the Joint Parties on both the gas and electric side. We appreciate the cooperation and efforts of the parties during the collaborative process. However, the alternatives to decoupling for large non-residential gas and electric customers that were developed raise a number of concerns for Public Counsel. Consequently, for the reasons explained in these comments, Public Counsel was not able to reach agreement with the Joint Parties on the proposals set forth in the Joint Responses.

II. PUBLIC COUNSEL'S CONCERNS WITH PROPOSED ALTERNATIVES TO DECOUPLING FOR CERTAIN NON-RESIDENTIAL CUSTOMERS

A. Description of the Proposed Alternatives to Decoupling.

3. The Joint Parties are proposing two different "alternatives to decoupling" for certain schedules of non-residential customers on both the gas and electric side. On the gas side, the Joint Parties propose that Schedules 85, 85T, 87 and 87T not be subject to the currently authorized decoupling mechanism.³ This proposal is identical to the proposal rejected by the Commission in Order 06 in this docket. On the electric side, the Joint Parties propose that Schedules 26 and 31 no longer remain under the decoupling mechanism. Instead, two changes are proposed for Schedules 26 and 31. First, the rate design for these schedules is modified so that all costs for delivery service not otherwise recovered in the basic charge are recovered through the demand charge. Second, a decoupling mechanism will be applied to the demand charges of Schedules 26 and 31, instead of through the energy charges.⁴ The Joint Parties outline several reasons why these alternatives are preferable to the status quo, i.e., to the decoupling

³ Joint Response to NWIGU and Nucor Petitions for Reconsideration, ¶ 11.

⁴ Joint Response to Kroger Petition for Reconsideration, ¶ 11.

mechanism authorized in Order 07. While there may be merit to some of these points, these proposals also raise some red flags that should be thoroughly considered.

B. The Proposals Have An Inequitable Impact on Non-Residential Electric and Gas Customers Who Remain Under The Existing Decoupling Mechanism.

4. One of Public Counsel's key concerns during the discussions on alternatives to decoupling for non-residential customers was whether any of the alternatives proposed would have a negative impact on residential customers or on small commercial customers. Regarding the former, our understanding, based on our review and on the representations in the filings, is that neither the gas nor the electric proposals have any impact residential costs or rates.⁵ However, the proposals *do* have a direct rate impact on non-residential customers that remain under the currently authorized decoupling mechanism, including the small commercial customers Public Counsel represents.

5. Gas Customers. According to the compliance filings in this docket, the 2014 rate impact forecast for non-residential gas customers under the Order 07 decoupling mechanism was projected to be 1.75 percent.⁶ The Joint Parties' filing states that in 2014 the non-residential gas customers remaining in the decoupling mechanism, i.e., not covered by the agreement, would now receive a 3.00 percent increase. This understates the impact. The actual rate increase forecasted for non-residential customers remaining under decoupling is 3.6 percent. While the "soft-cap" that operates under the approved rate plan would initially limit this increase to 3 percent, the additional revenues would simply be deferred for future recovery from these

⁵ Joint Response to NWIGU and Nucor Petitions for Reconsideration, n.7, and Joint Response to Kroger Petition for Reconsideration, n.10.

⁶ PSE Compliance Filing Workpapers, JAP-23 p. 4, June 26, 2013.
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AND JOINT TESTIMONY OF NWIGU,
NUCOR, KROGER, NVEC, UTC STAFF,
& PSE, DOCKETS UE-121697 & UG-
121704

customers.⁷ The Joint Parties don't dispute that remaining customers will see an increase, but argue it is of smaller size comparatively. They respond that the original 2014 forecasted increase of 1.75 percent would now be a 2.25 percent forecasted increase, based on "an updated forecast and actual results through 2013," arguing that is the correct comparison to the 3.0/3.6 percent increase. There is scant explanation or record support for these updates, however. It is unclear to Public Counsel whether they are appropriate for purposes of comparing the rate impacts to non-residential customers under the existing decoupling mechanism versus the Joint Parties' alternative proposal.

6. Electric Customers. The Company's compliance filing in this docket forecasted that under the existing decoupling mechanism, non-residential customers would receive a .62 percent increase in 2014.⁸ Now, with the proposed electric alternative, the non-residential electric customers that remain under the existing decoupling mechanism would receive a 2014 projected rate increase of 1.29 percent. As on the gas side, the Joint Parties argue that the 0.62 percent 2014 forecast would now be 1.22 percent, absent the agreement, based on a host of updates, including "PSE's new load forecast, a July 2013 start date, and actual results through September 2013."⁹ There is little explanation in the Joint Response or Joint Testimony that supports these forecast updates. Again, however, the Joint Parties don't dispute the upward rate pressure on customers who will not be participating in the alternative proposal.

⁷ Order 07, ¶ 93.

⁸ PSE Compliance Filing, Workpapers, JAP-22 p.4, June 26, 2013. We note that during discussions with the Company, it came to light that the compliance filing in this docket did not update the projected 2014 rate increase to reflect deferrals beginning in July, 2013, as opposed to May, 2013. Had this appropriate update been made, non-residential customers would have been projected to receive a .82 percent rate increase in 2014.

⁹ Joint Testimony of the Joint Parties Regarding Electric Rate Schedules 26 & 31, p. 8.

7. Clearly, whatever the basis of comparison, there is a negative rate impact on both the non-residential electric and the gas customers who would remain under the currently authorized decoupling mechanism, as a direct result of proposals agreed to by the Joint Parties. The Joint Parties argue that this is appropriate because the alternative proposals are merely “unwinding” cost shifting that previously had been introduced by the currently authorized decoupling mechanism. In other words, the parties assert that Schedules 26 and 31 on the electric side and Schedules 85, 85T and 87 and 87T on the gas side would have been picking up bigger revenue shortfalls than are occurring for other non-residential classes, and in effect, “cross-subsidizing” the rate impact experienced by these customers.

8. The problem with this argument is that, under system-wide decoupling, any shortfall in recovery of delivery revenues is co-mingled across all non-residential customers. Unless the Company were to move to per-class or per-customer decoupling for all non-residential schedules, some form of “cross subsidizing” will always be occurring between one schedule and another. It is inequitable to separate out certain rates schedules from the decoupling mechanism, to the benefit of these individual groups of customers, without treating all rate schedules similarly. Notably, the Joint Parties have not attempted to present any analysis in their filing of the impacts and cross-subsidy issues between other non-residential rate schedules.

C. The Alternative Electric Proposal May Discourage Customer Conservation.

9. As described above, Public Counsel’s main concern in this process has been to ensure equitable treatment of residential and small commercial customers. However, we also believe that it is important from a policy and precedent standpoint, that any mechanism that is approved by the Commission that is meant to act as an “alternative” to decoupling, have the same goals as

decoupling. As articulated by the Commission, the goals of decoupling include both eliminating a utility's throughput incentive and encouraging conservation.¹⁰ The Commission has also said that decoupling was never intended to address regulatory lag or earnings attrition. Rather, the goal of decoupling is to "remove any financial disincentive to conservation in a fair and balanced manner."¹¹

10. The alternative proposal for Schedules 26 and 31 shifts recovery of costs from energy charges to demand charges. A concern was raised during the collaborative that this alternative proposal could create a disincentive for customers on Schedules 26 and 31 to invest in energy efficiency measures. When a portion of a customer's bill is shifted from the energy charge to the demand charge this can have a dampening effect on a customer's interest in investing in conservation measures. This is because the cost savings they are able to achieve associated with energy efficiency investment become more limited as cost recovery is shifted from energy charges that are variable to demand charges that are fixed. This concern is also acknowledged in the joint testimony of the parties.¹²

11. While decoupling may address concerns with fixed cost recovery, as the Commission has articulated, this is not its only goal. Conservation benefits have also been a major rationale for approving decoupling. Any decoupling mechanism or alternative to decoupling should presumably, therefore, advance the goal of encouraging utility conservation. It is not clear that the alternative to decoupling for Schedules 26 and 31 adequately achieves this goal. We recognize that the Joint Parties have proposed to modify the evaluation of the decoupling

¹⁰ *WUTC V. Puget Sound Energy*, Dockets UE-111048, UG-111049, Order 08, ¶ 455 and Order 07 ¶ 85.

¹¹ *WUTC V. Puget Sound Energy*, Dockets UE-111048, UG-111049, Order 08, ¶¶ 454-455.

¹² Joint Testimony of the Joint Parties Regarding Electric Rate Schedules 26 & 31, pp.7-8 and pp. 17-18.

mechanism provided for in the original PSE/NWEC joint proposal to include examination of possible impacts of the Schedule 26 and 31 rate design changes on conservation achievement of these customers. However, this examination would only offer a possible remedy to this issue after the expiration of the rate plan, which is at least two years in the future. In Public Counsel's view, the compromise reached by the Joint Parties does not adequately remove the disincentive to conservation created by the alternative.

D. There Is Insufficient Evidence in the Record To Support The Alternative Proposals.

12. In Order 07 in this docket, the Commission rejected requests from large non-residential gas and electric customers that they be excluded from the decoupling mechanism.¹³ In rejecting the large customer recommendations, the Commission said that these types of proposals "should be supported by a detailed cost of service study and such other evidence as may be needed to protect both the Company and its customers."¹⁴ The Commission found that it had "no such evidence in the current record." The difficulty with the new alternative proposals is that there is little additional supporting evidence in the record of the type requested by the Commission. There is no evidence to show how decoupling worked in practice for non-residential customers since it was only recently approved. There is no cost of service study, detailed or otherwise, to support the new rate design proposed, to analyze the issues discussed around cost-shifting introduced by decoupling, or to assess the impact of removing certain classes from decoupling. As a practical matter, the record differs little from that which the Commission had before it in

¹³ Order 07, ¶¶ 117-129. Order 06 specifically rejected a provision of the Multiparty Settlement that excluded Schedules 85, 85T, 86 and 87T from gas decoupling.

¹⁴ Order 07, ¶ 128.

Order 07.¹⁵ The evidence we do have shows that the alternative proposals negatively impact rates of non-residential customers that remain under decoupling and creates a disincentive to conserve.

E. Additional Complexity and Administrative Burden.

13. Ideally, a well-crafted decoupling mechanism should not be administratively burdensome or complex. It follows that an alternative to a decoupling mechanism should also not be unduly complex or administratively burdensome. In this case, the alternative proposals appear to increase the administrative complexity and burden rather than reduce it. Under the alternative proposals, on the electric side, there would now be customers subject to the rate plan and decoupling, customers only subject to the rate plan, and customers subject to the rate plan and a separate “alternative to decoupling” mechanism. As discussed by Commission Staff in the 2011 PSE general rate case, system-wide decoupling as opposed to class-by-class decoupling is simpler and thereby reduces administrative burden.¹⁶ Moving from system-wide decoupling to partial per-class decoupling, in which certain non-residential gas customers are exempt from decoupling and certain non-residential electric customers are subject to an alternative fixed cost recovery mechanism, would not seem to reduce administrative complexity and could indeed increase it substantially.

¹⁵ Order 07 found that the rates that would result from the order prospectively under the rate plan would be fair, just, reasonable, and sufficient, and that they would be neither unduly preferential nor discriminatory. ¶¶ 239-240. The Joint Parties don’t address how the Commission can approve alternatives on this record that will cause rate changes for “remaining” non-residential customers and remain consistent with those findings.

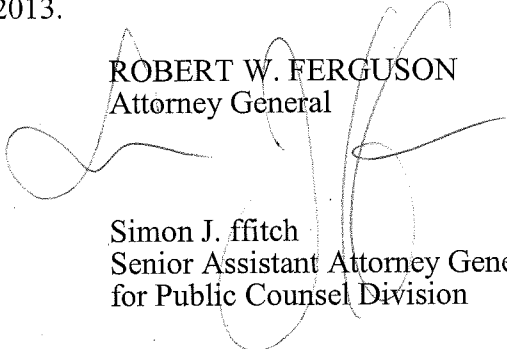
¹⁶ *WUTC V. Puget Sound Energy*, Dockets UE-111048, UG-111049, Staff Response to Bench Request, p. 9.

III. CONCLUSION

14. Public Counsel recognizes that the Commission has indicated a willingness to explore appropriate alternatives to decoupling for non-residential customers. However, based on the evidence in the record and the concerns we have identified with the alternative proposals, we cannot support the proposed alternatives to decoupling for certain non-residential customers at this time.

15. DATED this 8th day of November, 2013.

ROBERT W. FERGUSON
Attorney General



Simon J. Fitch
Senior Assistant Attorney General
for Public Counsel Division

CERTIFICATE OF SERVICE
Dockets UE-121697/UG-121705

I hereby certify that a true and correct copy of the Public Counsel's Response to Joint Responses and Joint Testimony of Northwest Industrial Gas Users, Nucor, Kroger, Northwest Energy Coalition, Commission Staff and Puget Sound Energy, was sent to each of the parties of record shown below in sealed envelopes, via: U.S. Mail and e-mail.

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