

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

AIR LIQUIDE AMERICA CORP., AIR PRODUCTS AND CHEMICALS, INC., THE  
BOEING COMPANY, CNC CONTAINERS, EQUILON ENTERPRISES, LLC,  
GEORGIA-PACIFIC WEST, INC., and TESORO NORTHWEST CO., Complainants

v.

PUGET SOUND ENERGY, Respondent

Docket No. UE-001952

Pre-hearing brief on behalf of the Association of Western Pulp and Paper Workers  
January 4, 2001

This document is intended to serve as the Association's pre-hearing brief in the above referenced case. As the Association is an intervenor and not a direct party in this case, and as the Association does not have expertise in these proceedings, we are not in a position to address the legal aspects typically expected of the primary parties in such a brief. The intent of this document is to provide an overview prior to the hearing of the Association's interests in this case within the scope of the Complaint, similar to an opening statement.

**Overview**

The effect of Schedule 48 and Special Contract electricity rates tied to the Mid-Columbia index has a direct and substantial impact to the public welfare of the State of Washington. These rates affect thousands of family wage jobs within the state, and many more jobs in our communities are dependent upon these directly affected jobs. Local communities depend on these facilities and their employees for their tax base. These jobs are held by residential electricity ratepayers, and their ability to pay their own electricity bills may affect the rest of the residential rate community in the long term. The issue is properly a matter of public interest and should qualify under the Commission's rules for emergency relief.

These rate schedules allow the possibility of a delivered power rate many times the actual delivered cost and reasonable utility profit. This alone makes these rates unjust and unreasonable. During times such as these where the local and regional market are subject to other severe problems and extreme market volatility, it is even more important to remove these unreasonable provisions in an expedited manner.

**Discussion**

The question of whether Schedule 48 and Special Contract electricity rates for industrial consumers is just and reasonable is a matter of public interest and has direct

and immediate bearing of the public welfare of the State of Washington and its communities. Recently as many as 500 members of the Association of Western Pulp and Paper Workers, employed at the Georgia Pacific West facility in Bellingham, have been laid off due to curtailments in response to electricity rates. At least several thousand additional jobs within this community, such as maintenance and construction jobs, jobs with suppliers, retail and restaurant jobs, etc., are dependant upon these family wage jobs at Georgia Pacific. The tax base of local and county government are dependent upon the continued operation of the facility itself as well as the employment of these jobs directly and indirectly dependent upon this facility. This is just one of a number of facilities being affected by these electricity schedules. The curtailment of other facilities within the state, such as Pioneer Chemical in Tacoma, has threatened the viability of other pulp and paper facilities within the state, threatening more members of the Association. These effects are not limited to the pulp and paper industry; the direct effects of these rates and the domino effect through suppliers and vendors of these directly affected facilities touch many industries throughout the state.

The effects are not limited to current employment and local economy vitality. Already we are hearing concerns from our employers regarding the continued investment in current and potential new facilities within the State of Washington if these price inequities continue. In one example, a facility in the state that is in the running for a capital investment of new equipment in excess of \$200 million, that will provide 100 to 200 more permanent jobs in the facility in addition to the commensurate benefits to the community may be in jeopardy if price inequities continue to be an issue. It is simply too risky for Corporate America to invest in a region that may expose their capital to unjust and unforeseen exposure to electrical price increases. The issue may be beginning to affect the continued economic development of Washington State.

It is not reasonable to ask whether the corporate assets of these companies would allow them to pay these electricity rates, either in the near term to maintain employment at their facilities or long term after the modernization of facilities or the construction of new ones. Corporations expect their individual facilities to be profitable individually and are not in business to siphon off the profits of one site simply to subsidize a non-profitable facility in another location. It is the interest of the public welfare to keep these individual facilities financially viable at least as long as they are paying their just and reasonable share of their own costs, such as electricity costs.

In addition to these effects on the public welfare, the effects of the curtailments or closures of industrial electrical consumers may affect residential ratepayers negatively. The laid off members of the Association in Whatcom County are now having to deal with creditors to find ways of dealing with debts and expenses that they no longer have an income to pay promptly. One of these creditors is Puget Sound Energy, which supplies their residential electricity. If these employees remain out of work, and if the community loses additional jobs that were dependent upon these jobs, these families may become a burden on the remaining residential rate payers, either directly through "warm home" assistance funds or indirectly as fewer paying customers support the entire demand and infrastructure expenses.

It should be clear that it is not in the long-term interest of public welfare to encourage a rate schedule that provides a financial incentive for industry to operate via portable diesel generators during periods of market volatility rather than receiving power

off the grid. Modern electricity generation has many more benefits to our communities than noisy generators with less than ideal emissions operating within our communities.

In considering these real and immediate impacts upon the public, and reviewing past circumstances in which the Commission has granted emergency relief, the Commission should find compelling reason to act swiftly and decisively in addressing this complaint.

The current Schedule 48 and Special Contract rate structures that are tied to the mid-Columbia index no longer provide for a rate that can be assured is close to the actual cost to the utility plus a reasonable profit mark up. The index no longer reflects the true market and no longer serves the purpose the parties intended at the time these schedules were approved. This was the claim of Ken Elgin of the Commission staff and Kelly Norwood of Avista Corp. before the commission in comments during the December 9, 2000 special hearing.

There will be great debate during the hearing as to whether PSE is paying rates similar to the mid-C index for the power they are supplying on a daily basis to these affect industrial consumers. To a large extent, whether PSE is or is not paying these rates is immaterial to the question of whether the rate schedules are just and reasonable. The fact is that while a utility may be long on power at a composite rate of say \$60 per MW, the schedules tied to the mid-C would have entitled them to charge upwards to \$3000 per MW. Kelly Norwood of Avista, again in the Dec. 9, 2000 hearing, told the commission that Avista had been long on power while the mid-C was vastly above traditional levels. Clearly, had Avista had customers on these schedules, they would have been in a position of charging many times the actual cost of the power. Whether or not PSE was in such a position recently, or is in such a position currently, the fact remains that it or another utility could be in just that position in the near future. A rate schedule that allows for such a disparate charge for electricity is not just nor is it reasonable. On these facts alone these rate schedules and contracts should be declared in conflict with public interest and voided.

PSE may argue that whether the current rates are just or reasonable or not, to replace these rates with something less will negatively impact their financial performance in a way that would require them to request rate increases for other customers, such as residential consumers. As long as industrial customers are paying for the cost of their power, their share of infrastructure and stranded costs, and their share of reasonable utility profit, there can be no unjust impact to other customers. If the greatly inflated revenue from industrial customers is subsidizing residential rates, then there may indeed be a need to raise residential or other rates. However, the intent of the parties when these schedules and contracts were implemented was not increase the subsidy of residential or other consumer rates by these industrial customers during times of market volatility.

PSE may also argue that financial hedges are a reasonable alternative to altering rate schedules. It is clear from recent events that financial hedges are not always available. It is not clear that if this volatile market continues for an extended period of time, whether the financial institutions who are committed to hedge prices for much lower rates will be financially able to honor them through the term of the hedge. One way or another, a financial hedge is an added cost to industry analogous to an insurance policy provided by a middleman who is also making a profit. For the hedge market to

remain in balance, the true cost to industry in general becomes whatever the bill for the electricity would be plus this profit. To require industry, and therefore the family wage earners and their communities, to bear this cost in addition to electricity costs in these volatile times is neither just nor reasonable. The only way for a facility to truly hedge their electricity costs is to allow them to build a portfolio of power from a number of different suppliers under contracts of differing lengths from the grid.

These power contracts are not two parties contracts entered into by an individual corporation and a utility. They are three party contracts entered into by the industrial consumer, the utility, and the Commission on behalf of the public interest of the State of Washington. The Commission approved the individual special contracts and Schedule 48. In so doing, they effectively determined that these contracts were in the public interest. This is clearly no longer the case. None of the parties could have foreseen these circumstances to change so dramatically when these contracts were first approved. However, since these circumstances and the market have changed, it is not only appropriate for the Commission to modify these contracts, it's charter under law obligates it to do so. The fact that the Commission determined some time in the past that a rate schedule was just and in the public interest, does not preclude the Commission from re-evaluating that determination at a later date, and if it does so and concludes that the schedule is not just and reasonable or not in the public interest it must take appropriate action.

It may be that some facilities may not be able to continue operations even if the Schedule 48 and Special Contract rates are modified to a rate that reflects actual delivered cost plus reasonable profit due to other local and regional circumstances in the electricity market. That possibility does not relieve the Commission of it's duty to act on behalf of the public to ensure that electricity rates are just and reasonable and so require rates reflect actual delivered cost plus reasonable utility profit. RCW 80.01.040 paragraph 3 states in part that the Commission's duty is to "Regulate in the public interest . . . the rates, services, facilities, and practices of all persons engaging within this state in the business of supplying any utility service or commodity . . . ." The Association of Western Pulp and Paper Workers encourages the commission to liberally interpret regulation and law with this duty clearly in mind.

**Conclusion**

The Association of Western Pulp and Paper Workers encourages the Commission to swiftly act in this matter and replace the Schedule 48 and Georgia Pacific Special Electricity Contract rate with an alternative rate that accurately reflects the true delivered cost of electricity plus a just and reasonable utility profit.

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Association of Western Pulp and Paper Workers

Delivered and served upon all parties of record by facsimile, email, and postal mail.