

**Exhibit \_\_\_ (JOINT-1)**  
**Docket PG-060215**  
**Witness: King, Johnson, McLain,**  
**Henderson**

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

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COMPLAINT  
(May 23, 2007)

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

WASHINGTON UTILITIES AND	)	DOCKET PG-060215
TRANSPORTATION COMMISSION,	)	
	)	
Complainant,	)	COMPLAINT
	)	
v.	)	
	)	
PUGET SOUND ENERGY, INC.	)	
	)	
Respondent.	)	
.....	)	

1 The Washington Utilities and Transportation Commission (Commission) on its own motion, and through its staff, alleges as follows:

**I. INTRODUCTION**

2 This complaint concerns violations of Commission rules governing preparation and maintenance of pipeline safety records, in particular records of gas leaks. The Commission’s rules governing operations and maintenance standards, inspection of gas leaks and records of leaks, i.e., WAC 480-93-999, which adopts the federal rules in 49 C.F.R. § 192.605(a), WAC 480-93-187 and WAC 480-93-185, require gas companies to:

- Prepare and follow an operations and maintenance manual, which includes leak inspections;
- Maintain permanent records of gas leaks containing dates and times when the leak was investigated and who investigated the leak; and
- Maintain gas leak records for the life of the pipeline.

3 As alleged below, Puget Sound Energy, Inc. (PSE), through its contractor, Pilchuck Contractors, Inc. (Pilchuck or PCI), did not follow the requirements in PSE’s operations and maintenance manual to conduct follow-up investigations of “phantom” leak inspections, or did not have a second person conduct the follow-up inspections in violation of 49 C.F.R. § 192.605(a), failed to maintain accurate leak records in violation of WAC 480-93-187, and failed to retain leak investigation records in violation of WAC 480-93-185.

## II. BACKGROUND INFORMATION

- 4 Pilchuck is a corporation that performs, among other things, inspection and maintenance services for natural gas pipelines. During all times relevant to this complaint, Pilchuck was under contract with PSE to perform, among other things, inspection and maintenance services, including leak inspections and related record keeping, with respect to PSE's natural gas pipeline system. Because Pilchuck performs such duties for which PSE is responsible, the acts of Pilchuck and its employees in performing (or not performing) those duties are the acts (or omissions) of PSE insofar as compliance with Commission laws and rules is concerned.
- 5 During all times relevant to this complaint, PSE had a written operations and maintenance manual containing procedures for conducting operations and maintenance activities regarding its pipeline facilities.
- 6 PSE's manual contained provisions for gas pipeline leak detection and repair. According to PSE's manual, if a gas leak is reported, but a cause cannot be determined, the leak is classified as a "phantom leak." The manual requires a follow-up inspection within 30 days of the report of the initial leak. The follow-up inspection must be performed by a person different than the person who initially classified the leak as "phantom." PSE Operations & Maintenance Manual § 2625.1300.4.4.3.2.
- 7 Commission rules require PSE to prepare and follow the manual described above in paragraphs 5 and 6. WAC 480-93-999; 49 CFR § 192.605(a).
- 8 Commission rules also require PSE to "prepare and maintain permanent gas leak records." WAC 480-93-187. PSE's gas leak records must contain the "date and time the leak was detected, investigated, reported, and repaired, and the name of the employee(s) conducting the investigation." *WAC 480-93-187(1)*.
- 9 WAC 480-93-185(1) requires PSE to promptly investigate reported leaks on its system. That subsection also requires PSE to "retain the leak investigation record for the life of the pipeline." The former version of this rule, effective before June 5, 2005, similarly required PSE to maintain the leak investigation report "in the company's leak report files for all leaks investigated ..."
- 10 In the course of Commission Staff's investigation, Staff asked PSE to provide copies of certain leak inspection records. In many instances, PSE could not supply the records. In their place, PSE provided information in the form of a printout of a computer screen containing a summary of information from the original leak report record.

- 11 The specific factual allegations for each incident in which the Commission claims a violation are described in more detail in Attachment 1 to this Complaint (which is incorporated herein by this reference).
- 12 RCW 80.28.212 states (in pertinent part) that any gas company that violates any provision of RCW 80.28.210 or any regulation issued under authority of RCW 80.28.210 shall be subject to a civil penalty to be directly assessed by the Commission. The Commission adopted rules in WAC 480-93 governing gas companies under authority of RCW 80.28.210. According to WAC 480-93-223, the maximum civil penalty for violating RCW 80.28.210 or any regulation adopted thereunder is twenty-five thousand dollars (\$25,000.00) for each violation for each day that the violation persists, and the maximum civil penalty for a related series of violations is five hundred thousand dollars (\$500,000.00).
- 13 In addition to the penalties prescribed in RCW 80.28.212, the Commission may assess penalties for violation of Commission rules under RCW 80.04.380. Each violation is \$1,000 and every day of a continuing violation is a separate offense.
- 14 Under RCW 80.28.130, the Commission may order PSE to make repairs, improvements or other changes as may be deemed appropriate.

### III. PARTIES

- 15 The Commission is an agency of the state of Washington, authorized by Title 80 RCW 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 to the public for compensation, and related activities, including gas companies.
- 16 Respondent Puget Sound Energy, Inc. is a company that, among other things, owns and operates a system for transporting natural gas within the state of Washington.

### IV. JURISDICTION

- 17 The Commission has jurisdiction over PSE because PSE is a "gas company" subject to pipeline safety regulation by the Commission pursuant to RCW 80.01.040(3), RCW 80.28.210, and pursuant to WAC 480-93.
- 18 The Commission has jurisdiction over the subject matter of this complaint pursuant to the provisions of RCW 80.01, RCW 80.04, RCW 80.28, and WAC 480-93. Specific provisions include but are not limited to: RCW 80.01.040, RCW 80.04.070, RCW

80.04.110, RCW 80.04.380, RCW 80.04.385, RCW 80.04.405, RCW 80.04.410, RCW 80.28.010, RCW 80.28.040, 80.28.130, RCW 80.28.207, RCW 80.28.210, RCW 80.28.212, and WAC 480-93-007, WAC 480-93-015, WAC 480-93-180, WAC 480-93-185, WAC 480-93-186, WAC 480-93-18601, WAC 480-93-187, and WAC 480-93-223.

- 19 In WAC 480-93-999(1), the Commission has adopted by reference the provisions of 49 Part 192 of the Code of Federal Regulations (CFR). Accordingly, when this complaint alleges any violation of 49 CFR Part 192, the complaint alleges a violation of a Commission rule, WAC 480-93-999(1).

## V. CLAIMS AND CAUSES OF ACTION

### A. FIRST CAUSE OF ACTION (Violation of 49 C.F.R. § 192.605(a))

- 20 The Commission through its Staff, realleges the allegations contained in paragraphs 4 through 14 above.
- 21 WAC 480-93-999 requires PSE to comply with the provisions of Title 49 CFR, Parts 191, 192, 193, and 199. WAC 480-93-999 adopts the cited provisions of the CFR by reference. Under 49 CFR § 192.605(a). PSE must prepare and follow the manual described above in paragraphs 5 and 6. PSE's manual requires a follow-up inspection within 30 days of the report of the initial leak. The manual requires that a follow-up inspection must be performed by a person different than the person who initially classified the leak as "phantom."
- 22 PSE failed to follow its operations and maintenance manual by: 1) failing to follow the requirement that a different person conduct the follow-up inspection; or 2) failing to conduct the follow-up inspection within the 30 days required by the manual; or 3) both. This allegation applies to Incidents 1 through 84, as described in Attachment 1. One violation is alleged for each Incident, for a total of 84 violations.

### B. SECOND CAUSE OF ACTION (Violation of WAC 480-93-187)

- 23 The Commission through its Staff, realleges the allegations contained in paragraphs 4 through 14 above.
- 24 WAC 480-93-187 requires PSE to "prepare and maintain permanent gas leak records." WAC 480-93-187(1) requires that PSE's gas leak records contain the "date and time the leak was detected, investigated, reported, and repaired, and the name of the employee(s) conducting the investigation."

25 PSE failed to maintain permanent gas leak records containing: 1) the correct date and time of the follow-up investigation; and/or 2) the correct name of the person doing the follow-up investigation. This allegation applies to Incidents 1 through 80 and Incidents 83 and 84, as described in Attachment 1. One violation is alleged for each Incident, for a total of 82 violations. However, because the Commission alleges that these records do not contain correct information, these are continuing violations of WAC 480-93-187 from the date of the violation.

26 PSE intentionally included inaccurate information on gas leak records, either by intentionally writing down inaccurate information in the first place, or by deleting or altering information that was known to be accurate, and changing it to information that was known to be inaccurate. This allegation relates to the manner in which the above violations related to Incidents 1 through 80 and Incidents 83 and 84 occurred, as described in Attachment 1.

### **C. THIRD CAUSE OF ACTION (Violation of WAC 480-93-185)**

27 The Commission through its Staff, realleges the allegations contained in paragraphs 4 through 14 above.

28 WAC 480-93-185(1) requires PSE to promptly investigate reported leaks on its system and to "retain the leak investigation record for the life of the pipeline." The former version of this rule, effective before June 5, 2005, similarly required PSE to maintain leak investigation reports "in the company's leak report files for all leaks investigated ..."

29 PSE failed to maintain permanent gas leak records and, instead, has maintained only a printable computer-based summary of the records. This allegation applies to Incidents 85 through 127, as described in Attachment 1. One violation is alleged for each Incident, for a total of 43 violations. However, because the Commission alleges that these records do not contain correct information, these are continuing violations.

## **VI. CLAIM FOR RELIEF**

30 Staff requests the Commission find that PSE has failed to comply with the statutes and rules of the Commission as set forth in the allegations above.

31 Staff requests that the Commission assess monetary penalties and/or other sanctions against PSE if the alleged violations of state law or Commission rules are proven. The total violations before considering continuing violations is 209 (84 violations identified in paragraph 19, 82 in paragraph 23, and 43 in paragraph 26). The

maximum penalty that can be assessed under RCW 80.28.212 and WAC 480-93-223 based on the 209 violations is \$5,225,000. However, the maximum amount of penalties is substantially higher if the impact of continuing violations is included. In requesting that the Commission issue this complaint, Staff recommends imposing monetary penalties totaling \$2.0 million.<sup>1</sup>

- 32 Staff requests the Commission order PSE under RCW 80.28.130 to propose specific measures to assure that its gas plant is in a safe condition and in compliance with Commission laws and rules, including that PSE.

1) Obtain, at its own expense, an independent audit of the accuracy of all PSE pipeline safety records produced and/or maintained by Pilchuck for PSE during the period 2005 to present, and file the audit report and findings with the Commission; and

2) Submit a contractor quality assurance plan to the Commission (*i.e.*, a plan designed to assure that PSE's contractors comply with Commission rules, including preparing and maintaining accurate records).

- 33 Staff requests the Commission order such other and/or further relief as is appropriate under the circumstances.

## VII. PROBABLE CAUSE

- 34 Based on a review of the documents identified in Attachment 1 to this complaint, and consistent with RCW 80.01.060, the Commission finds that probable cause exists to issue this complaint.

## VIII. PROCEDURAL INFORMATION

- 35 The names and mailing addresses of all known parties and their known representatives are as follows:

Complainant: Washington Utilities and  
Transportation Commission  
1300 S. Evergreen Park Drive S.W.  
PO Box 47250  
Olympia, WA 98504-7250

Representative: Donald T. Trotter, Senior Counsel

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<sup>1</sup> The Commission is not bound by Staff's recommendations. The Commission may impose penalties up to the maximum amount permitted by law.

Attorney General's Office  
1400 S. Evergreen Park Drive S.W.  
P.O. Box 40128  
Olympia, WA 98504-0128  
(360) 664-1186

Respondent: Tom DeBoer  
Director, Rates and Regulatory Affairs  
Puget Sound Energy, Inc.  
P.O. Box 97034  
Bellevue, WA 98009  
(425) 462-3495

36 The Commission will schedule a prehearing conference in this matter after receiving an answer to the complaint.

DATED at Olympia, Washington, and effective May 23, 2007.

ANN E. RENDAHL  
Administrative Law Judge