

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of	)	DOCKET NO. UE-121697
	)	DOCKET NO. UG-121705
PUGET SOUND ENERGY, INC., and	)	(Consolidated)
NW ENERGY COALITION	)	
	)	RESPONSE OF INDUSTRIAL
For an Order Authorizing PSE to Implement	)	CUSTOMERS OF NORTHWEST
Electric and Natural Gas Decoupling	)	UTILITIES TO THE REPLY OF
Mechanisms and to Record Accounting	)	ELECTRIC AND GAS JOINT PARTIES
Entries Associated with the Mechanisms	)	
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**I. INTRODUCTION**

1           The Industrial Customers of Northwest Utilities (“ICNU”) submits this Response to the “Reply of Electric and Gas Joint Parties” (“Joint Parties’ Reply”), filed on November 15, 2013. The Joint Parties’ Reply mischaracterizes ICNU’s “Comments in Opposition to Joint Responses for Petition for Reconsideration” (“ICNU Comments”), filed on November 8, 2013.<sup>1/</sup> Accordingly, ICNU clarifies its positions here to ensure an accurate record.

2           ICNU’s Comments opposed, as filed, a proposal to exempt industrial gas users from the decoupling mechanism ordered by the Washington Utilities and Transportation Commission (“Commission”) in Order 07 in the above-referenced dockets (“Gas Joint Response”) and to modify this decoupling mechanism for non-residential electric customers taking service under Schedules 26 and 31 (“Electric Joint Response”). While ICNU did not oppose exempting the customers covered by the Gas and Electric Joint Responses from the current decoupling mechanism, it did object to exempting these customers and not also exempting industrial electric customers on Schedules 40 and 49. ICNU Comments at ¶ 8.

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<sup>1/</sup> The Joint Parties’ Reply also responded to a filing by Public Counsel. ICNU does not address that portion of the Joint Parties’ Reply.

The remainder of the procedural and factual background of this proceeding has been stated in previous filings, and ICNU will not repeat it here. Suffice it to say that ICNU's Comments were premised on the distinct arguments that: (1) the Gas Joint Response discriminates against electric industrial customers and gives an undue and unreasonable preference to gas industrial customers; and (2) the Electric Joint Response results in unjust and unreasonable rates by arbitrarily increasing rates for industrial electric customers. Id. The Joint Parties' Reply suggests that ICNU's Comments argue that gas and electric service are the same service and that there are no distinctions between industrial electric customers and Schedule 26 and 31 customers. Neither is an accurate portrayal of ICNU's positions.

## II. ARGUMENT

### A. **Decoupling is a "service" that currently applies to both gas and electric industrial customers and impacts them similarly.**

ICNU's Comments demonstrated that, if accepted, the Gas Joint Response discriminates against industrial electric customers and would give an undue and unreasonable preference to industrial gas customers, in violation of RCW §§ 80.28.100 and 80.28.090, as it provides for different rates among similarly situated customers for the same service. ICNU Comments at ¶ 12. The Joint Parties' Reply asserts that there is no discrimination here because gas industrial customers and electric industrial customers obtain different services, i.e., gas and electricity. Joint Parties' Reply at ¶ 5. This obvious fact does not address ICNU's arguments related to discrimination and undue preference. Rather, the "service" that gives rise to discrimination between industrial gas customers and industrial electric customers is not the provision of gas or electricity, but the administering of the decoupling mechanism itself.<sup>2/</sup>

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<sup>2/</sup> As ICNU argued in its Comments, RCW §§ 80.28.100 and 80.28.090 are intended to be inclusive in what they cover (no discrimination "for any service rendered;" no undue preference "in any respect whatsoever"). Coupled with the mandate that "service" is to be used in its "broadest and most inclusive

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The Joint Parties' Reply argues that "[d]ecoupling adjustments are not a payment for services rendered ... but rather a ratemaking mechanism that can take the form of either a charge or a credit." Joint Parties' Reply at ¶ 13. This is a distinction without a difference. A "rate" contemplates any charge to be collected. RCW § 80.28.010(1). Whether these charges come from consumption of a product (such as gas or electricity) or a true-up that maintains fixed cost recovery to incentivize conservation efforts is irrelevant.<sup>3/</sup> As ICNU argued in its Comments, there is no throughput incentive with respect to gas or electric industrial customers that justifies including them in decoupling, and both groups are likely to subsidize other non-residential customers if included in decoupling. ICNU Comments at ¶ 14-16. Thus, the salient point is that, if the Gas Joint Response is approved, decoupling's rate "adjustments" will be different for gas industrial customers than they will be for electric industrial customers even though the impact decoupling has on these groups – i.e., the service rendered – is the same. Such an outcome discriminates against industrial electric customers and provides an undue preference for industrial gas customers, in violation of RCW §§ 80.28.100 and 80.28.090.

**B. While there are differences between industrial electric customers and Schedule 26 and 31 customers, none of those differences are relevant to decoupling.**

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The same misunderstanding applies to the Joint Parties' Reply to ICNU's Comments related to the rate impact the Electric Joint Response will have on industrial electric customers. The Joint Parties' Reply argues that different rate schedules apply to customers of

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<sup>3/</sup> sense," RCW § 80.04.010(25), it is apparent that the decoupling mechanism is a "service" for which no discrimination and no undue preferences may be permitted. ICNU Comments at ¶ 9-10. The unlikely event that decoupling will result in a bill credit for industrial electric customers also is of no significance as to whether discrimination and an undue preference exist here. Discrimination applies to any "greater or less compensation" for a service rendered. RCW § 80.28.100 (emphasis added). Moreover, it is the fact that exempting one group from decoupling and not its similarly situated counterpart necessarily subjects these two groups to different rates which is the material issue. Such treatment will always give one group an undue preference over the other regardless of whether decoupling results in a credit or a charge.

differing characteristics and, therefore, it is appropriate to exempt Schedule 26 and 31 customers from decoupling but not industrial electric customers. Joint Parties' Reply at ¶ 14-16. Again, ICNU does not dispute the obvious fact that different customers may be treated differently with regard to those differences. Nor does it dispute that distinctions exist between Schedule 26 and 31 customers on the one hand and Schedule 40 and 49 customers on the other. It does dispute, however, that those distinctions are material with respect to the effect decoupling has on these customers, which is what matters here. The Electric Joint Response proposes to modify the decoupling mechanism for Schedule 26 and 31 customers because they are projected to subsidize other non-residential customers to effectuate decoupling. But industrial electric customers are also projected to subsidize other nonresidential customers.<sup>4/</sup> Thus, whatever the differences between these two customer groups, they are not relevant to decoupling.

7            Instead of addressing this issue, however, the Joint Parties' Reply sets up a straw man that it easily knocks down by providing examples of different customer groups being treated differently. Specifically, it notes that the Commission has already exempted Electric Retail Wheeling customers on Schedule 449 from decoupling and that the creation of Schedule 40 resulted in increases to other nonresidential customers' rates. Joint Parties' Reply at ¶ 14, 16.

8            However, it was appropriate for the Commission initially to exempt Electric Retail Wheeling customers on Schedule 449 from decoupling as these customers' rates, the Commission recognized, are paid through transmission tariffs rather than distribution charges. Order 07 at ¶ 118. Schedule 449 customers purchase their power from the market and not PSE. Thus, there is a rational basis for distinguishing these customers from all others for purposes of

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<sup>4/</sup> Contrary to the Joint Parties' claim, support for this assertion does exist in the evidentiary record. Exh. No. \_\_ (MCD-1T) at 36:6-9.

decoupling. Such is not the case for the customers the Joint Parties are proposing to exempt in the Electric and Gas Joint Responses.

9                   Similarly, the creation of Schedule 40, as the Joint Parties observe, served the rational purpose of grouping customers with similar load profiles together so that they could obtain service more appropriately tailored to their needs. Joint Parties’ Reply at ¶ 16. In noting that the creation of Schedule 40 resulted in increases to other nonresidential customers’ rates, the Joint Parties are making ICNU’s argument for it: “[t]hese rate increases occurred because the customers remaining on [other] rate schedules were required to bear their own costs without the revenues from the departing Schedule 40 customers.”<sup>5/</sup> Id. at ¶ 18.

10                   Here, rather than ensuring that industrial electric customers bear their own decoupling costs, the Electric Joint Response creates the likely scenario that industrial electric customers will be required to subsidize remaining non-residential customers to an even greater extent if the Electric Joint Response is adopted. And the justification for this is to *prevent* cross-subsidization projected to be borne by Schedule 26 and 31 customers. Exempting Schedule 26 and 31 customers from the current decoupling mechanism without exempting industrial electric customers, therefore, results in a projected rate increase for industrial electric customers that is arbitrary and not in the public interest.

### III. CONCLUSION

11                   The Joint Parties’ Reply mischaracterizes ICNU’s arguments by highlighting differences between services and customer classes that are not relevant to the issues before the Commission and muddy the record. It bears repeating that ICNU does not object to exempting any of the customers covered in the Gas and Electric Joint Responses from the current

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<sup>5/</sup> ICNU does not agree that there is any evidence to support that Schedule 40 creates a cost-shift to other customers.

decoupling mechanism. It merely objects to exempting those customers and not similarly situated industrial electric customers. Thus, it is not ICNU's intention to "stymie the progress the Joint Parties have made in identifying reasonable alternatives" to decoupling. Joint Parties' Reply at ¶ 16. If the Commission approves the Gas and Electric Joint Responses, it should also exempt industrial electric customers on Schedules 40 and 49 at least until such time as a workable alternative proposal for these customers may be negotiated. Failure to do so discriminates against industrial electric customers, grants an undue and unreasonable preference to gas industrial customers, and results in unjust and unreasonable rates for industrial electric customers that are not in the public interest.

Dated in Portland, Oregon, this 20th day of November, 2013.

Respectfully submitted,

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