

SERVICE DATE
DEC 31 1979 88.

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In The Matter of the Petition of)
Puget Sound Power & Light Company) CAUSE NO. U-79-73
for Deferred Accounting Treatment)
and Amortization In Regard to) ORDER
Certain Power Costs and Credits)
.)

Hearings on the above-entitled petition were held at Olympia, Washington, on November 19, 20, 21, and 29, and on December 17 and 18, 1979; at Bellevue, Washington, on December 11, 1979; and at Bellingham, Washington, on December 14, 1979, before Chairman Robert C. Bailey, Commissioner Frank W. Foley, Commissioner A. J. Benedetti, and Administrative Law Judge William Metcalf.

Parties were represented as follows:

PETITIONER: PUGET SOUND POWER & LIGHT COMPANY
By Douglas P. Beighle
and William S. Weaver
Attorneys at Law
1900 Washington Building
Seattle, Washington 98101

COMMISSION: WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION
By Frank P. Hayes
and Douglas N. Owens
Assistant Attorneys General
Temple of Justice
Olympia, Washington 98504

CONSUMER
PUBLIC: PEOPLE OF THE STATE OF WASHINGTON
By Charles F. Adams
Assistant Attorney General
1366 Dexter Horton Building
Seattle, Washington

INTERVENORS: FAIR ELECTRIC RATES NOW (FERN)
By Jim Lazar, Secretary
7241 Commercial N.E.
Olympia, Washington 98501

PEOPLE'S ORGANIZATION FOR WASHINGTON
ENERGY RESOURCES (POWER)
By Wayne Williams
Attorney at Law
Suite 317, Security Building
Olympia, Washington 98501

Puget Sound Power & Light Company and its customers have historically enjoyed the benefits of the relatively low cost of hydro-generated electric energy, but the company now represents that because of low water conditions and inability to timely construct new major base load generating facilities it is faced with both immediate and long term prospects of not

being able to meet firm load without incurring substantial extraordinary expense in purchasing significant amounts of high cost wholesale power and also running expensive thermal generating plants for base load purposes. The costs of purchased power and thermally-generated power to date have exceeded greatly the cost of anticipated hydro power. Predicted continuation of existing low water conditions portends continued unanticipated substantial power cost expenditures in this water year. The electrical loads of the company have continued to grow even with major conservation efforts by the company.

Tariff rates now in effect were authorized by the Commission in March of this year in Cause No. U-78-21; they were based on an anticipated expenditure of \$2.9 million, under average water supply conditions, to purchase wholesale power and oil to meet future load requirements. However, the record in this proceeding shows that current oil costs and the increased and increasing demands for electricity will require the company to spend considerably more for such purposes than was assumed in the last general rate case.

The actual amount of excess power costs could range up to \$100 million should conditions approximate the historical lowest water year. The record in this proceeding, however, indicates that a more precise determination can be made of the excess power costs which may reasonably be expected to be incurred by the company. The Commission considers it appropriate to calculate the need of the company to increase revenues for a period of six months in order to offset the impact of immediately foreseeable excess power costs. Determination of the proper amount may be calculated on the basis of "mid-cost year" data contained in Exhibit Nos. 3 and 5. The effect of revenues from surplus sales, now unlikely, assumed in the last general rate case should be eliminated. Effect should be given to the excess power costs already recognized in established rate levels as a result of the decision in the last general rate case. Based upon evidence presented in this case the Commission would consider gross revenues of \$14.4 million as a realistic yet conservative amount of excess power costs which the company is facing in the upcoming six-month period.

In spite of this demonstrated need for additional revenue the Commission cannot approve a plan of the nature proposed by the company to recover its excess power costs. In order to neutralize the adverse impact of these potentially large excess power costs, which are attributed to low water conditions coupled with substantial electrical load growth, the company filed on October 23, 1979, the petition by which it seeks Commission approval for a tariff provision that would allow it to recover expenditures for fossil fuel and wholesale power over those assumed in constructing currently effective rates. Such a provision is sought on a interim emergency basis only.

The proposal encompassed by this petition was modified in various ways in the course of hearings, but, essentially, it is proposed that excess power costs be tracked for certain specified periods of time--two months being the most frequently suggested period. At the end of each period the Commission would be asked to authorize an addition to all customers' bills in accordance with a formula and over a period to be determined by the Commission, designed to recover the exact amount of excess power costs in the selected period, subtracting any revenue that may have

been realized from company sales of surplus power during the period. It is requested that prior to authorizing each such charge to recover excess power costs the Commission would undertake review of the company's operations for the period in question in order to determine if the incurrence of those costs had been reasonable and prudent.

The proposal, and variations thereof advanced during hearings, generated considerable legal and accounting issues and a not inconsiderable number of objections and protests. Rulings on all of the issues would call for examination of many complex questions as to the responsibilities of a regulatory agency to public service companies and their customers and the purpose of regulation in an age of scarcities. However, these remarks will be confined to the central defects in the company's proposal.

The power cost adjustment that would be imposed if the petition herein were approved would not coincide with the cost of producing the kilowatt hours subject to the extra charge, but, rather, would recover costs associated with kilowatt hours for which bills have already been rendered and paid. Under the proposal here, no customer of the company would be able to determine the cost of electricity at the time of purchase; not until subsequent reports and proceedings were undertaken and resolved would any customer discover the cost for power purchased during any given period. As long as the proposed scheme was in effect, no single tariff filing would disclose the cost of electric service, and no combination of tariff filings in effect at the same time would exist for determination of rates authorized by the Commission.

The Washington Legislature has mandated the ratemaking process under provisions contained in Title 80 RCW. RCW 80.28.020 requires the Commission to fix the rates to be observed. RCW 80.28.050 requires that electric rates be reflected in schedules filed with the Commission. RCW 80.28.080 requires that electrical companies charge only the rates "specified in its schedule". Thus, under the statutory scheme established by Title 80 RCW, a plan that would make the total charge for the kilowatt hours sold during a given billing period something other than that specified in the company's schedules in effect at the time of sale--and unascertainable at the time of sale--is clearly prohibited.

In response to accusations of retroactivity made by other parties, the company argues on the one hand that any and all bills it renders will always be made up on the basis of tariffs approved by the Commission and that no previous bill will ever be amended or altered as a result of a new tariff filing, so that as a matter of fact no charge can ever be retroactive; on the other hand, the company also argues that all rates are really retroactive as a matter of fact because they arise from proceedings relying upon historical test year costs.

The analyses advanced by the company on this point need not be refuted at length here; the issue is indeed one of fact, not semantics. The plan proposed by the company clearly results in retroactive rates prohibited under the regulatory scheme framed by our legislature. Support for this conclusion

is also found in the testimony of many consumers objecting to this proposal because the tariffs on file at the time they purchased power would bear no relation to the cost they would have to pay for that purchase.

The company argues that many other states have authorized so-called "fuel adjustment clauses" similar to the instant proposal. However, many of those states have specific statutes authorizing this method of establishing rates. This state does not have such legislation, and if assurance of the financial integrity of public utilities is deemed to depend upon automatic fuel cost pass-throughs, the problem is one for legislative resolution.

Although the Commission is persuaded that the petition before it must be rejected as a matter of law, it is abundantly clear that the immediately foreseeable load and resource conditions facing the company because of low water conditions, coupled with substantial load growth, are going to result in a significant increase in costs over those recognized in the last general rate case. The record indicates that the company is not earning its authorized rate of return; that prevailing water conditions are seriously below average; that the company's earnings are declining; and even apart from new load generation construction, the company's 1980 capital budget necessitates borrowing in difficult markets. No party contests these facts; the disagreements are in the area of remedies. The Commission is therefore disposed to address the type of rate relief which may be appropriate when a company is confronted with excess power costs due to circumstances beyond its control which must be offset in order to preserve the financial integrity of the utility.

It should be noted that in responding to the contentions and citations of parties dealing with unlawful retroactivity the company indicated that it would be amenable to any plan for increasing revenues that the Commission might devise for it. As presented in the record, this request is inconsistent with the regulatory scheme reflected in Chapter 80.28 RCW, in particular section .050, which clearly contemplates that tariff filings shall originate with public service companies.

First, as to procedures and format, Exhibit Nos. 24, 25 and 27, interim rate relief orders, and in particular Exhibit No. 26, an order approving a surcharge plan, indicate ample precedent for seeking additional revenues on the basis of extraordinary circumstances, and analysis of the substance and content of the four exhibits need not be undertaken here.

Second, in the case of an excess power cost surcharge, the Commission would consider it appropriate to allow the company to increase revenues for a period of up to six months in order to offset the impact of immediately foreseeable excess power costs. Determination of the proper amount of a surcharge should be based on data as firm as possible. The evidence in this proceeding does permit calculation of a workable revenue requirement. In addition, the effect of revenues from surplus sales assumed in the last general rate case which are unlikely to occur should be eliminated. Effect should be given to the excess power costs already recognized in established rate levels as a result of the decision in the company's last general rate case.

The Commission believes that a filing which would have established a temporary surcharge to recover excess future power costs not to exceed \$14.4 million over a six-month period on a uniform cents per kilowatt hour basis and providing for cancellation when it is established that such costs have been billed, but in any event for automatic cancellation no later than six months following the effective date of the filing would appear to be consistent with precedents in previous Commission orders and with the record herein. If the Commission were to accept such a surcharge, the accounting for such a plan would be closely monitored by requiring the filing of monthly reports to permit verification of both excess power costs and revenues derived from surplus sales. The Commission would retain jurisdiction of any such filing for these purposes.

The merits of a surcharge based on the foregoing principles are clear. The company's needs would be met; realistic cost signals would be provided to consumers; those who are willing and prepared to conserve and curtail their electric consumption can control their own costs; and no cross-industry subsidization is fostered.

Most of the objections voiced by the company's customers are, of course, no longer at issue because of the decision herein. Still, the wide scope and constructive nature of the testimony of the consuming public are worth noting. The Commission heard the comments of 87 witnesses in three days of hearings. Many of the witnesses testified as representatives of organizations, private, such as Gray Panthers and senior citizen groups; public, such as FERN; and governmental, such as POWER, Mason-Thurston County Community Action Council and Lewis-Thurston-Mason Area on Aging. Valuable and probative testimony was given by engineers, accountants, economists, proprietors of large and small businesses, their employees, and by many other citizens speaking in their capacities as ratepayers. Testimony both in opposition to and support of the petition was presented. In addition, the Commission has received approximately 150 letters from Puget's customers. The Commission wishes to express its appreciation for the input and consideration of all members of the public who attended and testified.

One issue, perhaps the most frequently raised by the public, calls for comment; this deals with the notice of the pendency of its petition mailed by the company to its customers. Many witnesses and many correspondents expressed dismay over an absence of detail in the notice, particularly as to the exact nature of the filing. It should be pointed out that the notice in this particular case was not strictly required under the Commission's rules governing notice of utility rate increase filings. The petition here is a novel one and is not easily summarized; the many pages of this transcript devoted to explaining its mechanics suffice to establish that. It is certainly true that what "power costs and credits" mean and how the proposed handling of them would affect a customer's bill is not set forth in the notice. Nevertheless, the great majority of the people appear to have been sufficiently apprised of the nature of the proceeding to justify the expense of the mailing. From the vast number of letters received, it is clear that the purpose of the notice was accomplished. Many people wrote or telephoned asking for more information--information that could not have been set out on a post card--and replies, where appropriate, were made either by

the Commission or by the special assistant attorney general appointed to represent the public. In every instance those who wrote for more information were placed on the mailing list of this proceeding for service of all notices and orders. On balance, it appears that the notice served a very useful purpose.

FINDINGS OF FACT

1. By petition filed on October 23, 1979, Puget Sound Power & Light Company seeks approval of a tariff revision which would permit it to accrue to a deferred power cost account the amount of money it actually expends for power costs over and above that which is recognized in presently-effective rates; there would be a credit to the account if surplus sales should exceed what is presently recognized in rates. The balance would be "amortized" against rates in accordance with a method to be set by the Commission on a uniform cents per kilowatt hour basis.

2. Under the proposal, there would be imposed an extra charge that would not express the cost of producing the kilowatt hours subject to that charge but, rather, would recover costs associated with kilowatt hours for which bills have already been rendered and paid.

3. If this petition were granted, there would not be in effect at the time of a sale of electricity any tariff stating the applicable rate for the entire sale.

CONCLUSIONS OF LAW

1. The Washington Utilities and Transportation Commission has jurisdiction over the petitioner and the subject matter of this proceeding under provisions of Title 80 RCW.

2. The tariff revision proposed by the petition in this proceeding would not establish a rate sufficiently specific to conform to the requirements of RCW 80.28.080.

3. If the petition herein were approved, electric rates applicable to purchases at the time of purchase would not be reflected in Commission approved tariff schedules, which would be in violation of RCW 80.28.050

4. The petition in the form presented should be rejected.

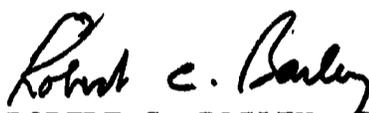
O R D E R

IT IS ORDERED That the petition filed by Puget Sound Power & Light Company on October 23, 1979, and docketed as Cause No. U-79-73 be, and it is hereby, denied.

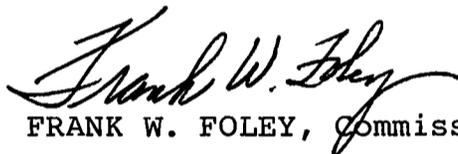
IT IS FURTHER ORDERED That motions inconsistent with the aforesaid denial be, and they are hereby, denied; those consistent therewith are granted.

DATED at Olympia, Washington, and effective this 31st day of December, 1979.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



ROBERT C. BAILEY, Chairman



FRANK W. FOLEY, Commissioner



A. J. BENEDETTI, Commissioner