

## **WASHINGTON COURT OVERTURNS PUGET SOUND ENERGY RATE PLAN**

On July 25, 2014, the Thurston County Superior Court entered an order reversing, in part, a June 25, 2013 Washington Utilities and Transportation Commission (“Commission”) order granting Puget Sound Energy (“PSE”) a four-year rate plan, along with other rate mechanisms. The rate plan approved by the Commission granted PSE an automatic three percent annual increase to its rates. These increases were based on base rates for PSE that the Commission approved in the same order, but without updating PSE’s allowed return on equity. The Commission determined that, although the reasonableness of PSE’s return on equity was at issue in the case, it would not reduce that level of return despite evidence in the record indicating that PSE’s return on equity should have been reduced.

Davison Van Cleve, PC, representing the Industrial Customers of Northwest Utilities (“ICNU”), sought judicial review of the Commission’s decision not to reduce PSE’s return on equity to a level supported by the record evidence. ICNU argued that the Commission’s order violated the Washington Administrative Procedure Act. The Superior Court agreed, finding that the Commission’s decision was not based on record evidence and unlawfully shifted of the burden of proof. In an opinion issued on June 27, 2014, the Superior Court held that the “Commission set rates in this Order, and by its own admission, it did so without the evidence it deemed necessary and customarily relied on. Instead, the evidence that it relied on was from a previous PSE adjudication .... This does not satisfy the requirement of substantial evidence in the record.” Additionally, it found that, instead of “putting on its own evidence, PSE merely attempted to rebut the respondents’ evidence .... This demonstrates that the majority of the Commission did not hold PSE to the burden of proving that the rate increases are justified.”

The court remanded the case to the Commission to establish just and reasonable rates for PSE.