

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of)	DOCKET UE-121697
)	DOCKET UG-121705
PUGET SOUND ENERGY, INC. and NW)	
ENERGY COALITION)	
)	MOTION TO LIMIT PARTICIPATION AS
For an Order Authorizing PSE to Implement)	AN INTERVENOR
Electric and Natural Gas Decoupling)	
Mechanisms and to Record Accounting Entries)	
Associated with the Mechanisms.)	
_____)	

1. Pursuant to RCW 34.05.443(2), the NW Energy Coalition hereby moves to limit its participation as an intervenor in the remand proceedings in Dockets UE-121697 and UG-121705. The NW Energy Coalition lacks the resources to participate fully in these remand proceedings. Accordingly, the NW Energy Coalition requests that the Commission limit its participation as an intervenor as set forth below.

Background

2. On June 25, 2013, the Commission issued a final order (Order 07) adopting several innovative ratemaking mechanisms for Puget Sound Energy (“PSE”). These included a full decoupling mechanism based on the mechanism jointly proposed by PSE and the NW Energy Coalition in Dockets UE-121697 and UG-121705, as well as a multi-year rate plan and an update to PSE’s rates based on an expedited rate filing in a separate docket to which the NW Energy Coalition was not a party.

3. Public Counsel and the Industrial Customers of Northwest Utilities (“ICNU”)

appealed Order 07 to the Thurston County Superior Court, and on July 25, 2014, the Court reversed in part and remanded to the Commission to accept additional evidence and determine an appropriate Return on Equity for PSE in the context of the multi-year rate plan. On September 20, 2014, the Commission held a pre-hearing conference and subsequently issued a prehearing conference order governing the scope and schedule of remand proceedings (Order 10).

4. The prehearing conference order anticipates that the parties will “provide focused and detailed analyses such as would have informed a determination of return on equity in early 2013 for purposes of updating PSE’s rates from the 2012 general rate case and for continued application through the rate plan period.” Order 10, ¶ 24. The NW Energy Coalition takes no position on the appropriate Return on Equity for PSE in light of market conditions (past or present), and the participation of the NW Energy Coalition in the remand proceedings will not further the resolution of this issue.

5. The prehearing conference order also notes that the Court’s order is ambiguous as to whether the issue of the effect of decoupling on PSE’s return on equity was remanded, or whether the remand reaches only the issue of whether an adjustment to Return on Equity in light of market conditions is appropriate. Order 10, ¶ 21. The parties take differing positions on this issue, Order 10, ¶¶ 20-21, and the Commission declined to resolve this issue in the prehearing conference order, Order 10, ¶¶ 22-25. On October 20, ICNU and Public Counsel each moved for reconsideration of this aspect of Order 10, among other issues.

6. In the proceedings leading up to the Commission’s issuance of Order 07, the NW Energy Coalition presented testimony from expert witness Ralph Cavanagh, other evidence (including a national study by Pamela Morgan), and argument supporting the position that a

prospective reduction in PSE's Return on Equity due to the adoption of decoupling was not appropriate at that time. The Coalition further argued that if the evaluation of the decoupling mechanism demonstrates that decoupling does in fact reduce PSE's cost of capital, those savings should be passed on to customers. The NW Energy Coalition has already presented evidence and arguments in support of this position in the adjudication of Dockets UE-121697 and UG-121705 leading up to Order 07. The NW Energy Coalition continues to take the same position on this issue and does not plan to offer new evidence in the remand proceedings, as the Coalition's evidence and argument in support of this position is already before the Commission.

7. The NW Energy Coalition is a resource-constrained organization, and as such is not able to participate fully in every proceeding that may address relevant issues. The NW Energy Coalition does not have the resources to participate fully in these remand proceedings, and compelling the Energy Coalition's full participation in these remand proceedings could foreclose the NW Energy Coalition's participation in other relevant dockets due to resource constraints.

Argument

8. The Washington Administrative Procedure Act gives the Commission broad authority to impose conditions or limits on an intervenor's participation in an adjudicative proceeding, either at the time intervention is granted or at any subsequent time. RCW 34.05.443(2). This authority expressly includes the ability to limit an intervenor's participation to specific issues, and to limit an intervenor's participation in discovery, cross-examination, and other procedures where appropriate. *See id.*

9. The NW Energy Coalition requests that its participation in the remand proceedings be limited to participating in the hearing for the limited purpose of allowing the

Commission and opposing parties to cross-examine the Coalition's expert witness, Ralph Cavanagh, on the testimony and evidence the Coalition has already presented in Dockets UE-121697 and UG-121705. The Coalition would not be permitted to file additional testimony or other evidence, would not be permitted to participate in discovery, would not be permitted to cross-examine other parties' witnesses at the hearing, and would not participate in post-hearing briefing. Other parties would not be permitted to seek discovery from the Energy Coalition, as the Coalition would not be presenting any new evidence or testimony, but other parties would be permitted to cross-examine the Coalition's witness on the testimony the Coalition has already submitted.¹

10. Limiting the Coalition's participation per this request is in the public interest and would promote the orderly resolution of this proceeding. The NW Energy Coalition takes no position on the primary issue in these remand proceedings—the appropriate return on equity for PSE in light of market conditions. The NW Energy Coalition does take a position on the impact of decoupling on PSE's return on equity, but the Energy Coalition's position and the evidence in support have already been presented to the Commission in these dockets and are already part of the record. The NW Energy Coalition is a resource-constrained organization and does not have the ability to participate fully in these remand proceedings. Because the Coalition would not present new evidence and the Coalition's limited participation would include an opportunity for parties to cross-examine the Coalition's witness on evidence already presented, the Coalition's

¹ All parties already had the opportunity to take discovery on the testimony and evidence presented by the NW Energy Coalition in Dockets UE-121697 and UG-121705, and the NW Energy Coalition believes that duplicating that opportunity in the remand proceedings is not necessary. However, if the Commission believes that it is important to allow other parties a second opportunity to take discovery on the evidence already presented, the NW Energy Coalition believes it would be appropriate to direct other parties to limit their discovery requests to the NW Energy Coalition to the testimony and evidence already presented.

limited participation would not prejudice any other party. Limiting the NW Energy Coalition's participation as an intervenor is appropriate regardless of how the Commission rules on ICNU and Public Counsel's pending motions for reconsideration and clarification, as the evidence that NW Energy Coalition has already presented will remain in the record regardless of the Commission's ruling on the pending motions. Accordingly, the NW Energy Coalition's motion to limit participation as an intervenor should be granted.

Respectfully submitted this 22nd day of October, 2014.



AMANDA W. GOODIN (WSB #41312)

TODD D. TRUE (WSB #12864)

Earthjustice

705 Second Avenue, Suite 203

Seattle, WA 98104

(206) 343-7340 | Phone

(206) 343-1526 | Fax

agoodin@earthjustice.org

ttrue@earthjustice.org

Attorneys for NW Energy Coalition

Nancy Hirsh

Senior Policy Associate

NW Energy Coalition

811 – 1st Avenue, Suite 305

Seattle, WA 98104

(206) 621-0094 | Phone

(206) 621-0097 | Fax

nancy@nwenergy.org