

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

Docket UG-230393

**PUGET SOUND ENERGY'S
RESPONSE TO THE PUYALLUP
TRIBE OF INDIANS PETITION TO
INTERVENE**

INTRODUCTION

- I.* In accordance with RCW 34.05.443 and WAC 480-07-355(2) Puget Sound Energy (“PSE”) responds to the Puyallup Tribe of Indians’ (“Tribe”) Petition to Intervene (“Petition”). The Tribe’s proposed intervention as articulated in its Petition will delay and divert resources away from the focus of this proceeding. If the Commission grants the Tribe’s Petition, it should place clear limitations on the Tribe’s intervention to prevent the Tribe from expanding on the issues raised in this proceeding in order to relitigate PSE’s 2022 General Rate Case (“2022 GRC”) in Dockets UE-220066, UG-220067, & UG-210918 (consolidated) or raise issues already resolved in that proceeding’s Final Order 24/10 (“GRC Order”).

BACKGROUND

2. On June 21, 2023, the Tribe filed a petition to intervene in the proceeding under WAC 480-07-340(1).¹ The Tribe claims it “holds unique and distinct evidence” regarding the “nature of the costs incurred for the construction and permitting of the plant and distribution line” for the Tacoma LNG plant.² The Tribe also claims it will present evidence that was presented to the Commission in PSE’s 2022 GRC³, that the “actual benefit to ratepayers is being overestimated” and it also intends to present evidence that the LNG facility negatively impacts the Tribe and nearby communities.⁴
3. The Final Order in PSE’s 2022 GRC resolved many of these concerns and issues previously raised by the Tribe. Specifically, paragraphs 421 – 448 of the GRC Order addressed the public interest concerns raised by the Tribe in the 2022 GRC proceeding. The Commission determined that the “Tacoma LNG Settlement is consistent with the public interest” and the “Commission should not reject the Settlement or disallow recovery of the facility on the basis of later changes to law or public policy.”⁵ The purpose of this proceeding is to allow PSE to recover the costs incurred with the development, construction, and operation of the Tacoma LNG Facility through a new tariff schedule, in compliance with the requirement in the Commission’s Order.⁶ Specifically, this proceeding involves “later construction and operation costs” rather than if the decision to construct

¹ The Tribe filed the Petition after the deadline to file a written petition for intervention. PSE does not object to the late filing of the Petition, assuming the Commission will grant PSE leave to also respond after the deadline.

² Petition at ¶ 5.

³ *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Dockets UE-220066, UG-220067, & UG-210918 (consolidated).

⁴ *Id.*

⁵ GRC Order ¶ 448.

⁶ PSE’s Cover Letter at p. 2 (May 25, 2023).

the facility was in the public interest.⁷ Accordingly, if the Commission approves the Tribe's Petition, it should expressly limit the Tribe to those issues and prohibit the Tribe from raising issues in this proceeding that were addressed in the 2022 GRC or resolved by the Commission's GRC Order.

4. PSE requests the Commission allow the Tribe's intervention but make clear the intervention is limited only to the issues presented to the Commission in this proceeding, and not those already litigated and determined by the Commission.

ARGUMENT

5. The Commission may grant a petition to intervene if the petitioner "discloses a substantial interest in the subject matter of the proceeding or if the petitioner's participation is in the public interest."⁸ The Commission has a significant interest in judicial economy, and the presiding officer must ensure that intervention will not impair the orderly and prompt conduct of the proceedings.⁹ The Commission is also authorized under RCW 35.05.443(2) to impose conditions to limit issues to a particular interest and limit the use of discovery to promote such orderly and prompt conduct of the proceeding.¹⁰

6. If the Commission allows the Tribe to intervene to the extent described in its Petition, the Tribe will distract from the issues properly before the Commission, delay resolution of the limited issues presented in this case, add to the administrative burden of the Commission and all parties, and use the process to relitigate other issues, unless appropriate limitations are imposed.

⁷ GRC Order ¶ 449 (emphasis added).

⁸ WAC 480-07-355(3).

⁹ RCW 35.05.443(1).

¹⁰ *Id.*

7. Notably, the Tribe’s “unique and distinct evidence” has no further description or explanation, and the Tribe even notes that it intends to present evidence already presented in the 2022 GRC, including evidence related to its disagreement with the benefits of the LNG Facility.¹¹ The Tribe is not hiding its intentions here; it wants to present evidence or arguments already disposed of in prior proceedings to obfuscate this process. The Commission has a significant need for judicial economy in administration of its proceedings, and the Commission has appropriately and expressly limited parties’ intervention in similar situations.¹² As it has in similar cases, the Commission should set clear boundaries around the Tribe’s participation in this case.¹³ Otherwise, the Tribe’s intervention will impair the orderly and prompt conduct of the proceeding.
8. If the Tribe is authorized to intervene, its participation and use of discovery should be limited to a narrow subset of interests identified in its Petition, and the Tribe should be expressly instructed not to expand the issues beyond those in this proceeding or those already addressed by the 2022 GRC.

RESPECTFULLY SUBMITTED this 23rd day of June, 2023.

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¹¹ Petition at ¶ 5.

¹² *Wash. Utils. & Transp. Comm'n v. Avista Corp. d/b/a Avista Utilities*, Order 03 at ¶ 17 (Nov. 20, 2017) (expressly declining to consider certain issues raised by intervenor and limiting scope of intervention).

¹³ *Id. See also, In the Matter of the Joint Application of Verizon Commc'ns Inc. & Frontier Commc'ns Corp. for an Order Declining to Assert Jurisdiction over, or, in the Alternative, Approving the Indirect Transfer of Control of Verizon Nw. Inc.*, Docket UT-090842, Order 05 at ¶ 26 (Sept. 10, 2009).