

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKETS UE-220066 and UG-  
220067 (*Consolidated*)

ORDER 05

GRANTING AMENDED PETITION  
TO INTERVENE

**BACKGROUND**

- 1 On January 31, 2022, Puget Sound Energy (PSE or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-60, Tariff G, Electric Service, and its currently effective Tariff WN U-2, Natural Gas.
- 2 On February 28, 2022, the Commission convened a virtual prehearing conference before administrative law judge Michael S. Howard.
- 3 On March 1, 2022, Fred Meyer Stores Inc. and Qualify Food Centers, Divisions of The Kroger Co., (Kroger) filed a Petition to Intervene in this proceeding (Petition). Kroger submits that it is one of the largest retail food companies in the United States and that it operates approximately 66 grocery stores in the State of Washington that purchase their electricity from PSE. These stores purchase more than 185 million kWh from PSE each year. Kroger submits that it has a substantial and vital interest in the outcome of this proceeding, which cannot be adequately represented by any other party.
- 4 On March 2, 2022, the Commission issued a Notice of Opportunity to Respond to Kroger's Late-Filed Petition to Intervene.
- 5 That same day, Kroger filed an Amended Late-Filed Petition to Intervene (Amended Petition). Kroger asserts that it had good cause for filing an untimely petition to intervene. Kroger notes that it was not aware of this proceeding until February 25, 2022,

and that its counsel was not able to review the docket until March 2, 2022. Kroger submits that it has no intention of unreasonably broadening the issues and that it will accept the procedural schedule as it stands.

6 On March 7, 2022, PSE filed a Response to the Amended Petition to Intervene. PSE indicated that it had no objection to the Amended Petition.

7 That same day, Staff filed a Response to the Amended Petition, indicating that Staff did not object.

8 On March 8, 2022, the Public Counsel Unit of the Attorney General’s Office (Public Counsel) filed a Response to the Amended Petition, indicating that Public Counsel did not object.

### DISCUSSION

9 We grant Kroger’s Amended Petition. The Administrative Procedure Act (APA) states that a presiding officer may grant a petition to intervene in an adjudication “upon determining that the petitioner qualifies as an intervenor under any provision of law and that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.”<sup>1</sup> Commission rules provide the presiding officer with discretion to grant intervention “[i]f the petition discloses a substantial interest in the subject matter of the hearing or if the petitioner’s participation is in the public interest.”<sup>2</sup> The Commission may grant a petition to intervene filed after the prehearing conference if the intervenor “only on a showing of good cause, including a satisfactory explanation of why the person did not timely file a petition to intervene.”<sup>3</sup> In addition, “the presiding officer may impose conditions upon the intervenor’s participation in the proceedings.”<sup>4</sup>

10 Kroger has demonstrated a substantial interest in this proceeding. Kroger established good cause for its late-filed Petition because it was not aware of this proceeding until February 25, 2022. Nor do any statutory parties object to Kroger’s Amended Petition. Because Kroger will accept the procedural schedule as it stands and provided reassurance that it does not intend to unreasonably broaden the issues in this proceeding, we conclude it is not necessary to impose conditions on Kroger’s participation at this time.

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<sup>1</sup> RCW 34.05.443(1).

<sup>2</sup> WAC 480-07-355(3).

<sup>3</sup> WAC 480-07-355(1)(b).

<sup>4</sup> RCW 34.05.443(2); *accord* WAC 480-07-355(3).

- 11 We observe, however, that Kroger did not attempt to show good cause for its late-filed Petition until the Commission issued the Notice. Even then, the Amended Petition contains relatively little detail and appears inaccurate. The Amended Petition states that Kroger was not able to review the docket in this proceeding until March 2, 2022. This cannot be correct because this is the day *after* Kroger filed its Petition. Going forward in this proceeding, the parties should be mindful of the Commission’s standards for establishing “good cause.”

**ORDER**

- 12 **THE COMMISSION ORDERS That Kroger’s Amended Petition is GRANTED.**

DATED at Lacey, Washington, and effective March 16, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Michael S. Howard  
MICHAEL HOWARD  
Administrative Law Judge

**NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 10 days of the service of this Order pursuant to WAC 480-07-810.**