

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

<p>BELLINGHAM COLD STORAGE COMPANY and GEORGIA-PACIFIC WEST, INC.,</p> <p style="text-align: right;">Complainants,</p> <p style="text-align: center;">v.</p> <p>PUGET SOUND ENERGY,</p> <p style="text-align: right;">Respondent.</p>	<p>No. UE-001014</p> <p>PETITION TO INTERVENE OF PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY</p>
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1. Name and address of petitioner:

Tom Anderson
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Public Utility District No. 1 of Whatcom County
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Ferndale, WA 98248
Business: (360) 384-4288 x12
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2. Name and address of attorney representing petitioner:

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3. Identity of petitioner:

Public Utility District No. 1 of Whatcom County (the “District”) is a public utility district authorized by RCW Title 54 to provide retail electric services to customers inside and outside its boundaries. The District owns and operates facilities in Whatcom County, Washington.

4. Petitioner’s participation in other WUTC cases:

The District has not participated in any WUTC docket in the last two years.

5. Petitioner’s interest in this proceeding:

A. The District is a party to Electric Utility Services Agreements dated January 14, 2000 (“the Agreements”). Under the Agreements, the District is to provide retail electric service to Bellingham Cold Storage Company and Georgia-Pacific West, Inc. (“Complainants”) upon the expiration of their current service arrangements with Puget Sound Energy (“PSE”).

B. The District expects to begin providing electric services under the Agreements on or about May 31, 2001.

C. In order to implement the Agreements, the District has contracted for engineering and construction services to build new facilities to provide electric service to Complainants. As an alternative to the construction of some or all of the new facilities, the District has sought to acquire existing facilities owned by PSE, and to obtain wholesale transmission service under PSE’s Open Access Transmission Tariff (“OATT”). The District has not formally sought to exercise its powers of condemnation to acquire existing facilities, nor has the District formally applied for wholesale transmission under the OATT. PSE has stated its unqualified opposition to either action, and the District believes a contested effort will be costly and time-consuming. Complainants have also sought to obtain transmission services as required under the Special Contracts so that the District can deliver power to Complainants under the Agreement.

6. Issues To Be Raised:

A. The District believes that PSE’s refusal to honor its transmission service commitment to Complainants is part of a persistent pattern of conduct intended to interfere with and obstruct the

District's ability to provide competitive electric services under the Agreements. As described in the Complaint, PSE has refused Complainants' requests for contracts for transmission services as required by the Special Contracts. In addition, PSE has refused the District's request for transmission service and its offer to acquire the necessary facilities to provide service under the Agreements. PSE has also opposed the District's efforts to obtain required permits and consents for its construction project and pursued an aggressive campaign in Whatcom County to prevent the District from implementing the Agreements. PSE's campaign against Complainants and the District has involved an extensive public relations effort and intimidation of persons doing business with the District.

B. By refusing to tender transmission contracts to the Complainants as alleged in their Complaint and otherwise obstructing the District's obligation to provide electric service to the Complainants, PSE's conduct violates the public policy of the State of Washington and the policies of this Commission.

C. Monopolies are not allowed in the State of Washington. Const. Art. 12, § 22. The Commission may not grant a monopoly or exclusive territory to PSE. *In re Electric Lightwave, Inc.*, 123 Wn. 2d 530 (1994). The legal framework for competition thus exists in Washington.

D. The Commission's policy as stated in its Guiding Principles for Regulation in Electric Industry issued on December 11, 1995 ("Guiding Principles") recognized that where electric service can be made available at affordable prices through fair and efficient competition, "competition should be accommodated and encouraged." The Agreements between the District and the Complainants provide for competitive electric service that is both fair and efficient.

E. PSE's proposed construction of the Special Contracts would further PSE's existing monopoly in transmission service. The transmission facilities necessary for the District to serve Complainants under the Agreements constitute an essential facility. Without transmission service, Complainants have no competitive options. The Commission's Orders approving the Special

Contracts specifically provide that Complaints have “no expectation of access to power resources” after the expiration of the Contracts. PSE’s refusal to provide transmission service thus leaves Complaints solely at the mercy of the monopolist.

F. PSE’s refusal to tender transmission contracts to the Complainants as alleged in the Complaint thus is part of an unlawful pattern and practice of (1) obstructing competition in violation of the public policy of Washington and the Guiding Principles announced by this Commission; (2) interference with contractual Agreements between the District and Complainants; (3) interference with the District’s legitimate business expectations; and (4) unfair competition.

7. Testimony and Witnesses

The District has not decided at this time whether to submit written testimony or exhibits or call witnesses, but reserves the right to do so. The District intends to cross-examine the witnesses called by other parties and to submit written argument.

8. The undersigns submit this Petition to Intervene and request authorization to participate in this proceeding.

DATED this 18th or 18th day of July, 2000.

PRESTON GATES & ELLIS LLP

By _____
Carol S. Arnold, WSBA # 18474
Douglas H. Rosenberg, WSBA # 11951
Attorneys for Petitioner
Public Utility District No. 1 of Whatcom County

STATE OF WASHINGTON)
) SS.
COUNTY OF KING)

I, Carol S. Arnold, affirm that this Petition is true and complete to the best of my knowledge and belief.

Carol S. Arnold
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Petition to Intervene upon all parties of record in this proceeding, via facsimile, simultaneously by U.S. mail, as follows:

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DATED: July 17, 2000.

Jo Ann Sunderlage
Secretary to Carol S. Arnold