

BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	DOCKET NO. UE-111701
TRANSPORTATION COMMISSION,)	
)	PETITION TO INTERVENE AND
Complainant,)	COMMENTS OF THE INDUSTRIAL
)	CUSTOMERS OF NORTHWEST
v.)	UTILITIES
)	
PUGET SOUND ENERGY, INC.,)	
)	
Respondent.)	
_____)	

1 Pursuant to WAC § 480-07-355, the Industrial Customers of Northwest Utilities (“ICNU”) hereby petitions the Washington Utilities and Transportation Commission (“WUTC” or “Commission”) for leave to intervene in the above-referenced Docket, as an intervenor with full party status as described in WAC § 480-07-340. The business address of ICNU is:

Industrial Customers of Northwest Utilities
333 SW Taylor, Suite 400
Portland, OR 97204

ICNU further requests that the Commission set this matter for hearing pursuant to WAC § 480-07-930(5)(d). ICNU will be represented in this proceeding by Davison Van Cleve, P.C. All documents relating to these proceedings should also be served on ICNU’s attorneys and consultant at the following addresses:

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2 The administrative rules at issue are WAC §§ 480-07-340, -355.

3 ICNU is an incorporated, non-profit association of large industrial electric
customers in the Pacific Northwest. Many members of ICNU purchase power and power
delivery services from Puget Sound Energy (“PSE” or the “Company”), as indicated on
Attachment A. ICNU has been a party to many proceedings before the Commission
involving PSE, including PSE’s most recent general rate cases (UE-090704, UE-111048),
and PSE’s 2001 Declaratory Order Petition involving the same facilities at issue in the
current proceeding (UE-010010).

4 ICNU’s member companies have a substantial interest in PSE’s petition
for a declaratory order for proposed reclassification of the Company’s Washington Area
wholesale distribution facilities (55kV – 115kV) as transmission facilities. The proposed
reclassification would substantially and directly affect those of ICNU’s members who
purchase power, transmission and/or distribution services from PSE, as well as ICNU’s
members who purchase power from third parties under PSE’s direct access program.
ICNU requests leave to intervene in this proceeding to represent its members who are
affected by the proposed reclassification.

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ICNU has extensive experiences involving PSE's filings at the WUTC. ICNU participated in the original proceedings that classified these facilities as distribution facilities, and has participated in numerous PSE rate proceedings, including, but not limited to: UE-040641, UE-050870, UE-060266, UE-090704, and UE-111048. ICNU believes its participation in this proceeding will assist the Commission. Furthermore, ICNU's intervention in this proceeding will not unreasonably broaden the issues, burden the record, or delay this proceeding.

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As described above, ICNU has a direct and substantial interest in this proceeding that will not be adequately represented by any other party, and may be affected by any Commission determination made in connection with this proceeding. It is in the public interest to allow ICNU to intervene in this proceeding. ICNU, therefore, requests that the Commission grant its Petition to Intervene and make ICNU a party to this proceeding.

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Additionally, ICNU submits the following comments in response to the Commission's Notice of Receipt of Petition for Declaratory Order and Opportunity to Submit Statements of Fact and Law dated September 23, 2011.

8

As an initial matter, ICNU is concerned that some of the listed substations proposed to be reclassified from distribution to transmission facilities appear to be customer-owned substations. For example, a non-exclusive listing of such facilities within Exhibit B to PSE's Petition possibly includes: ARCO Central, ARCO North, ARCO South, Boeing Auburn, Boeing Puyallup, Boeing Renton No. 1, Boeing Renton

No. 2, Liquid Air, March Point, Olympia Brewery, SeaTac, Texaco East, Texaco West, U.S. Navy Bangor, U.S. Navy Keyport, and West Campus.

9 The reclassification of so many customer distribution substations to transmission facilities seems inappropriate. As the Company rightly acknowledges, classification of transmission and distribution facilities “may lead to uncertainty and potential conflicts regarding the boundaries of federal/state jurisdiction and to inequities in the recovery of costs.” Petition at ¶¶ 7, 18. The potential for uncertainty and inequity in the Company’s petition is compounded by the lack of any financial data as to ratepayer impact, as well as an application of the Federal Energy Regulatory Commission’s (“FERC”) seven-factor test in defining distribution facilities.

10 Accordingly, ICNU recommends that the Commission delay a determination upon PSE’s petition in order to allow parties more time to investigate the Company’s proposal and supporting rationale. In addition, ICNU respectfully requests that the Commission set a hearing date to allow all parties to present their conclusions following such an appropriate period of discovery and careful analysis.

11 As the Company recognizes, the seven-factor FERC distribution test “is not rigid and is intended to be flexible to account for unique regional or local conditions.” Petition at ¶ 9. In other words, the analysis presently before the Commission necessitates a nuanced, fact-intensive determination that invites subjective interpretation—precisely the sort of determination for which a hearing is appropriate, affording the Commission the fullest possible opportunity to consider all pertinent information.

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Quite contrary to the highly specific and localized distribution standard, however, PSE primarily supports the reclassification of its distribution facilities to transmission by analogy to a recent FERC order reviewing facilities in Iowa. Petition at 12–17 (citing City of Pella, Iowa v. Midwest Indep. Transmission Sys. Operator, Inc. & MidAmerican Energy Co., 134 FERC ¶ 61,081 (2011)). Similarly, the “bright-line standard” upon which the Company relies to reclassify all facilities of 100kV or more is, by the Company’s own concession, under challenge in federal court. Petition at ¶ 38.

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The Company’s reversal of its position in UE-010010 is cause enough for proceeding cautiously, wherein the same facilities reclassified as distribution in 2001 would now be re-reclassified back as transmission. Moreover, a hearing will allow the Commission to fully consider the extent of the changes PSE has requested, including the critical question of the total investment amount subject to reclassification. Ultimately, a hearing is justified solely on the basis of the Company’s failure to address the financial implications of its petition. Given the complexity of the issues presented, customers should be given an opportunity to form independent conclusions regarding whether all of the facilities identified truly meet the FERC seven-part test.

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WHEREFORE, ICNU respectfully petitions the Commission for leave to intervene in this proceeding and requests that the Commission delay determination on the petition and schedule a hearing date to afford a full and fair consideration of the issues in this case.

Dated in Portland, Oregon, this 30th day of September, 2011.

Respectfully submitted,

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Of Attorneys for Industrial Customers
of Northwest Utilities

ATTACHMENT A
MEMBERS OF INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES

*Air Liquide
*Air Products
*Amcors PET Packaging USA, Inc. (CNC Containers Northwest)
Certain Teed Gypsum & Ceiling Manufacturing, Inc. (BPB)
*Boeing
Boise Cascade, LLC
Boise Paper
ConAgra Foods
Dyno Nobel, Inc.
Eka Chemicals, Inc.
Emerald Performance Materials, LLC
Equa-Chlor, LLC
Evanite Fiber
Evraz, Inc.
Freres Lumber Co.
Georgia-Pacific
Hewlett-Packard
Inland Empire Paper Co.
*Intel
International Paper
J.R. Simplot
Kimberly-Clark Corporation
Linde, Inc.
Longview Fibre
*Microsoft Corporation
Norpac Foods
PCC Structurals, Inc.
Ponderay Newsprint
REC Solar Grade Silicon LLC
*Shell Oil Products US
Simpson Paper & Timber
SP Newsprint
*Tesoro Refining and Marketing Co.
Timber Products, Inc.
Wah Chang
West Linn Paper Company
*Weyerhaeuser

*Members served by Puget Sound Energy