



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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September 20, 2022

NOTICE OF BENCH REQUEST
(Due by Tuesday, September 27, 2022, at 5 p.m.)

RE: *Washington Utilities and Transportation Commission v. Puget Sound Energy*,
Dockets UE-220066, UG-220067, and UG-210918 (Consolidated)

TO SIERRA CLUB:

BENCH REQUEST NO. 1:

On August 26, 2022, Sierra Club filed testimony from its witness Gloria D. Smith in support of the partial multiparty settlements in this proceeding, marked as Exhibits GDS-1T and GDS-2.

Washington Rule of Professional Conduct (RPC) 3.7(a) provides that “[a] lawyer shall not act as an advocate at a trial in which the lawyer is likely to be a witness unless: (1) the testimony relates to an uncontested issue; (2) the testimony relates to the nature or value of legal services rendered in the case; (3) disqualification of the lawyer would work a substantial hardship on the client; or (4) the lawyer has been called by the opposing party and the court rules that the lawyer may continue to act as an advocate.” Comments 1, 2, and 3 to RPC 3.7 indicate that the rule applies to a “tribunal.”

Gloria D. Smith notes that she is the Managing Attorney for Sierra Club. Smith, Exh. GDS-1T at 1:3. She has also appeared as a representative of record for Sierra Club in this proceeding. On February 18, 2022, Gloria D. Smith appeared as representative of record in Sierra Club’s Petition to Intervene.

1. Please explain how Gloria D. Smith may act as both a representative and a witness in this proceeding consistent with Washington RPC 3.7.
2. If Sierra Club submits that Washington RPC 3.7 does not apply to this proceeding, please explain this conclusion with citations to relevant case law or other materials.

Please respond to these Bench Requests no later than Tuesday, September 27, 2022, by 5 p.m., by electronic filing with the Commission's Records Center. Please provide courtesy email copies to all parties and the presiding administrative law judge. If you have any questions concerning these requests, please contact Administrative Law Judge Michael Howard at 360-664-1139 or via email at michael.howard@utc.wa.gov.

/s/ Michael Howard

MICHAEL HOWARD

Administrative Law Judge

cc: All Parties