

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of:

KING COUNTY, WASHINGTON, BNSF
RAILWAY, FRONTIER
COMMUNICATIONS NORTHWEST,
INC.,
VERIZON WIRELESS, AND NEW
CINGULAR WIRELESS PCS, LLC.

For an Order Requiring Puget Sound Energy
to Fund Replacement of Electric Facilities

NO. UE-141335

PSE'S MOTION TO STRIKE
PETITIONERS' REPLY

I. INTRODUCTION

1. Puget Sound Energy, Inc., (“PSE”), by and through its undersigned counsel, hereby moves to strike the Reply filed by King County, Washington, BNSF Railway, Frontier Communications Northwest, Inc., Verizon Wireless, and New Cingular Wireless PCS, LLC (collectively, “Petitioners”) on September 25, 2015 (“Reply”). Petitioners’ Reply should be stricken because it is a transparent attempt to extend their argument in favor of administrative review of Order 03. The Commission rule at issue is WAC 480-07-375(1)(d) (motions to strike).

II. DISCUSSION

2. A party who wishes to challenge any finding of fact, conclusion of law, remedy, or result proposed by an initial order may file a petition for administrative review. *See*

WAC 480-07-825(1). Any party may answer that petition for administrative review. *See* WAC 480-07-825(4)(a). A party may not reply to an answer unless responding to new challenges to the order or unless the Commission grants leave to file a reply. *See* WAC 480-07-825(5). In requesting leave to file a reply, the petitioner must cite new matters raised in the answer and state why those matters were not reasonably anticipated and why a reply is necessary. *See* WAC 480-07-825(5)(b). Petitioners claim that PSE challenged Order 03, and Petitioners filed a “reply” as an ostensible answer to PSE’s “challenge”. In doing so, Petitioners have created an opportunity to further their argument for administrative review. But PSE does not challenge Order 03 and Petitioners did not request leave to reply to PSE’s Answer. Accordingly, the Petitioners are not entitled to reply to PSE’s Answer, and the Commission should strike it.

3. Contrary to challenging Order 03, PSE’s Answer expressly supports it. *See* PSE’s Answer at ¶1. PSE states multiple times that Order 03 is supported by substantial evidence and the Commission should adopt the findings of fact and conclusions of law set forth in Order 03 as its own. *See id.* at ¶¶1 and 17. The Petitioners attempt to have the last word in this argument by manufacturing a “challenge” to the order where there is mere disagreement with a portion of Order 03’s analysis. But at no time does PSE challenge the Order, and no reasonable interpretation of PSE’s Answer could result in such conclusion. In its Answer, PSE states that it disagrees with Judge Kopta’s decision to apply a fact specific analysis to determine cost responsibility rather than resolving the issue through PSE’s general tariff,

Schedule 80. *See id.* at ¶16. PSE expressly states that it supports both the factual analysis and Judge Kopta's conclusion: "Order 03, however, does apply a fact-specific analysis and correctly arrives at the same conclusion. Such analysis is supported by substantial evidence in the record and is supported by relevant case law." *Id.* The point of PSE's disagreement was simply that the fact-specific analysis was unnecessary. In no way is that a challenge to the analysis or to Order 03.

III. CONCLUSION

4. The Commission should reject the Petitioners' attempt to create an opening to further their arguments. PSE respectfully requests that the Commission strike the Petitioners' Reply.

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By 

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