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**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**IN THE MATTER OF THE JOINT
APPLICATION OF PUGET SOUND
ENERGY, ALBERTA INVESTMENT
MANAGEMENT CORPORATION,
BRITISH COLUMBIA INVESTMENT
MANAGEMENT CORPORATION,
OMERS ADMINISTRATION
CORPORATION, AND PGGM
VERMOGENSBEHEER B.V. FOR AN
ORDER AUTHORIZING PROPOSED
SALES OF INDIRECT INTERESTS
IN PUGET SOUND ENERGY**

Docket U-180680

**JOINT APPLICANTS' RESPONSE
IN OPPOSITION TO THE
PETITION TO INTERVENE OF J.
RICHARD LAUCKHART**

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I. INTRODUCTION

I. Pursuant to WAC 480-07-355 and WAC 480-07-810, Puget Sound Energy (“PSE”), together with the Alberta Investment Management Corporation (“AIMCo”), the British Columbia Investment Management Corporation (“BCI”), OMERS Administration Corporation (“OMERS”), and PGGM Vermogensbeheer B.V. (“PGGM”) (together, PSE, AIMCo, BCI, OMERS and PGGM are referred to as the “Joint Applicants”), respond and object to the Petition for Administrative Review of an Interlocutory Order Denying Intervention (“Petition”) of J. Richard Lauckhart (“Mr. Lauckhart”). The Petition should be denied because the Presiding Officer properly denied Mr. Lauckhart’s petition for intervention. Mr. Lauckhart does not have a substantial interest in the proceeding that is not already represented by another party and his intervention is not in the public interest.

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II. ARGUMENT

2. The Presiding Officer properly denied Mr. Lauckhart’s petition for intervention. Washington’s Administrative Procedures Act provides presiding officers with discretion to grant a petition to intervene “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.”¹ Under the Commission’s rules, WAC 480-07-355(3) provides that intervention is only permissible if the petitioner has a substantial interest in the proceeding or if the petitioner’s proceeding is in the public interest. Neither of these grounds warrant Mr. Lauckhart’s intervention.

A. Mr. Lauckhart Does Not Have a Substantial Interest in the Proceeding.

3. The Presiding Officer correctly determined that Mr. Lauckhart does not have a substantial interest in the proceeding. The Commission applies a “zone of interest test” to determine whether a party seeking intervention has a substantial interest.² Such an interest can be found to exist only when there is a nexus between the petitioner’s stated purpose in seeking to intervene and an interest protected by a Washington statute within the Commission’s jurisdiction that is presently before the Commission.³ In this proceeding, the Commission must determine under RCW Chapter 80.12 (Transfers of Property) whether the transfer

¹ RCW 35.04.443(1).

² *In Re Joint Application of Verizon Commc’ns, Inc. & Frontier Commc’ns Corp. for an Order Declining to Assert Jurisdiction Over, or, in the Alternative, Approving the Indirect Transfer of Control of Verizon Nw., Inc.*, Docket UT-090842, Order 05 ¶ 14 (Sept. 10, 2009).

³ *In Re Joint Application of Verizon Commc’ns, Inc. & Frontier Commc’ns Corp.*, Order 05 ¶ 14.

1 of a 43.99 percent interest in Puget Holdings (the “Proposed Transactions”)
2 satisfy the public interest standard, which requires a showing that the proposed
3 transactions will not harm the public interest.⁴

4 4. The specific concerns that Mr. Lauckhart has repeatedly raised in his
5 comments, petitions, and proposed commitments, all relate primarily to his
6 disagreement regarding various transmission planning issues and have nothing to
7 do with the Proposed Transactions.⁵ Transmission planning is not presently before
8 the Commission but rather can be addressed by Mr. Lauckhart in the ongoing
9 rulemaking by the Commission in Docket U-161024 or in other proceedings.⁶ The
10 specific issues Mr. Lauckhart has raised are simply not before the Commission in
11 this proceeding and thus, Mr. Lauckhart cannot show a substantial interest that
12 warrants his intervention.

13 5. Moreover, Mr. Lauckhart does not have a substantial interest in this
14 proceeding because his interests are no different from any other residential
15 customer. Mr. Lauckhart does not represent any other PSE customer and like any
16 other customer, the proper forum for Mr. Lauckhart to submit his comments or
17 concerns is through the written and oral public comment process, which Mr.

⁴ See RCW 80.12.020; see also *In the Matter of the Joint Application of Puget Sound Energy, Alberta Inv. Mgmt. Corp., British Columbia Inv. Mgmt. Corp., OMERS Admin Cor., & PGGM Vermogensbeheer B.V. for an Order Authorizing Proposed Sales of Indirect Interests in Puget Sound Energy*, Docket U-180680, Order 01 ¶ 39 (Nov. 9, 2018).

⁵ Petition at ¶¶ 8-9.

⁶ See Joint Applicants’ Response in Opposition to the Petition to Intervene of J. Richard Lauckhart, Docket U-180680, at ¶¶ 6-14 (Nov. 14, 2018).

1 Lauckhart has done.⁷ The Presiding Officer correctly found that as a residential
2 customer, Mr. Lauckhart cannot show a nexus to his interests in this proceeding
3 that warrant his intervention as a party because the interests of residential
4 customers are already adequately represented by Public Counsel.⁸

5 6. Notably, Mr. Lauckhart appears to concede that he does not have a
6 substantial interest in this proceeding as he makes no attempt in his Petition to
7 argue as such and his Petition should be denied on this ground.

8 **B. Mr. Lauckhart’s Intervention Is Not in the Public Interest**

9 7. Mr. Lauckhart argues that his intervention is warranted because his
10 participation would be in the public interest. However, as discussed above, the
11 issues that Mr. Lauckhart seeks to raise are beyond the scope of this proceeding
12 and would distract from the narrow issue in this case, which is whether the
13 Proposed Transactions are in the public interest. In order for the parties to adhere
14 to the strict timetable in this proceeding, it is critical that only issues that are
15 centrally focused on the Proposed Transactions be addressed.

16 8. As discussed previously, Mr. Lauckhart seeks to use this proceeding to
17 launch yet again another challenge to various transmission planning projects
18 because his prior challenges to such projects have failed to receive any traction.⁹
19 Incorporating these issues would inappropriately complicate this proceeding and

⁷ Petition at ¶ 5.

⁸ Order 03 at ¶ 28.

⁹ See Joint Applicants’ Response in Opposition to the Petition to Intervene of J. Richard Lauckhart, Docket U-180680, at ¶¶ 6-15 (Nov. 14, 2018).

1 expand the length of time necessary to conduct this proceeding and would
2 therefore not be in the public interest.

3 9. Moreover, Mr. Lauckhart has failed to state any individual, entity, or
4 groups thereof that he seeks to represent and simply alleges that he seeks to
5 represent PSE customers in general as a de facto private attorney general. As
6 stated above, such a role is inappropriate because PSE customers are already
7 adequately represented by Public Counsel. Mr. Lauckhart suggests that Public
8 Counsel supports his intervention. This is incorrect. As conceded by Mr.
9 Lauckhart, Public Counsel has not retained Mr. Lauckhart as an expert witness as
10 he desires, and Public Counsel has stated that it takes no position on Mr.
11 Lauckhart's intervention.¹⁰

12 10. Accordingly, the Presiding Officer correctly determined that Mr.
13 Lauckhart's intervention would not be in the public interest because his interests
14 are already represented by Public Counsel.¹¹ The very purpose of Public Counsel
15 is to represent the interests of customers, which includes Mr. Lauckhart. His
16 comments submitted in the proceeding have been duly noted and are incorporated
17 into the record, but his individual participation is not warranted, and the Presiding
18 Officer properly denied his intervention.

¹⁰ Public Counsel letter to Mr. Johnson in Docket U-180680 (Dec. 4, 2018).

¹¹ Order 03 at ¶ 29.

1 **III. CONCLUSION**

2 *II.* For the reasons set forth above, the Commission should affirm the
3 Presiding Officer’s decision and deny the Petition because Mr. Lauckhart does not
4 have a substantial interest in the proceeding nor would his participation be in the
5 public interest.

6 Dated: December 6, 2018.

7 **Respectfully submitted,**

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