

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

Docket UE-141335

**PETITIONERS' RESPONSE IN
OPPOSITION TO PSE'S MOTION
TO STRIKE PETITIONERS'
REPLY**

I. INTRODUCTION

1. On September 8, 2015, Petitioners King County, Washington, BNSF Railway, Frontier Communications Northwest, Inc., Verizon Wireless, and New Cingular Wireless PCS, LLC ("Petitioners") filed a Petition for Administrative Review of Order 03 (the "Initial Order"). On September 18, 2015, Puget Sound Energy ("PSE") filed its answer, both responding to the arguments raised in the Petition for Administrative Review and also asserting a new challenge to the Initial Order. Specifically, PSE asserted that the Initial Order erred in refusing to rely on the economic feasibility provision of PSE's general tariff, Schedule 80.
2. Pursuant to WAC 480-07-825(5)(a), Petitioners timely filed a reply by right that was narrowly tailored to the new challenge asserted in PSE's answer. Attempting to deny Petitioners this right, PSE has asked the Commission to strike Petitioners' reply. PSE's request is baseless and must be denied.

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STRIKE PETITIONERS' REPLY

II. DISCUSSION

3. Under WAC 480-07-825(5)(a), a “party has the right to reply to new challenges to the [initial order] that are raised” by the answering party. In their answer, PSE argues that “Order 03 *erred* in determining that PSE’s tariffs are not dispositive of whether PSE must pay to replace the Maloney Ridge line. PSE’s tariffs clearly establish that PSE may refuse to incur costs for a project that is economically unfeasible, and *it was error* to conclude otherwise.”¹ PSE further stated, “[t]he point on which PSE disagrees with Order 03, however, is in its analysis of the economic feasibility provision of PSE’s general tariff, Schedule 80” and that it was “*erroneous* to apply” a fact-specific analysis.²
4. Despite arguing multiple times in its answer that the Initial Order *erred* with respect to the economic feasibility provision of Schedule 80—an argument that was not raised in the Petition for Administrative Review—PSE somehow contends that it only raised a “mere disagreement” and not a new challenge.
5. PSE’s argument falls flat. Although PSE did not challenge the ultimate conclusion of the Initial Order, PSE did challenge the Initial Order’s analysis and conclusion of PSE’s economic feasibility argument. As a result, Petitioners were entitled under WAC 480-07-825(5)(a) to address this new challenge in their reply.

III. CONCLUSION

¹ PSE’s Answer ¶ 12 (emphasis added.)

² *Id.* ¶ 16.

6. Petitioners respectfully request that the Commission deny PSE's Motion to Strike Petitioners' Reply.

DATED in Portland, Oregon, this 2nd day of October, 2015.

Respectfully submitted,

s/ Chad M. Stokes

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CERTIFICATE OF SERVICE

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I HEREBY CERTIFY that I have this day served the foregoing upon all parties of record (listed below) in this proceeding by mailing a copy properly addressed with first class postage prepaid.

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