

**BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

In the matter of

Investigation to consider the need for
commission guidance on utility funding
for organizations to participate in
commission proceedings

DOCKET NO. U-210595

NORTHWEST & INTERMOUNTAIN
POWER PRODUCERS COALITION
COMMENTS

I. INTRODUCTION

The Northwest & Intermountain Power Producers Coalition (“NIPPC”)¹ appreciates this opportunity to submit comments to the Washington Utilities and Transportation Commission (the “Commission”) on the Commission’s examination of intervenor funding pursuant to SB 5295.² NIPPC provides these comments in response to Question 1 in the Commission’s August 19, 2021 Notice of Opportunity to Comment, regarding how the Commission should interpret the statutory phrases “broad customer interests” and “regulatory proceedings” for purposes of intervenor funding.³

In both cases, NIPPC recommends that the Commission adopt a broad interpretation and specifically recognize that customers include interconnection

¹ NIPPC is a trade association whose members and associate members include independent power producers (“IPPs”) active in the Pacific Northwest and Western energy markets. The purpose of NIPPC is to represent the interests of its members in developing rules and policies that help achieve a competitive electric power supply market in the Pacific Northwest. NIPPC’s members include IPPs which buy interconnection services from utilities.

² Engrossed Substitute Senate Bill (“SB”) 5295, Chapter 188, Laws of 2021.

³ Notice of Opportunity to File Written Comments at 2.

customers, and that intervenor funding is appropriate for many different types of proceedings.

NIPPC is not commenting on Questions 2 through 14 at this time, but NIPPC reserves the right to respond to other questions or comments at the next stage in the proceeding. However, NIPPC wants to explicitly recognize that the new intervenor funding law requires that “[o]rganizations representing vulnerable populations or highly impacted communities must be prioritized for funding.”⁴ The Commission should not authorize intervenor funding for customer organizations that represent industrial, commercial and interconnection customers until after the Commission has appropriately prioritized organizations representing vulnerable populations or highly impacted communities.

II. COMMENTS

On August 19, 2021, the Commission filed a Notice of Opportunity to File Written Comments inquiring as to how the Commission should interpret the phrases “broad customer interests” and “regulatory proceedings” in Section 4(1) of SB 5295, which states in full that:

A gas company or electrical company shall, upon request, enter into one or more written agreements with organizations that represent broad customer interests in regulatory proceedings conducted by the commission, subject to commission approval in accordance with subsection (2) of this section, including but not limited to organizations representing low-income, commercial, and industrial customers, vulnerable populations, or highly impacted communities. The agreement must govern the manner in

⁴ Engrossed Substitute SB 5295, Section 4(4).

which financial assistance may be provided to the organization. ...⁵

In other words, SB 5295 obligates Washington’s utilities to enter into intervenor funding agreements with “organizations that represent broad customer interests in regulatory proceedings conducted by the commission,” and the Commission is asking who should receive intervenor funding. SB 5295 provides examples of the types of organizations eligible, but the clear statutory text provides that intervenor funding should be available to eligible groups “including but not limited to” those examples.⁶

NIPPC recommends that the Commission broadly interpret the statutory text to enable maximum stakeholder participation across dockets. In particular, NIPPC recommends that the Commission recognize that the word “customer” includes interconnection customers broadly.

NIPPC notes in the interest of transparency that NIPPC’s members include interconnection customers, and NIPPC may seek intervenor funding to represent interconnection customers in relevant Commission proceedings. NIPPC understands that under SB 5295, NIPPC would *not* be eligible to obtain intervenor funding related to the majority of proceedings that NIPPC currently participates in before the Commission. NIPPC represents independent power producers broadly on a variety of issues related to competitive procurement, requests for proposals, direct access, resource adequacy, transmission service *and* interconnection service. NIPPC understands that the only activities that NIPPC participates in that would qualify under SB 5295 are those related

⁵ Engrossed Substitute SB 5295, Section 4(1).

⁶ Engrossed Substitute SB 5295, Section 4(1).

to NIPPC’s advocacy for interconnection customers, which would be a small subset of Commission proceedings.

NIPPC’s recommendation is consistent with current interpretations of the word customer. The Commission has defined “customer” to mean “any person, corporation, partnership, government agency, or other entity that has applied, or is named as a person having joint responsibility, for service and that has been accepted, and is currently receiving or is entitled to receive such service.”⁷ In other words, customers are individuals or entities that receive a service or product from a utility. When individuals and companies pay utilities to study their generation interconnection requests, construct interconnection facilities, and facilitate interconnected operations (i.e., provide interconnection service) to their generators, it is self-evident that those individuals and companies are “currently receiving or [are] entitled to receive such service.” Thus, interconnection customers who purchase interconnection services provided by utilities would be considered “customers” under the Commission’s current regulations. Furthermore, federal law has recognized that independent power producers are utility customers that have the right to procure interconnection services from utilities since at least 1978,⁸ and the utilities’ own *pro forma* Open Access Transmission Tariffs define

⁷ WAC 480-100-023.

⁸ *E.g.*, Public Utility Regulatory Policies Act of 1978, P. L. 95-617 Sec. 111(15) (codified at 16 U.S.C. 2621(15)) (“Each electric utility shall make available, upon request, interconnection service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term “interconnection service” means service to an electric consumer under which an on-site generating facility on the consumer’s premises shall be connected to the local distribution facilities. Interconnection services shall be offered based upon the standards developed by the Institute of Electrical and Electronics Engineers: IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, as they may

“Interconnection Customer” as “any Eligible Customer (or its Designated Agent) that executes an agreement to receive generation interconnection service pursuant to Part IV or Part V of this Tariff.”⁹ Thus, NIPPC recommends consistency with existing interpretations.

SB 5295 allows financial assistance to “organizations that represent broad customer interests” and does not restrict the type of customers eligible for intervenor funding.¹⁰ SB 5295 does include some examples of potential entities such as “organizations representing low-income, commercial, and industrial customers, vulnerable populations, or highly impacted communities,” but it states it is “including but not limited to” those organizations.¹¹ As such, NIPPC recommends “broad customer interests” should be interpreted broadly to include all potential customer groups that receive a service from a utility, including interconnection customers.

NIPPC does not believe that the purchase of interconnection service from a utility should be treated differently than any other service purchased from a utility, whether the purchase of a commodity or of a service such as line extensions, transportation electrification infrastructure, conservation, or repair work. Thus, “broad

be amended from time to time. In addition, agreements and procedures shall be established whereby the services are offered shall promote current best practices of interconnection for distributed generation, including but not limited to practices stipulated in model codes adopted by associations of state regulatory agencies. All such agreements and procedures shall be just and reasonable, and not unduly discriminatory or preferential.”).

⁹ See, e.g., PacifiCorp’s Open Access Transmission Tariff at Section 1.15B.

¹⁰ SB 5295 Section 4(1).

¹¹ SB 5295 Section 4(1).

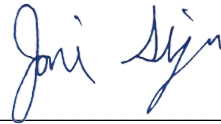
customer interests” should be interpreted to include all customers, including interconnection customers.

III. CONCLUSION

NIPPC appreciates the opportunity to submit comments and looks forward to attending the September 28, 2021 Workshop on the Commission’s examination of intervenor funding provisions for regulatory proceedings.

Dated this 10th day of September 2021.

Respectfully submitted,



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