

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET UE-152253
TRANSPORTATION	)	
COMMISSION,	)	
	)	ORDER 04
Complainant,	)	
	)	
v.	)	ORDER GRANTING NVEC’S
	)	LATE-FILED PETITION FOR
PACIFIC POWER & LIGHT	)	INTERVENTION
COMPANY,	)	
	)	
Respondent.	)	
.....	)	

1     **PROCEEDING.** On November 25, 2015, Pacific Power & Light Company (Pacific Power or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-75. The Company seeks authority to increase charges and rates for electric service in a two-year rate plan. Pacific Power’s rate filing would increase electric rates by approximately \$10 million, or 2.99 percent, effective May 1, 2016. The Company requests a second year increase in the multi-year rate plan of approximately \$10.3 million, or 2.99 percent, effective May 1, 2017. Pacific Power has also filed a proposed decoupling mechanism which includes a request to record accounting entries associated with the mechanism. The Company seeks expedited treatment of its requests.

2     The Commission convened a prehearing conference in Docket UE-152253 at Olympia, Washington, on December 22, 2015, before Administrative Law Judge Marguerite E. Friedlander. On December 29, 2015, the Commission entered Order 03, granting the timely-filed petitions of Boise White Paper, L.L.C., The Energy Project, and Sierra Club to intervene in this matter and setting a procedural schedule for processing the docket.

3 **PETITION.** On January 14, 2016, NW Energy Coalition (NWEK or the Coalition) filed a Petition to Intervene (Petition).<sup>1</sup> The Petition describes NWEK as an organization “of more than 100 environmental, civic, and human services organizations; utilities; businesses; labor unions; and communities of faith in the Pacific Northwest.”<sup>2</sup> The Coalition cites many distinct interests including incentivized growth of renewable energy, reduced reliance on fossil-fueled generation power plants; and stabilization of consumer energy bills.<sup>3</sup>

4 On January 21, 2016, the Commission’s regulatory staff (Staff)<sup>4</sup> filed a Response to NWEK’s Petition (Staff’s Response). Staff cites WAC 480-07-355 which states that intervention requests should be filed at least three business days prior to the prehearing conference.<sup>5</sup> As Staff asserts, a petition to intervene after the prehearing conference and absent an extension of the filing period for petitions to intervene by the Commission, is considered late-filed.<sup>6</sup> Pursuant to WAC 480-07-355(1)(b), the Commission will only grant a late-filed petition to intervene upon a showing of good cause, including a satisfactory explanation of why the person did not timely file.<sup>7</sup>

5 Staff contends that NWEK’s Petition did not include an explanation as to why it was not timely filed nor does it even acknowledge the lateness of the filing.<sup>8</sup> It cites to the Commission’s denial of a similarly late-filed petition by the International Brotherhood of

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<sup>1</sup> The Coalition stated both that it would not be represented by council [sic] in this proceeding and that all documents should be served on NWEK’s attorney. In its revised Petition, the Coalition clarified that documents in this docket should be served on key NWEK staff, not counsel.

<sup>2</sup> NWEK’s Petition, ¶ 3.

<sup>3</sup> *Id.*, ¶ 4.

<sup>4</sup> In formal proceedings, such as this, Staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

<sup>5</sup> Staff’s Response, ¶ 2.

<sup>6</sup> *Id.*, ¶ 3.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*, ¶ 4.

Electrical Workers Union due to a failure to state a good cause for its tardiness.<sup>9</sup> Further, Staff argues that the Coalition has not demonstrated a “unique expertise and knowledge” of the issues such as to justify the Commission’s granting its intervention.<sup>10</sup> Specifically, it states that the Energy Project, the Public Counsel Section of the Washington Office of Attorney General, and Staff will likely address issues of importance to low-income rate payers; while the Sierra Club may more appropriately address “the delay in the transition to clear fuel renewables and the promotion of energy efficiency measure” in which NWEAC has expressed interests.<sup>11</sup>

6 On January 28, 2016, NWEAC filed its revised Late-Filed Petition to Intervene (revised Petition) in which it acknowledged the tardiness of its original Petition and explained that “[n]ew staff with [NWEAC] assumed the ‘schedule’ link in the docket’s electronic file was where notices of meetings and conferences would be posted and notice of the prehearing conference was not posted to this portion of the [Commission’s] website.”<sup>12</sup> NWEAC recognizes this mistake and states that its intervention will in no way prejudice the other parties.<sup>13</sup> Additionally, NWEAC explains it “is an energy and conservation organization primarily devoted to the promotion of renewable energy resources and increase in energy efficiency in the Northwest.”<sup>14</sup> The revised Petition goes into great detail regarding the expertise of the organization as well as its participation in previous Commission proceedings.<sup>15</sup>

7 On the same day, NWEAC filed a Reply to Staff’s Opposition (NWEAC’s Reply). The Coalition disputes Staff’s claim that the organization adds nothing of value to the proceeding.<sup>16</sup> According to NWEAC, its perspective is unique due to the common ground of its diverse membership, including environmental groups (such as Sierra Club), low-

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<sup>9</sup> *Id.*, ¶ 5 (citing *In Re Joint Application of MidAmerican Energy Holding Company and PacifiCorp, d/b/a Pacific Power & Light Company For an Order Authorizing Proposed Transaction*, Docket UE-051090, Order No. 04, ¶ 5 (Aug. 26, 2005)).

<sup>10</sup> *Id.*, ¶ 6.

<sup>11</sup> *Id.*

<sup>12</sup> NWEAC’s revised Petition, ¶ 3.

<sup>13</sup> *Id.*, ¶¶ 3-4.

<sup>14</sup> *Id.*, ¶ 6.

<sup>15</sup> *Id.*, ¶¶ 6-7.

<sup>16</sup> NWEAC’s Reply at 3.

income advocates (such as The Energy Project), clean energy businesses, and utilities.<sup>17</sup> As the organization notes, it has often participated in various Commission proceedings side-by-side with The Energy Project and Sierra Club.<sup>18</sup>

8 On January 29, 2016, both Pacific Power (Pacific Power’s Reply) and Sierra Club (Sierra Club’s Reply) filed replies to Staff’s Response. Each support NWEC’s participation in the proceeding. Pacific Power states that the organization “has a particular interest and expertise in energy efficiency and decoupling mechanisms.”<sup>19</sup> However, the Company recommends that the Commission limit NWEC’s intervention to those issues.<sup>20</sup> Contrary to Staff’s assertion, Pacific Power maintains that Sierra Club will not adequately address NWEC’s interests in both energy efficiency and decoupling.<sup>21</sup> Curiously, Pacific Power agrees with Staff’s contention that “the remainder of the issues identified by NWEC in its Petition will be adequately and thoroughly addressed by others.”<sup>22</sup> The Company asserts that NWEC’s revised Petition should be approved, limited to the issues of energy efficiency and decoupling.<sup>23</sup>

9 Sierra Club states that “NWEC’s breadth of knowledge and experience in Washington and the region would be welcome, and its request at the early stages of this proceeding does not prejudice Sierra Club or any other party.”<sup>24</sup> It contends that NWEC’s interests and positions, counter to Staff’s argument, differ from that of Sierra Club.<sup>25</sup> In fact, Sierra Club asserts that it “frequently disagrees with many members of [NWEC] on policy issues, and those differences often result in varying tactics, legal opinions and policy positions between NWEC and Sierra Club.”<sup>26</sup>

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 4.

<sup>19</sup> Pacific Power’s Reply, ¶ 2 (citing NWEC’s Petition, ¶¶ 3-6).

<sup>20</sup> *Id.*, ¶ 3.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*, ¶ 4 (citing to Staff’s Response, ¶ 6).

<sup>23</sup> *Id.*, ¶ 5 (internal citation omitted).

<sup>24</sup> Sierra Club’s Reply at 1.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

- 10 **Decision.** WAC 480-07-355(3) provides that petitions to intervene may be granted if the petitioner discloses a substantial interest in the subject matter of the hearing or if the petitioner's participation is in the public interest. Further, late-filed interventions must contain "a satisfactory explanation of why the person did not timely file a petition."<sup>27</sup>
- 11 With membership as diverse as environmental groups and utilities, low-income advocates and clean energy businesses, NWECC offers a unique perspective that isn't otherwise replicated among the current intervenors. Given this diverse membership and the correspondingly diverse interests those members possess, we do not share the Company's view that the Coalition's participation should be limited to the issues of energy efficiency and decoupling raised in Pacific Power's rate filing.<sup>28</sup> We find that NWECC's full participation in this matter is in the public interest.
- 12 In its revised Petition, NWECC recognizes that it failed to correctly monitor the Commission's website for information on the prehearing conference in this docket. The Coalition has since rectified this situation. NWECC has presented a satisfactory explanation for its late-filed request, and its revised Petition should be granted.

**ORDER**

- 13 **THE COMMISSION ORDERS THAT** NW Energy Coalition's Late-Filed Petition to Intervene is GRANTED.

Dated at Olympia, Washington, and effective February 4, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER  
Administrative Law Judge

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<sup>27</sup> WAC 480-07-355(1)(b).

<sup>28</sup> It is curious that the Company only sought the limitation of NWECC's participation and yet didn't request limitation of The Energy Project's participation to issues solely related to low-income rate payers or the limitation of Sierra Club's intervention to issues of energy efficiency.

**NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 10 days of the service of this Order pursuant to *WAC 480-07-810*.**