

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Proposal by)	
)	
PUGET SOUND POWER & LIGHT)	
COMPANY)	DOCKET NO. UE-951270
)	
to Transfer Revenues from PRAM Rates)	
to General Rates.)	
.....)	
)	
In the Matter of the Application of)	
)	
PUGET SOUND POWER & LIGHT)	
COMPANY and WASHINGTON NATURAL)	DOCKET NO. UE-960195
GAS COMPANY)	
)	
for an Order Authorizing the Merger of)	
WASHINGTON ENERGY COMPANY and)	TENTH SUPPLEMENTAL
WASHINGTON NATURAL GAS COMPANY)	ORDER DENYING
with and into PUGET SOUND POWER &)	PETITIONS TO INTERVENE
LIGHT COMPANY, and Authorizing the)	OF MARCH POINT AND
Issuance of Securities, Assumption of)	TEXACO
Obligations, Adoption of Tariffs, and)	
Authorizations in Connection Therewith.)	
.....)	

This is a consolidated proceeding. Docket No. UE-951270 is a proposal by Puget Sound Power & Light Company (Puget) to transfer to Puget's permanent rate schedules, currently-collected revenue of approximately \$165.5 million authorized in the PRAM ("Periodic Rate Adjustment Mechanism") under Schedule 100. Docket No. UE-960195 is the application of Puget Sound Power & Light Company and Washington Natural Gas Company (WNG) for a Commission order authorizing the merger of Washington Energy Company and Washington Natural Gas Company with and into Puget Sound Power & Light Company, and authorizing the issuance of securities, assumption of obligations, adoption of tariffs, and authorizations in connection therewith.

A prehearing conference was held in Olympia, Washington, on Tuesday, April 30, 1996. The Second Supplemental Order on Prehearing Conference was entered on May 23, 1996. Among the matters determined in the Second Supplemental Order were nineteen petitions to intervene and a schedule for the filing of testimony, for discovery, and for hearings.

Hearings for cross examination of the Joint Applicants' direct cases were held from July 31 to August 6, 1996. Hearings for remaining cross examination are scheduled for the first half of November 1996.

On October 21, 1996, March Point Cogeneration Company ("March Point") and Texaco Inc. ("Texaco") separately filed substantially similar petitions to intervene. According to the petitions, March Point and Puget Power have two long-term Power Purchase Agreements under which Puget agrees to purchase the entire electrical output from March Point's cogeneration facility in Anacortes through December 31, 2011. In order to meet its obligations under the Power Purchase Agreements, March Point entered into a long-term fuel supply contract with TM Star Fuel Company. Texaco has an ownership interest in March Point and an ownership interest in TM Star Fuel Company.

The petitions allege, *inter alia*, that Puget has complained that March Point's performance under the Power Purchase Agreements is inadequate, and that March Point has filed a petition in federal court seeking a ruling to force Puget Power to abide by the Power Purchase Agreements. They state that the petitioners read an October 1996 "Fact Sheet" concerning this proceeding which was released by the Public Counsel Section of the Attorney General's Office to indicate that in order to obtain approval of the proposed merger, Puget has essentially pledged to the Commission that it will attempt to generate power cost savings by avoiding its obligations under the Power Purchase Agreements. They allege that the petitioners should be allowed to intervene to protect their own interests, to assist in airing the question of who would receive the purported savings, and to assist the Commission in making an informed decision regarding the proposed merger. Texaco apparently further claims standing as a customer affected by any impact of the merger on electricity prices, by virtue of its ownership interest in the entity that operates the refinery. The petitioners allege that no other party can adequately represent their interests. They allege that they petitioned to intervene as soon as possible after seeing Public Counsel's "Fact Sheet." They state that they intend to cross-examine the witnesses called by other parties, and may call their own witnesses.

The Commission granted other parties an opportunity to respond to the petitions. The Joint Applicants, Commission Staff, and Public Counsel filed responses opposing both petitions.

The responses clearly and succinctly set out the reasons why the Commission should deny these late-filed petitions. They are:

1. It is entirely within the Commission's discretion whether to grant or deny a petition to intervene. RCW 34.05.443; WAC 480-09-430(3); Cole v. Washington Utilities & Transp. Comm'n, 79 Wn.2d 302, 306-307, 485 P.2d 71 (1971).

2. Under WAC 480-09-430(3), a petition to intervene must demonstrate a substantial interest in the subject matter of the hearing, or that intervention is in the public interest. Neither March Point nor Texaco has satisfied either standard. Their interests relating to power supply contracts they seek to enforce against Puget are not ones the Commission has any authority to protect or influence. The status of the contracts will not be affected by the outcome of this merger application. Moreover, both petitioners apparently are already seeking to protect those interests through litigation in federal court. The court is the appropriate forum for their issues to be addressed.

3. WAC 480-09-430(1)(b) prohibits intervention after the hearing has commenced except for good cause. Neither Texaco, even to the extent it is a customer of Puget, nor March Point has satisfied this standard. This case is in its eighth month of litigation. Many days of hearings have already occurred. The deadline for filing testimony lapsed five weeks ago (September 23). The deadline for conducting discovery has passed (October 21). This proceeding is entering its final phase. That March Point and Texaco only recently became aware that issues concerning power cost savings were under consideration is not cause to allow them to intervene at this late date. Moreover, they fail to cite any record evidence or prefiled testimony which substantiates their statement that in order to accomplish the merger Puget has essentially pledged to attempt to avoid its obligations under the two Power Purchase Agreements, or in any way indicates that Puget has taken such a position in this proceeding.

4. Intervention by these petitioners could impair the orderly and prompt conduct of the proceedings. As noted above, these proceedings are in their final phase. Both March Point and Texaco have indicated that they would cross examine witnesses and might call a number of witnesses at the November hearings with respect to issues, such as benefit sharing, that the parties have been examining since this case was filed in February. The addition of witnesses would burden an already tight schedule. There is an additional risk that the hearings would be further burdened by the petitioners attempting to interject issues associated with enforcement of their contracts with Puget.

5. Texaco's interests as a customer already is represented in this proceeding. Texaco is a member of the customer group which is an active party in this proceeding, the Industrial Customers of Northwest Utilities. Texaco has not shown that its interests as a customer will not be adequately represented by ICNU.

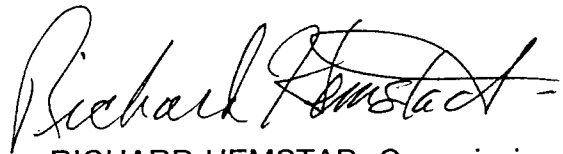
The Commission should deny both petitions for the reasons stated above.

ORDER


THE COMMISSION ORDERS That the petitions to intervene of March Point Cogeneration Company and Texaco Inc. are denied.

DATED at Olympia, Washington, and effective this 25th day of October 1996.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

A handwritten signature in black ink, appearing to read "Richard Hemstad". The signature is fluid and cursive, with a horizontal line striking through the middle of the name.

RICHARD HEMSTAD, Commissioner

A handwritten signature in black ink, appearing to read "William R. Gillis". The signature is cursive and somewhat stylized, with a large initial "W".

WILLIAM R. GILLIS, Commissioner