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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’ MOTION TO
STRIKE THE TESTIMONY OF THE
WASHINGTON AND NORTHERN
IDAHO DISTRICT COUNCIL OF
LABORERS**

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I. INTRODUCTION

I. Pursuant to Prehearing Conference Order 03 ¶ 17 and WAC 480-07-375, 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”), moves and respectfully requests that the Commission strike all of the testimony filed by Walter Jones, Glen Freiberg, and Erin Hutson, submitted on behalf of the Washington and Northern Idaho District Council of Laborers (“WNIDCL”). WNIDCL’s testimony is irrelevant and addresses issues that are beyond the scope of WNIDCL’s intervention. The testimony filed by Mr. Jones and Mr. Freiberg

1 provides no information relating to whether the transaction at issue in this case
2 would be detrimental to “the safety and reliability of service to PSE’s customers
3 where its members are actually involved in the provision of such service”¹ and
4 instead, inappropriately addresses collective bargaining issues. Likewise, the
5 testimony of Ms. Hutson is centered on her proposal for additional commitments,
6 which are not related to the Proposed Transactions and also inappropriately
7 address collective bargaining issues.

8 2. Given that the testimony filed by WNIDCL should be stricken, the
9 Commission should correspondingly issue a limiting instruction reiterating
10 WNIDCL’s restricted role at the settlement hearing. The Commission has already
11 determined that WNIDCL does not have a substantial interest in this proceeding.²
12 The only purpose of WNIDCL’s intervention was to provide information relating
13 to how the Proposed Transactions would impact the safety and reliability of
14 service to customers where its members are actually involved in the provision of
15 such service. Given that WNIDCL has not complied with that limitation, the Joint
16 Applicants are concerned that WNIDCL will again attempt to use the settlement
17 hearing as a platform to inappropriately raise collective bargaining concerns.

18 3. The Joint Applicants respectfully request that the Commission issue an
19 order reminding WNIDCL of its restricted role in this case and should WNIDCL

¹ *In the Matter of the Application of Puget Sound Energy*, Docket U-180680, Order 03, ¶¶ 16, 17 (Nov. 21, 2018) (“Order 03”).

² *Id.* ¶ 15.

1 continue to violate this parameter, WNIDCL should be dismissed as an
2 intervening party under WAC 480-07-355(4) immediately.

3 II. BACKGROUND

4 A. WNIDCL Seeks Intervention

5 4. On September 5, 2018, the Joint Applicants filed an application seeking
6 approval of the sale of a 43.99 percent ownership interest in Puget Holdings, LLC
7 (“Puget Holdings”) currently held by Macquarie Infrastructure Partners, Inc. and
8 Padua MG Holdings LLC, to existing owners AIMCo and BCI, and to two new
9 owners, OMERS and PGGM (the “Proposed Transactions”).

10 5. On October 22, 2018, WNIDCL filed a petition to intervene in the
11 proceeding, seeking “full party status,” under WAC 480-07-340(1).³ WNIDCL, a
12 “democratic labor organization,” represents construction workers that are not PSE
13 employees, but rather are subcontractors of contractors hired by PSE.⁴ PSE does
14 not hire WNIDCL’s members, WNIDCL does not represent any actual PSE
15 employees, and WNIDCL does not have a contractual collective bargaining
16 relationship with PSE. Nevertheless, as conceded by WNIDCL, it sought
17 intervention so that it could introduce issues such as “wage rates, training
18 requirements, construction standards, local employment impacts, and workforce
19 development investments”⁵—all of which are labor relations issues. In other

³ *In the Matter of the Application of Puget Sound Energy*, Docket U-180680, WNIDCL Petition to Intervene, ¶ 3 (Oct. 22, 2018).

⁴ *Id.* ¶¶ 3-5, 7.

⁵ *Id.* ¶ 6.

1 words, WNIDCL intervened to promote the employment opportunities of its
2 members.

3 **B. The Commission Grants WNIDCL Limited Intervention**

4 6. On November 14, 2018, the Joint Applicants filed an opposition to
5 WNIDCL’s petition to intervene objecting to WNIDCL’s intervention on the
6 grounds that WNIDCL does not have a substantial interest in this proceeding
7 because WNIDCL seeks to introduce collective bargaining issues into the
8 proceeding and that WNIDCL’s intervention is not in the public interest because
9 WNIDCL’s unrelated interests would only distract from the narrow issue before
10 the Commission, which is whether the transfer of a 43.99 percent interest in Puget
11 Holdings is in the public interest under the Commission’s no-harm standard.⁶
12 Other parties contested WNIDCL’s participation as an intervenor as well,
13 including Commission Staff⁷, and IBEW Local 77 and UA Local 32.⁸

14 7. On November 21, 2018, the Commission agreed that WNIDCL did not
15 have a substantial interest in the proceeding, explaining

16 We agree with the Joint Applicants and Staff that WNIDCL
17 has not demonstrated a substantial interest in the subject
18 matter of this proceeding because there is no nexus
19 between its stated purpose for intervention – i.e.,
20 employment issues governed by the collective bargaining
21 agreement such as wage rates and training requirements –
22 and an interest protected by a Washington statute within the

⁶ *In the Matter of the Application of Puget Sound Energy*, Docket U-180680, Joint Applicants’ Opposition to WNIDCL Petition to Intervene (Nov. 14, 2018).

⁷ Order 03 at ¶ 10.

⁸ *In the Matter of the Application of Puget Sound Energy*, Docket U-180680, IBEW Comments, ¶ 11 (Oct. 24, 2018); UA Local 32 Comments, ¶ 10 (Oct. 24, 2018).

1 Commission's jurisdiction. The Commission has no
2 authority over collective bargaining issues or terms and
3 conditions of employment for WNIDCL's members.⁹

4 8. Nevertheless, the Commission ultimately granted WNIDCL limited
5 intervention because its intervention could be "useful to the Commission in
6 compiling an appropriate record."¹⁰ The Commission cited Docket UT-090842,
7 where IBEW was granted intervention because "observations of its members as to
8 their work 'in the field' pertains directly to safety and reliability issues within the
9 purview of the Commission."¹¹ "Information showing whether the proposed
10 transaction would be detrimental to the safety and reliability of PSE's system is
11 relevant to the Commission's evaluation of whether the proposed transaction
12 would result in 'no harm' to customers."¹²

13 9. However, the Commission narrowly limited WNIDCL's participation to
14 "matters specifically addressing the safety and reliability of service to customers
15 where its members are actually involved in the provision of such service. We
16 expressly decline to consider any labor relations matters in this proceeding
17 covered by the collective bargaining agreement."¹³ The Commission also warned
18 that if "it becomes clear later in the proceeding that WNIDCL's continued

⁹ Order 03 at ¶ 15.

¹⁰ *Id.* ¶ 16.

¹¹ *Id.* (citations omitted).

¹² *Id.* ¶ 16.

¹³ *Id.* ¶ 17.

1 participation is not in the public interest, the Commission has the authority to
2 dismiss WNIDCL as an intervenor.”¹⁴

3 **C. WNIDCL Declines to Join the Multiparty Settlement**

4 *10.* On January 15, 2019, all of the full participants in the proceeding,
5 including the Joint Applicants, Commission Staff, the Public Council Unit of the
6 Washington State Attorney General’s Office, the Alliance of Western Energy
7 Consumers, The Energy Project, the NW Energy Coalition, and the Federal
8 Executive Agencies, either entered into or did not oppose a Multiparty Settlement
9 Stipulation and Agreement (“Settlement Stipulation”) resolving all issues in the
10 case.¹⁵ The only parties opposing the Settlement Stipulation were parties with
11 restricted participation in the matter; namely, WNIDCL and the other union
12 participants, IBEW Local 77 and UA Local 32.¹⁶

13 **D. WNIDCL Files Testimony That Exceeds the Scope of Its Intervention**

14 *11.* On February 8, 2019, WNIDCL filed testimony opposing the Settlement
15 Stipulation provided by three witnesses: Walter Jones, Glen Freiberg, and Erin
16 Hutson. All three witnesses provided testimony on matters that are irrelevant to,
17 and were expressly excluded from, this proceeding by the Commission.

¹⁴ *Id.*

¹⁵ All of the full parties entered into the Settlement Stipulation except for the Federal Executive Agencies, which does not oppose the Settlement Stipulation

¹⁶ Like WNIDCL, the Commission limited IBEW Local 77 and UA Local 32’s participation to matter addressing how the Proposed Transactions would impact safety and reliability of service to customers where its members are actually involved in the provision of such service. UA Local 32 has not filed testimony opposing the settlement but has not signed on to the Settlement Stipulation.

1 **1. Walter Jones testimony**

2 12. The testimony provided by Mr. Jones focuses entirely on subjects that are
3 not presently before the Commission and are irrelevant to the issues in this case.
4 As stated in his own words, Mr. Jones is the Director of the Occupational Safety
5 and Health Division for the Laborers’ Health and Safety Fund of North America,
6 in Washington, D.C. (which he terms the “Fund”), and his testimony focuses on
7 three subjects, none of which relate to the Proposed Transactions:¹⁷

8 I will first address the Fund’s work with contractors and
9 owners like Puget Sound Energy (PSE) to improve safety
10 practices. I will then discuss my professional opinion as to
11 why unionized workplaces tend to have better safety track
12 records than non-union companies. Finally, I will discuss
13 the ways in which temp agencies, in particular, present
14 unique safety concerns with the construction industry.¹⁸

15 13. Mr. Jones then describes what the Fund is;¹⁹ Mr. Jones’ personal
16 experience performing various safety inspections for utilities;²⁰ the Fund’s
17 involvement in flagging safety issues;²¹ the value Mr. Jones sees in the Fund’s
18 safety inspections;²² why Mr. Jones believes union labor is safer than nonunion
19 labor;²³ and Mr. Jones’ opinion as to the safety risks associated with the use of
20 temporary employment agencies in the construction industry.²⁴

¹⁷ Testimony of Walter Jones, Exh. WJ-1T at 1:6-7 (“Jones Testimony”).

¹⁸ *Id.* at 2:5-9.

¹⁹ *Id.* at 2:12-23.

²⁰ *Id.* at 3:1-18; 5:15-

²¹ *Id.* at 4:19-5:14.

²² *Id.* at 6:18-7:23.

²³ *Id.* at 8:3-11:13.

²⁴ *Id.* at 11:16-12:16.

1 14. Mr. Jones’ testimony does not make any reference to the Proposed
2 Transactions, does not contain any specific information about PSE’s safety or
3 reliability, and does not contain any information showing how the Proposed
4 Transactions could impact safety and reliability as it pertains to PSE.

5 **2. Glen Freiberg testimony**

6 15. Like Mr. Jones, Mr. Freiberg does not provide any information relating to
7 how the Proposed Transactions would impact the safety and reliability of service
8 to customers. In his own words, Mr. Freiberg describes the purpose of his
9 testimony as follows:

10 My testimony will provide information regarding
11 NWLETT, including how the training courses it offers help
12 to train and prepare workers for careers in construction
13 particularly in the natural gas field. It will also focus on the
14 ways in which safety and reliability can suffer when
15 utilities do not utilize sufficient training.²⁵

16 16. Instead, Mr. Freiberg devotes most of his testimony to discussing the
17 Northwest Laborers-Employers Training Trust Fund (“NWLETT”), a union
18 training association, and the training programs provided by NWLETT.²⁶ Mr.
19 Freiberg also discusses generally the safety risks for working on natural gas
20 transmission and distribution pipelines.²⁷ The only testimony Mr. Freiberg
21 provides relating to the Proposed Transaction is his recommendation of an
22 additional Commitment requiring that “PSE and Puget Holdings commit to

²⁵ Testimony of Glen Freiberg, Exh. GF-1T at 1:21-2:1 (“Freiberg Testimony”).

²⁶ *Id.* at 2:3-6:13.

²⁷ *Id.* at 6:15-9:6.

1 utilizing contractors with access to high quality training and apprenticeship
2 programs.”²⁸ Otherwise, Mr. Freiberg does not provide any testimony showing
3 how the Proposed Transactions will impact safety and reliability of service to PSE
4 customers.

5 **3. Erin Hutson testimony**

6 17. Ms. Hutson’s testimony focuses primarily on PSE’s use of contractor
7 employees to conduct utility operations and her opinions regarding contracted
8 workforce. She spends several pages of her testimony discussing the safety issues
9 faced by WNIDCL members working on gas pipeline infrastructure and
10 flagging/traffic control and her opinion regarding union workers versus nonunion
11 labor.²⁹ None of this testimony is tied to the Proposed Transactions nor does she
12 seek to demonstrate how the Proposed Transactions will further impair safety or
13 reliability of service to customers.

14 18. Ms. Hutson’s only testimony that attempts to address the Proposed
15 Transactions is her testimony regarding responsible contractor policies.³⁰ Ms.
16 Hutson speculates that the loss of Macquarie could result in a failure to continue
17 to rely on WNIDCL labor when the Quanta Gas (and Infrasource) contract expires
18 in 2020.³¹ The only harm Ms. Hutson identifies is that “the local labor pool
19 comprised of WNIDCL members who are skilled, experienced, and trained in

²⁸ *Id.* at 9:16-26.

²⁹ Testimony of Erin Hutson, Exh. EH-1T at 7:12-11:23 (“Hutson Testimony”).

³⁰ *Id.* at 12:3-16:20.

³¹ *Id.* at 16:6-20.

1 essential gas pipeline work could be replaced if the new and existing owners are
2 not obligated to ensure the continued use of qualified contractor employees.”³² In
3 other words, the harm to customers is the hypothetical and speculative loss of
4 union labor in 2020 after expiration of a preexisting contract.

5 19. Ms. Hutson proposes that the Commission adopt three additional
6 commitments, which address union staffing and training:

7 First, PSE and Puget Holdings should commit to maintaining
8 the status quo by ensuring that any contractors performing PSE
9 gas pipeline distribution operations are members of the
10 Distribution Contractors Association (“DCA”) or the Pipeline
11 Contractors Association (“PLCA”), which should help ensure
12 continued utilization of a well-trained and experienced
13 contractor workforce. This proposed commitment would not
14 bind PSE to hiring any one particular contractor, but rather
15 would provide workforce continuity for the Washington State
16 workers who currently perform the work and would continue to
17 perform the work on a going-forward basis. There are
18 numerous highly experienced contractors available to PSE.

19 Second, the new board of PSE and Puget Holdings should
20 adopt a new Reasonable Contractor Policy that strengthens the
21 metrics considered for contractors and specifically precludes
22 the use of staffing agencies to supply labor.

23 Third, PSE and Puget Holdings should commit to utilizing
24 contractors with access to high quality training and
25 apprenticeship programs. Specifically, all contractors doing
26 work on the PSE system should be required to: 1) have access
27 to thirty party training programs that are jointly trusted by labor
28 and management and that utilize independently certified
29 instructors, and 2) have “approved training agent” status with
30 an apprenticeship program registered with the Washington
31 State Apprenticeship and Training Council (“WSATC”) as
32 well as a demonstrated history of utilizing apprentices.³³

³² *Id.* at 16:12-15.

³³ *Id.* at 17:18-18:17.

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III. ARGUMENT

A. **WNIDCL’s Testimony Should Be Stricken as Irrelevant and Beyond the Scope of Its Intervention**

20. In order for WNIDCL’s testimony to be admissible, in accordance with the restrictions imposed by the Commission regarding WNIDCL’s role in this case and the applicable “no harm” standard, WNIDCL must provide testimony showing how the Proposed Transactions will impact safety and reliability of service to PSE’s customers, to the extent WNIDCL’s members are involved in the provision of such service. Testimony that does not show specifically how the Proposed Transactions would impair safety and reliability of service to customers is irrelevant to, and beyond the scope of, the proceeding and should be stricken.

21. Accordingly, the WNIDCL testimony should be stricken in its entirety because it does not provide information showing how the Proposed Transactions would impair safety or reliability of service to PSE’s customers.

1. Mr. Jones’ and Mr. Freiberg’s testimonies should be stricken as irrelevant and beyond the scope of WNIDCL’s role in this matter

22. Mr. Jones’ and Mr. Freiberg’s testimonies should be stricken in their entirety because neither contain information relating to how the Proposed Transactions will impact safety and reliability of service to PSE customers.

23. Mr. Jones’ testimony has nothing to do with the Proposed Transactions. Instead, as the Director of the Fund, Mr. Jones describes the scope of the Fund’s services and provides examples of safety audits the Fund has performed for other companies, none of which he connects to PSE or any entity owned by the buyers.

1 24. Mr. Jones then provides his opinion as to why union labor is superior to
2 and safer than nonunion labor, while conceding that “[t]here is not a lot of data
3 that directly compares union worksites to non-union worksites.”³⁴ Instead, Mr.
4 Jones mentions “a small collection of surveys and studies” for which he provides
5 no source.³⁵ The remainder of Mr. Jones’ testimony simply references a series of
6 scholarly articles discussing union labor in the construction industry generally,
7 none of which contain any specific information relating to PSE or the Proposed
8 Transactions, as well as his belief—without supporting citations or empirical
9 evidence—that temporary staffing agencies are at a higher risk of safety incidents.

10 25. Mr. Jones’ testimony is irrelevant and beyond the scope of the proceeding
11 because it provides no information relating to how the Proposed Transactions
12 would impact the safety or reliability of service to PSE’s customers. The sole
13 purpose of this case is to evaluate whether the Proposed Transactions are in the
14 public interest under the “no harm” standard. Testimony that provides general
15 information regarding safety audit services, union versus nonunion labor, or
16 temporary employment agencies, without any tie to the Proposed Transactions, is
17 irrelevant and beyond the scope of this proceeding and delves into labor relations
18 issues and employment issues that would be covered by collective bargaining
19 agreements. These are issues over which the Commission has no jurisdiction and

³⁴ Jones Testimony at 7:5-6.

³⁵ *Id.* at 8:3-13.

1 which the Commission expressly prohibited.³⁶ Accordingly, Mr. Jones' testimony
2 should be stricken in its entirety.

3 26. Mr. Freiberg's testimony should also be stricken. Mr. Freiberg's testimony
4 merely promotes the scope and facets of a union training association, specifically,
5 NWLETT's training operations. This testimony is irrelevant because it does not
6 relate to the Proposed Transactions and the "no harm" standard. Likewise, Mr.
7 Freiberg's description of the safety risks associated with natural gas transmission
8 and distribution pipelines does not provide any information showing how the
9 Proposed Transactions would impair safety or reliability of service to customers.

10 27. The only reference Mr. Freiberg makes to the Proposed Transactions is his
11 proposed additional commitment that "PSE or Puget Holdings commit to utilizing
12 contractors with access to high quality training and apprenticeship programs"³⁷ or
13 in other words, that the Commission should require PSE to adopt Mr. Freiberg's
14 union training programs. But given that Mr. Freiberg does not provide any
15 information showing how safety and reliability would be impaired by the
16 Proposed Transactions, Mr. Freiberg has no basis for proposing additional
17 commitments. This case is not an open forum for parties to air grievances and
18 propose obligations on PSE as they see fit. And, as the Commission noted in its
19 Prehearing Conference Order, it is outside the Commission's jurisdiction, and
20 inappropriate for the Commission to consider in this case, labor relations and

³⁶ Order 03 at ¶¶ 15, 17.

³⁷ Freiberg Testimony at 9:19-20.

1 employment issues, including terms and conditions for employment and training
2 requirements.³⁸ Rather, the only relevant information WNIDCL can provide is
3 “information showing whether the Proposed Transactions would be detrimental to
4 the safety and reliability of PSE’s system.”³⁹ Mr. Freiberg’s proposed
5 commitment, without providing any evidence that the Proposed Transactions
6 would harm customers, is baseless, exceeds WNIDCL’s role in this case, and
7 inappropriately addresses labor relations matters. Mr. Freiberg’s testimony should
8 be stricken in its entirety.

9 **2. Ms. Hutson’s testimony should be stricken as irrelevant and beyond**
10 **the scope of WNIDCL’s intervention**

11 28. Ms. Hutson’s testimony, while extensive, ultimately suffers from the same
12 flaws as Mr. Jones’ and Mr. Freiberg’s respective testimonies.

13 29. First, the fundamental problem with Ms. Hutson’s testimony (specifically
14 pages 3-11) on nonunion labor is that none of her testimony explains how the
15 Proposed Transactions will actually impair the safety and reliability of service to
16 PSE customers as it relates to nonunion labor. To do this, Ms. Hutson would have
17 to demonstrate how the status quo that currently exists will be impaired by the
18 new ownership but she does not provide any testimony to this effect. Instead, she
19 references the fact that the commitments in the 2008 proceeding did not contain
20 commitments relating to workforce labor and thus, the additional commitments
21 she proposes (namely, her proposed commitments No. 1 and No. 3) are necessary.

³⁸ Order 03 at ¶¶ 15, 17.

³⁹ *Id.* ¶ 16.

1 But adding a new commitment because such a commitment did not exist in 2008
2 would not meet the “no harm” standard which governs this case, but rather would
3 be adding additional obligations more akin to the “net benefit” standard that does
4 not apply in this case.

5 30. Third, all of Ms. Hutson’s proposed commitments are inappropriate and
6 should be stricken because they each involve terms and conditions of employment
7 that are beyond the scope of this case. In Order 03, the Commission expressly
8 prohibited the intervening unions from introducing collective bargaining issues
9 relating to staffing, training, wage rates, and the terms and conditions of
10 employment.⁴⁰ Each of WNIDCL’s proposed commitments violates these
11 restrictions. For example, Ms. Hutson’s proposed commitment No. 1 would
12 restrict the types of workers PSE could hire which addresses staffing, a prohibited
13 labor relations issue. Likewise, proposed commitment No. 2 would require the
14 Joint Applicants to adopt a new responsible contractor policy that would also
15 expressly address staffing, as well as the terms and conditions of employment, a
16 prohibited labor relations issue. And finally, proposed commitment No. 3 would
17 require PSE and Puget Holdings to commit to specific training programs for
18 workers, a labor relations issue expressly prohibited by the Commission.

19 31. Finally, the only connection Ms. Hutson makes to the Proposed
20 Transactions is her suggestion that the departure of Macquarie could harm
21 customers. However, the only harm she hypothesizes is the loss of work for

⁴⁰ Order 03 at ¶¶ 15, 17, 22-23.

1 WNIDCL union workers. Ms. Hutson cites the possibility that PSE’s contract
2 with Infrasource might not be renewed when it expires in 2020.⁴¹ Her concern is
3 that if this contract is not renewed, “the local labor pool comprised of WNIDCL
4 members . . . could be replaced.”⁴² Not only is this conjecture, but contracting for
5 union labor is a collective bargaining issue that is outside the scope of this
6 proceeding.

7 32. Moreover, the operative responsible contractor policy that has governed
8 PSE’s contracting practices since its inception is PSE’s contractor policy, which
9 remains in effect. Considering that the remaining owners of Puget Holdings will
10 remain owners after the Proposed Transactions, Ms. Hutson’s suggestion that the
11 loss of Macquarie will suddenly usher in an era of unsafe contracting policies by
12 PSE is baseless. PSE remains fully committed to maintaining a responsible
13 contractor policy and Ms. Hutson’s testimony on this issue should be stricken.

14 **B. Because WNIDCL Has Exceeded the Bounds of Its Intervention, the**
15 **Commission Should Issue a Strict Limiting Instruction to Ensure WNIDCL**
16 **Does Not Violate the Parameters of its Intervention at the Settlement**
17 **Hearing**

18 33. Given that WNIDCL has violated the scope of its intervention, the Joint
19 Applicants are concerned that WNIDCL will attempt to use the settlement hearing
20 as a platform to further its collective bargaining efforts. In its Petition to
21 Intervene, WNIDCL assured the Commission that if the Commission placed a

⁴¹ Hutson Testimony at 16:11-20.

⁴² *Id.* at 16:12-13.

1 limiting instruction on WNIDCL, that it would adhere to that limitation.⁴³
2 WNIDCL has breached that assurance. Under WAC 480-07-355(4), the
3 Commission has the authority to dismiss intervening parties where their
4 intervention is no longer in the public interest. Indeed, in granting WNIDCL
5 limited intervention, the Commission warned that “[i]n the event it becomes clear
6 later in the proceeding that WNIDCL’s continued participation is not in the public
7 interest, the Commission has the authority to dismiss WNIDCL as an
8 intervenor.”⁴⁴ Dismissal of WNIDCL would be appropriate under the
9 circumstances. But at a minimum, pursuant to WAC 480-07-375(1), the
10 Commission should reiterate that WNIDCL’s role in the settlement proceeding is
11 limited to matters addressing how the Proposed Transactions could impair the
12 safety and reliability of service to customers to the extent its members are actually
13 involving in the provision of such service with the warning that should WNIDCL
14 breach its limitation again, it be dismissed.

15 34. All of the full parties in this case have entered into, or do not oppose, the
16 Settlement Stipulation that fully addresses all issues in this case and support a
17 dispute resolution process that quickly and efficiently resolves the case. The only
18 parties that oppose settlement are parties such as WNIDCL whose role in the case
19 is limited and purely informational; i.e., the sole purpose of their intervention was
20 to provide information to the Commission that could bear on whether the

⁴³ *In the Matter of the Application of Puget Sound Energy*, Docket U-180680, WNIDCL Petition to Intervene, ¶¶ 8-9 (Oct. 22, 2018).

⁴⁴ Order 03 at ¶ 17

1 Proposed Transactions could impair safety or reliability of service for customers
2 to the extent their members are actually involved in the provision of such service.
3 WNIDCL had that opportunity and as provided above, its testimony should be
4 stricken because it inappropriately exceeded the scope of the proceeding by
5 addressing collective bargaining issues.

6 35. Moreover, as explained by the Commission in a case involving a similar
7 limited intervention, intervening parties without a substantial interest in a
8 settlement proceeding have limited authority, if any, to influence a settlement,
9 particularly one that is otherwise unanimous:

10 Time Warner’s claim that its opposition renders the
11 settlement a non-unanimous settlement is tenuous, given
12 Time Warner’s lack of substantial interest in the
13 proceeding. While technically a non-unanimous settlement
14 (because one party opposes it), the settlement is more like a
15 full settlement of all issues in the proceeding as defined in
16 WAC 480-07-730(1). The settlement is opposed by a party
17 with no substantial interest in the outcome, indeed, a party
18 who may have no right to be a party.⁴⁵

19 36. Intervening parties like WNIDCL, without a substantial interest in a
20 proceeding and whose role is purely informational, should not be afforded the
21 opportunity to unnecessarily burden or obstruct the resolution of a matter where
22 all full-party participants with a substantial interest in the proceeding either
23 support or do not oppose the settlement. Indeed, intervenors should not do
24 anything that “will unnecessarily frustrate or delay this proceeding.”⁴⁶

⁴⁵ *WUTC v. Advanced Telecom Group, Inc.*, Docket UT-033011, Order No. 19 (Dec. 22, 2004).

⁴⁶ Order 03 at ¶ 24.

1 37. Having already exceeded the bounds of its intervention in this case,
2 WNIDCL should not be given additional opportunities to unnecessarily
3 complicate the settlement proceeding by delving into issues that at most are only
4 tangentially related to the issues at hand. WNIDCL should not be permitted to
5 participate in the hearing and the cross-examination of witnesses at the hearing on
6 matters that do not affect safety and reliability as specifically tied to the Proposed
7 Transactions, are aimed at advancing the employment benefits of its members,
8 and are outside the scope of the Commission’s jurisdiction.

9 38. WNIDCL’s underlying interest in this case is to advance the employment
10 opportunities for its workers. These matters are more appropriately addressed
11 through collective bargaining, and the Commission has no jurisdiction over such
12 matters. To ensure the prompt and efficient resolution of this matter, the
13 Commission should issue a limiting instruction to WNIDCL at the hearing.

14 **IV. CONCLUSION**

15 39. For the reasons set forth above, the Joint Applicants respectfully request
16 that the Commission strike the WNIDCL testimony identified in this motion and
17 at minimum, issue a limiting instruction reiterating the restrictions on WNIDCL’s
18 role in this matter at the settlement proceeding.

19 **Respectfully submitted this 11th day of February, 2019.**
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