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**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**In the Matter of the Petition of
PUGET SOUND ENERGY

For an Order Authorizing the Sale of
All of Puget Sound Energy’s Interests in
Colstrip Unit 4 and Certain of Puget
Sound Energy’s Interests in the Colstrip
Transmission System**

Docket UE-200115

**PUGET SOUND ENERGY’S
RESPONSE IN OPPOSITION TO
RENEWABLE NORTHWEST’S
PETITION TO INTERVENE**

I. INTRODUCTION

- 1. Pursuant to RCW 34.05.443 and WAC 480-07-355(2), Puget Sound Energy (“PSE”), responds and objects to the Petition to Intervene (“Petition”) of Renewable Northwest (“RNW”). The Petition should be denied because RNW does not have a substantial interest in this proceeding. RNW’s stated interests for intervening are to protect the competitive and economic opportunities of its members which are not a sufficient basis to justify intervention.
- 2. Moreover, RNW’s intervention does not benefit the public interest. RNW’s stated reasons for intervening do not, in any way, benefit customers in Washington but rather advance the private interests of its members. This proceeding is not an open forum for RNW to protect such interests. RNW’s participation is beyond the scope of this proceeding and would distract from the narrow issue before the Commission—whether the transactions proposed in this

1 case are consistent with the public interest. Accordingly, the Commission should
2 deny the Petition.

3 **II. BACKGROUND**

4 3. On February 19, 2020, PSE filed its Application, seeking to (i) sell PSE
5 interests in Colstrip Unit 4 to NorthWestern Energy; (ii) sell certain PSE interests
6 in the Colstrip Transmission System to NorthWestern Energy; and (iii) enter into
7 a power purchase agreement between PSE and NorthWestern Energy for 90 MW
8 of the output of Colstrip Unit 4 with a term beginning June 1, 2020, and expiring
9 on May 15, 2025 (the “Proposed Transactions”).

10 4. On March 9, 2020, RNW filed the Petition in the proceeding.¹ As stated in
11 the Petition,

12 RNW advocates for renewable energy expansion before state and
13 regional policymakers, including Bonneville Power Administration
14 and the Northwest Power and Conservation Council, as well as
15 state agencies, regulators, and individual utilities. It works to create
16 and protect markets for renewable energy expansion, facilitate
17 renewable energy growth through transmission and siting policy,
18 and engage and educate policy and regulatory leaders about the
19 benefits of new renewable energy.²

20 5. RNW asserts it has a “special interest” in this proceeding because
21 1) members of RNW have a direct and substantial interest in Puget
22 Sound Energy’s proposed sale of Colstrip Unit 4; 2) the proposed
23 sale could impact Puget Sound Energy’s performance related to
24 clean energy implementation and de-carbonization; 3) the
25 proposed sale could impact the availability of transmission
26 capacity in the region to RNW’s members or for other resources;
27 and 4) the proposed sale could impact Puget Sound Energy’s
28 energy portfolio. In each of these areas RNW intends to focus its

¹ Petition, Docket UE-200115 (Mar. 9, 2020).

² *Id.* ¶ 4.

1 participation on examining whether Puget Sound Energy’s filing is
2 fair, just, reasonable and sufficient

3 RNW intends to examine these and other issues in this
4 proceeding.³

5 **III. ARGUMENT**

6 6. The Commission may grant a petition to intervene only if the petitioner
7 “discloses a substantial interest in the subject matter of the proceeding or if the
8 petitioner’s participation is in the public interest.”⁴ The petitioner must also
9 qualify under the law and the intervention must “not impair the orderly and
10 prompt conduct of the proceedings.”⁵ As set forth below, the Petition should be
11 denied because RNW does not have a substantial interest in the Proposed
12 Transactions nor is its intervention in the public interest.

13 **A. RNW Does Not Have a Substantial Interest in the Proposed Transactions**

14 7. The Commission should deny the Petition because RNW does not have a
15 substantial interest in the Proposed Transactions. The Commission applies a
16 “zone of interest test” to determine whether a party seeking intervention has a
17 substantial interest.⁶ Such an interest can be found to exist only when there is a
18 nexus between the petitioner’s stated purpose in seeking to intervene and an
19 interest protected by a Washington statute within the Commission’s jurisdiction.⁷

³ *Id.* ¶ 5.

⁴ WAC 480-07-355(3).

⁵ RCW 35.04.443(1).

⁶ *In Re Joint Application of Verizon Commc’ns, Inc. & Frontier Commc’ns Corp. for an Order Declining to Assert Jurisdiction Over, or, in the Alternative, Approving the Indirect Transfer of Control of Verizon Nw., Inc.*, Docket UT-090842, Order 05 ¶¶ 14-15 (Sept. 10, 2009).

⁷ *Id.*

1 None of the reasons articulated by RNW demonstrate that it has a substantial
2 interest for intervening in this proceeding.

3 **1. RNW does not specify how its members “have a direct and substantial**
4 **interest” in the Proposed Transactions**

5 8. RNW claims “members of RNW have a direct and substantial interest in
6 Puget Sound Energy’s proposed sale of Colstrip Unit 4,”⁸ but it never states how
7 its members have such an interest. The Commission’s powers are set forth in
8 Title 80 RCW, which provides that the Commission has the power to

9 [r]egulate in the public interest . . . the rates, services, facilities,
10 and practices of all persons engaging within this state in the
11 business of supplying any utility service or commodity to the
12 public for compensation.⁹

13 The “public interest,” in the context of the public service laws, is “that only of
14 *customers* of the utilities which are regulated.”¹⁰ The purpose of this proceeding is
15 to determine whether the Proposed Transactions are consistent with the public
16 interest, which are PSE’s customers. The Petition does not state who its members
17 are, whether any of the members of RNW are customers of PSE, and if so, how
18 such members are or could be impacted by the Proposed Transactions.¹¹

19 9. Instead, RNW’s interest in intervening is aimed at “creat[ing] and
20 protect[ing] markets for renewable energy expansion” and ensuring that the

8 Petition ¶ 5.

9 RCW 80.01.040(3).

10 *Cole v. Wash. Utils. & Transp. Comm’n*, 79 Wn.2d 302, 306, 485 P.2d 71 (1971) (emphasis added).

11 In contrast, another intervenor in this case, AWEC, specifically states that it “represents some of Puget Sound Energy’s . . . largest customers.” AWEC Petition to Intervene, Docket UE-200115 ¶ 4 (Feb. 25, 2020).

1 unregulated commercial and business interests of its members are protected.¹²
2 That is not a substantial interest the Commission can protect in this proceeding.
3 “The Commission will not allow . . . petitioners to intervene for the purpose of
4 protecting and promoting their competitive interests.”¹³ “[T]he public interest the
5 Commission must protect is the *interest of customers of regulated utilities, not*
6 *those of an unregulated competitor.*”¹⁴ “The Commission has no power to protect
7 the interests of businesses which it does not regulate.”¹⁵ A private business
8 interest in the potential economic impacts of a Commission proceeding by an
9 entity not regulated by the Commission—like that of RNW and its members—is
10 insufficient to grant the entity the right to intervene.¹⁶

11 **2. RNW’s suggestion that the Proposed Transactions “could impact the**
12 **availability of transmission capacity in the region to RNW’s members**
13 **or for other resources”¹⁷ is false and does not demonstrate substantial**
14 **interest**

15 10. RNW’s suggestion that it has a substantial interest in this proceeding
16 because of concerns regarding the availability of transmission capacity is false.

12 Petition ¶ 4.

13 *In the Matter of the Petition of GTE Northwest Inc.*, Docket UT-961632, Third Supp. Order (Mar. 28, 1997).

14 *Cost Mgmt. Serv., Inc. v. Cascade Nat. Gas Corp.*, Dockets UG-070639 et al., Order 01 (Oct. 12, 2007) (emphasis added).

15 *Re Application CHA-221 of Brown’s Limousine Crew Car, Inc.*, Order M. v. Ch. No 950 (July 18, 1983).

16 *Cole*, 79 Wn.2d at 305-06, 485 P.2d 71; *Cost Mgmt. Serv., Inc.*, Dockets UG-070639 et al., Order 01 (“While CMS may be interested in how the Commission resolves Cascade’s proposed tariff, CMS is not a customer of Cascade and has no “substantial interest,” as the term is used in determining intervention and standing, in the outcome of the proceeding.”); *In the Matter of the Petition of GTE Northwest Inc. For Depreciation Accounting Changes*, Docket UT-961632, Third Supp. Order (denying intervention where intervenors sought to protect competitive business interest).

17 Petition ¶ 5. RNW also mentions a concern regarding “for other resources.” It is unclear what RNW means here but to the extent RNW is attempting to represent the interests of someone other than its members, RNW provides no basis for such an assertion.

1 First, the Proposed Transactions do not change the availability of transmission
2 capacity in the region. If the Proposed Transactions are approved, the only
3 difference would be *who has the ownership interest in the capacity* because PSE
4 would be selling certain capacity interests on the Colstrip Transmission System to
5 NorthWestern Energy. Second, even if capacity were at issue, the terms and
6 conditions by which capacity is offered on the Colstrip Transmission System is
7 not subject to Commission jurisdiction but rather FERC. This is true regardless of
8 whether PSE or NorthWestern Energy holds the ownership interests in such
9 capacity. Thus, RNW cannot have a substantial interest in this proceeding based
10 on alleged concerns over transmission capacity.

11 **3. RNW’s concern that the Proposed Transactions “could impact Puget**
12 **Sound Energy’s performance related to clean energy implementation**
13 **and de-carbonization” or could “impact Puget Sound Energy’s energy**
14 **portfolio” does not demonstrate substantial interest**

15 *11.* RNW’s suggestion that its intervention should be permitted because “the
16 proposed sale could impact Puget Sound Energy’s performance related to clean
17 energy implementation and de-carbonization” or “impact Puget Sound Energy’s
18 energy portfolio”¹⁸ also does not demonstrate substantial interest. RNW’s
19 concerns are generic, are not unique to RNW, and certainly are not a “special
20 interest.” Indeed, the sale of PSE’s interests in Colstrip Unit 4 to NorthWestern
21 Energy,

22 will accelerate [PSE’s] path to compliance with the Washington
23 Clean Energy Transformation Act (subject to a final resolution of
24 Colstrip Unit 3) and significantly reduce PSE’s greenhouse gas

¹⁸ Petition ¶ 5.

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emissions with an annual average reduction of 350,000 metric tons of carbon dioxide.¹⁹

The fact that the Proposed Transactions accelerate PSE’s path to compliance with the Washington Clean Energy Transformation Act does not justify RNW’s intervention.

12. Moreover, to the extent RNW views PSE’s sale of Colstrip Unit 4 as an opportunity expand the business opportunities of its members, as explained above, that is not a justifiable basis for RNW’s intervention. There are numerous parties in this proceeding, such as Commission Staff and Public Counsel, that are well aware of PSE’s clean energy and de-carbonization requirements that can adequately address this issue to the extent relevant. RNW articulates no basis why its intervention is necessary here.

B. RNW’s Intervention Is Not in the Public Interest and Will Be Detrimental to the Proceeding

13. In addition, the Petition fails to explain how RNW’s participation would be in the public interest. As demonstrated by the reasons stated for its intervention described above, RNW’s intervention is motivated primarily by the economic and business interests of its members, such as expanding the renewable marketplace and the availability of transmission capacity, which would only distract from the narrow issue before the Commission (i.e., whether the Proposed Transactions are in the public interest in the State of Washington). In the Petition, RNW also stated it intends to introduce “other issues in this proceeding,” which it never describes.

¹⁹ Roberts, Exh. RJR-1CTr, at 3:30-34.

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This proceeding is not an open forum for RNW to advance the unspecified commercial interests of its members.

14. Nowhere does RNW demonstrate how its intervention will benefit PSE’s customers or the how its participation will aid the Commission in deciding whether the Proposed Transactions are in the public interest in the State of Washington. Indeed, given that RNW is seeking intervention to advance the economic and commercial interests of its members, RNW is not an “essential or indispensable party” to the proceeding.²⁰ Instead, RNW’s intervention will distract from the narrow focus of this proceeding and contrary to RNW’s suggestion, will broaden the issues and burden the record. Accordingly, RNW’s Petition should be denied.

²⁰ *Id.*

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IV. CONCLUSION

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15. For the reasons set forth above, the PSE respectfully requests that the
Commission deny RNW's Petition.

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Dated: March 11, 2020.

PERKINS COIE LLP

By /s/ David S. Steele

Sheree Strom Carson,
WSBA #25349
Jason Kuzma, WSBA #31830
David S. Steele, WSBA # 45640
Perkins Coie LLP
10885 NE 4th Street, Suite 700
Bellevue, Washington 98004-5579
Phone: (425) 635-1400
Email: scarson@perkinscoie.com
jkuzma@perkinscoie.com
dstele@perkinscoie.com

Attorneys for Puget Sound Energy

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