BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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| WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,  Complainant,  v.  PUGET SOUND ENERGY, INC.,  Respondent. | DOCKETS UE-090704  and UG-090705 (consolidated)  RESPONSE OF COMMISSION STAFF IN OPPOSITION TO NUCOR LATE-FILED PETITION TO INTERVENE |

1. On July 23, 2009, Nucor Steel Seattle, Inc. (Nucor) filed with the Commission a late-filed petition to intervene in these dockets, which involve a request by Puget Sound Energy, Inc. (PSE) to increase rates for electricity and natural gas service. Nucor’s petition ignored WAC 480-07-355(1)(b) because it did not explain why Nucor did not timely seek intervention and because Nucor did not attempt to provide good cause to justify late intervention. Thus, Staff opposed intervention. In the alternative, Staff asked the Commission to require Nucor to comply with WAC 480-07-355(1)(b), with opportunity for other parties to respond to any new information.
2. Nucor responded to Staff’s alternative proposal with the following information:

At the time of the aforementioned prehearing conference of June 22, 2009, Nucor’s representatives were engaged in the process of evaluating PSE’s filing to determine whether Nucor had a substantial interest in the proceeding that warranted Nucor’s participation. In fact, PSE scheduled an information meeting about this proceeding for “Major Accounts” on June 22, 2009. As of June 22, 2009, Nucor had not authorized the filing of a petition to intervene.[[1]](#footnote-1)

Nucor’s explanation is insufficient.

1. First, Nucor is not a stranger to Commission proceedings. It intervened on a timely basis in the last PSE general rate case.[[2]](#footnote-2) Nucor should be held to the same standard now.
2. Second, any party seeking to intervene in a Commission proceeding has the independent responsibility to assess in a timely manner the ramifications of the case on its interests. Nucor provides no explanation why it did not and could not make that assessment in the 45 day period that elapsed between PSE’s initial filing on May 8, 2009, and the June 22, 2009, prehearing conference.[[3]](#footnote-3) It is insufficient for Nucor to rely on a meeting scheduled by PSE on the same day as the prehearing conference to escape its own responsibility to meet Commission deadlines.
3. Third, Nucor had a way out of the dilemma it believed it faced. It could have filed a timely petition to intervene, completed its internal rate impact assessment, and then made a decision whether or not to stay in the case or seek leave to withdraw. Its failure to take that course of action should not be excused.
4. Finally, Staff does not oppose intervention by Nucor merely as a mechanical application of Commission procedural rules. Timely intervention is important to the efficient litigation and potential negotiation of a complex proceeding such as the one now before the Commission. Late intervention, such as that proposed by Nucor, may undermine such efforts and should not be excused absent good cause and sufficient explanation. Those standards have not been met here.
5. For these reasons, the Commission should deny Nucor’s petition for late-filed intervention.

DATED this 30th day of July, 2009.

Respectfully submitted,

ROBERT M. MCKENNA

Attorney General

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ROBERT D. CEDARBAUM

Assistant Attorney General

Counsel for Washington Utilities and

Transportation Commission Staff

1. Nucor Steel Seattle, Inc. Response to Commission Staff at ¶ 5. [↑](#footnote-ref-1)
2. *WUTC v. Puget Sound Energy, Inc.,* Dockets UE-072300 and UG-072301, Order 03 at ¶¶ 6 and 8 (January 17, 2008). [↑](#footnote-ref-2)
3. Indeed, another 30 days elapsed after the PSE meeting before Nucor sought intervention. No explanation is offered for that further delay. [↑](#footnote-ref-3)