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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  
THE PETITION FOR  
INTERLOCUTORY REVIEW OF  
DENIAL OF LATE FILED  
PETITION TO INTERVENE OF  
JEFF P. JORDAN**

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**I. INTRODUCTION**

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*I.* Pursuant to WAC 480-07-355 and WAC 480-07-810, Puget Sound Energy (“PSE”) responds and objects to the Petition for Interlocutory Review of Denial of Late Filed Petition to Intervene of Jeff P. Jordan (“Petition”). The Petition should be denied because the Presiding Officer properly denied Mr. Jordan’s late-filed petition to intervene. Mr. Jordan does not have a substantial interest in this proceeding, his intervention is not in the public interest as he admittedly seeks to broaden the scope of the proceeding, and he does not have a satisfactory excuse for seeking to intervene nearly six months late.

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**II. ARGUMENT**

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**A. Interlocutory Review is Not Warranted**

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*2.* The Petition should be denied because Mr. Jordan has failed to demonstrate that interlocutory review is warranted. The Commission may accept review of interim or interlocutory orders if it finds that:

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1 (a) The order terminates a party’s participation in the proceeding, and  
2 the party’s inability to participate thereafter could cause it substantial  
3 and irreparable harm;

4 (b) Immediate review is necessary to prevent substantial prejudice to a  
5 party that would not be remediable in the commission’s final order; or

6 (c) Immediate review could save the commission and the parties  
7 substantial effort or expense, or some other factor is present that  
8 outweighs the costs in time and delay of exercising review.<sup>1</sup>

9 3. The Petition does not explain how Mr. Jordan’s inability to participate in  
10 the proceeding would cause him “substantial and irreparable harm” or why  
11 “[i]mmediate review is necessary to prevent substantial prejudice.” While it is  
12 true that denying Mr. Jordan intervention would not allow him to participate as a  
13 party, the procedural process already provides individual citizens a mechanism to  
14 participate directly via written comment or oral comment at the public comment  
15 hearings.<sup>2</sup> Moreover, Public Counsel already represents his interests.<sup>3</sup>

16 4. Mr. Jordan has also not explained how “immediate review could save the  
17 commission and the parties substantial effort or expense.” Indeed, he has not  
18 provided any evidence of any “resource savings that the parties or the  
19 Commission would realize from interlocutory review.”<sup>4</sup> Accordingly, the  
20 Commission should decline to grant interlocutory review.

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1 WAC 480-07-810(2).

2 The public comment hearings are scheduled for October 8, 2020, at 1:30 p.m. and 6:00 p.m.

3 RCW 80.04.510.

4 *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 Interest in Puget Sound Energy*, Docket U-180680, Order 04 ¶ 14 (Dec. 13, 2018) (“Docket U-180680”).

1 **B. The Presiding Officer Correctly Denied the Petition to Intervene**

2 5. The Presiding Officer properly denied Mr. Jordan’s petition to intervene.  
3 Washington’s Administrative Procedures Act (“APA”) provides presiding officers  
4 with discretion to grant a petition to intervene “upon determining that the  
5 petitioner qualifies as an intervenor under any provision of law and that the  
6 intervention sought is in the interests of justice and will not impair the orderly and  
7 prompt conduct of the proceedings.”<sup>5</sup> Under the Commission’s rules, intervention  
8 is only permissible if the petitioner has a substantial interest in the proceeding or  
9 if the petitioner’s proceeding is in the public interest.<sup>6</sup> Neither of these grounds  
10 warrant Mr. Jordan’s intervention. Moreover, Mr. Jordan failed to provide a  
11 satisfactory explanation for his belated petition to intervene.

12 **1. Mr. Jordan Does Not Have a Substantial Interest in the Proceeding.**

13 6. The Presiding Officer correctly determined that Mr. Jordan does not have  
14 a substantial interest in the proceeding.<sup>7</sup> The Commission applies a “zone of  
15 interest test” to determine whether a party seeking intervention has a substantial  
16 interest.<sup>8</sup> Such an interest can be found to exist only when there is a nexus  
17 between the petitioner’s stated purpose in seeking to intervene and an interest  
18 protected by a Washington statute within the Commission’s jurisdiction that is

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<sup>5</sup> RCW 35.04.443(1).

<sup>6</sup> WAC 480-07-355(3).

<sup>7</sup> Order 04 ¶ 15.

<sup>8</sup> Order 04 ¶ 14; Docket 180680, Order 03 ¶ 11; *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 (Sept. 10, 2009).

1 presently before the Commission.<sup>9</sup> The Commission’s powers are set forth in Title  
2 80 RCW, which provides that the Commission has the power to  
3 [r]egulate in the public interest . . . the rates, services, facilities, and  
4 practices of all persons engaging within this state in the business of  
5 supplying any utility service or commodity to the public for  
6 compensation.<sup>10</sup>

7 The “public interest,” in the context of public service laws, is “that only of  
8 customers of the utilities which are regulated.”<sup>11</sup> The purpose of this proceeding is  
9 to determine whether the Proposed Transactions are consistent with the public  
10 interest, which are PSE’s customers.<sup>12</sup> At the hearing upon which the petition to  
11 intervene was considered, Mr. Jordan admitted he is not a PSE customer and has  
12 “no interest, financial or otherwise, other than the public interest.”<sup>13</sup> This  
13 proceeding is not an open forum for individual persons to interpose their personal  
14 views and opinions, however informed or valid they believe they are. “[Mr.  
15 Jordan] may not act as a private attorney general”<sup>14</sup> to promote his interests.

16 7. Even if Mr. Jordan were a PSE customer, the Presiding Officer correctly  
17 found that his interests are already adequately represented.<sup>15</sup> As noted above,  
18 Public Counsel represents the interests of individual citizens and there are a dozen

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<sup>9</sup> Order 04 ¶ 14; Docket 180680, Order 03 ¶ 11; *In Re Joint Application of Verizon Commc’ns, Inc. & Frontier Commc’ns Corp.*, Order 05 ¶ 14.

<sup>10</sup> RCW 80.01.040(3).

<sup>11</sup> *Cole v. Wash. Utils. & Transp. Comm’n*, 79 W.2d 302, 306, 485 P.2d 71 (1971).

<sup>12</sup> *See Cost Mgmt. Serv., Inc. v. Cascade Nat. Gas Corp.*, Dockets UG-070639 et al., Order 01 (Oct. 12, 2007) (“[T]he public interest the Commission must protect is the interest of customers of regulated utilities.”).

<sup>13</sup> Docket UE-200115, Transcript Vol. III at 160:8-15 (Sept. 8, 2020).

<sup>14</sup> U-180680, Order 03 ¶ 28.

<sup>15</sup> Order 04 ¶ 15.

1 parties in this proceeding, including several parties with knowledge of renewable  
2 energy, resource adequacy, and CETA.<sup>16</sup> Mr. Jordan complains that he has  
3 contacted some of the parties in this proceeding and that none have agreed to  
4 advance his positions.<sup>17</sup> Other parties' alleged lack of responsiveness or interest in  
5 Mr. Jordan's positions demonstrates that the issues Mr. Jordan seeks to advance  
6 are beyond the scope of this proceeding.

7 8. The Petition is similar to a petition for interlocutory review filed a few  
8 years ago in Docket U-180680 by a PSE customer and former PSE employee who  
9 claimed to have knowledge and experience regarding the subject of that  
10 proceeding and sought to intervene to advance interests that would have  
11 broadened the scope of the proceeding.<sup>18</sup> The Presiding Officer denied  
12 intervention determining that the petitioner failed to demonstrate he had a  
13 substantial interest in the proceeding that was not already represented adequately  
14 by another party.<sup>19</sup> The petitioner filed a petition for interlocutory review where  
15 the Commission affirmed the denial of intervention.<sup>20</sup> Like the petitioner in that  
16 case, Mr. Jordan has no substantial interest. And since he is not a PSE customer,  
17 his basis for intervening is even weaker than the petitioner in Docket U-180680.

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<sup>16</sup> Order 04 ¶ 15.

<sup>17</sup> Pet. at 3.

<sup>18</sup> Docket U-180680, Order 03 ¶ 25.

<sup>19</sup> *Id.* ¶ 28.

<sup>20</sup> Docket U-180680, Order 04 ¶¶ 15-18.

1           **2. Mr. Jordan’s Intervention Is Not in the Public Interest**

2           9.           The Presiding Officer also correctly concluded that Mr. Jordan’s  
3 participation would not be in the public interest and would instead “broaden the  
4 scope of this proceeding, which is limited to the Commission’s evaluation of  
5 whether granting the Application, as supplemented, and approving the proposed  
6 transactions is consistent with the public interest.”<sup>21</sup>

7           10.           The Petition confirms that Mr. Jordan’s motivations for intervening are to  
8 advance his personal views and theories, which are not in the public interest. The  
9 Petition enumerates a list of topics he desires to explore, which would distract and  
10 encumber the narrow focus of the proceeding.<sup>22</sup> He admits his intent to broaden  
11 the scope of and use the proceeding as a collateral forum to further advance  
12 comments he provided in Docket UE-191023.<sup>23</sup> The APA prohibits interventions  
13 that would “impair the orderly and prompt conduct of the proceedings.”<sup>24</sup> Using  
14 this proceeding as Mr. Jordan’s personal platform would inappropriately  
15 complicate the proceeding, expand the length of time necessary to resolve the  
16 proceeding, and would therefore not be in the public interest. In Docket U-180680  
17 discussed above, the Commission also found that the petitioner’s desire to use that  
18 proceeding to advance his personal agendas was not in the public interest.<sup>25</sup> Mr.  
19 Jordan has not demonstrated how his participation would benefit the Commission

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21 Order 04 ¶ 15.

22 Pet. at 2.

23 Pet. at 3.

24 RCW 34.05.443(1).

25 U-180680, Order 04 ¶¶ 16-18.

1 or the parties in determining whether the Proposed Transactions are consistent  
2 with the public interest. Accordingly, the Commission should affirm the Presiding  
3 Officer’s decision to deny Mr. Jordan’s petition to intervene.

4 **C. Mr. Jordan’s Excuses for His Late-Filed Petition Are Not a “Satisfactory**  
5 **Explanation”**

6 *11.* “The commission may grant a petition to intervene made after the initial  
7 hearing or prehearing conference, whichever occurs first, only on a showing of  
8 good cause, including a satisfactory explanation of why the person did not timely  
9 file a petition to intervene.”<sup>26</sup> Mr. Jordan filed his petition to intervene nearly six  
10 months after the case initiated. The Petition contains new alleged reasons for Mr.  
11 Jordan’s delay.<sup>27</sup> Not only is it inappropriate to provide new evidence on a  
12 petition for interlocutory review, but most of Mr. Jordan’s reasons can be  
13 summarized as he was simply involved in other endeavors and did not realize the  
14 proceeding was ongoing. Just as the Presiding Officer rejected another late-filed  
15 petition to intervene based on alleged delays from COVID-19,<sup>28</sup> Mr. Jordan’s  
16 excuses for filing late are not a “satisfactory explanation” to justify “good cause”  
17 for a late intervention.

18 **III. CONCLUSION**

19 *12.* For the reasons set forth above, the Commission should affirm the  
20 Presiding Officer’s decision and deny the Petition.

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<sup>26</sup> WAC 480-07-310(1)(b).  
<sup>27</sup> Pet. at 7-10.  
<sup>28</sup> Order 04 ¶ 16.

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Dated: September 28, 2020.

**PERKINS COIE LLP**

By /s/ David S. Steele

Sheree Strom Carson,  
WSBA #25349

Jason T. 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](mailto:scarson@perkinscoie.com)

[jkuzma@perkinscoie.com](mailto:jkuzma@perkinscoie.com)

[dstele@perkinscoie.com](mailto:dstele@perkinscoie.com)

Attorneys for Puget Sound Energy

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