

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKETS UE-111048
TRANSPORTATION COMMISSION,	)	and UG-111049 ( <i>consolidated</i> )
	)	
Complainant,	)	
	)	ORDER 04
V.	)	
	)	
PUGET SOUND ENERGY, INC.,	)	GRANTING SIERRA CLUB'S
	)	LATE-FILED PETITION TO
Respondent.	)	INTERVENE
	)	
.....	)	

**MEMORANDUM**

- 1 On June 13, 2011, Puget Sound Energy, Inc. (PSE), filed with the Washington Utilities and Transportation Commission (Commission) certain tariff revisions designed to increase rates for electrical and natural gas services provided to customers in Washington. The Commission suspended operation of the as-filed tariffs by Order 01. The Commission convened a prehearing conference at Olympia, Washington on July 20, 2011, before Administrative Law Judge Dennis J. Moss.
  
- 2 The following businesses and organizations filed petitions to intervene or petitioned orally by the deadline of July 20, 2011, the date of the first prehearing conference:

ICNU	The Energy Project
NWIGU	Cost Management Services, Inc.
Kroger Company	NWEC
Federal Executive Agencies	Nucor Steel of Seattle, Inc.

3 PSE objected to the petition of Cost Management Services, Inc. (CMS), and citing  
concerns regarding its competitive position in the industry. PSE's objection was  
overruled. There was no objection to the other petitions to intervene. The  
Commission determined in Order 03 that the petitioners each demonstrated a  
substantial interest in this proceeding and that their participation would be in the  
public interest. The petitions to intervene accordingly were granted.

4 On August 4, 2011, Sierra Club filed its Late-Filed Petition to Intervene as allowed by  
WAC 480-07-355(1) (b). Sierra Club argues that it has good cause for its tardiness,  
asserts substantial interests in the proceeding and represents that its participation  
would be in the public interest. Sierra Club also states it "has no intention of  
unreasonably broadening the issues, burdening the record or delaying the proceeding  
through its intervention."<sup>1</sup>

5 Commission Staff and PSE filed responses objecting to Sierra Club's late-filed  
petition. Sierra Club filed a reply, to which Staff and PSE filed a joint motion to  
strike on procedural and substantive grounds. Sierra Club cured the procedural  
deficiency with its belated filing of a motion for leave to file a reply. The  
Commission, wishing to consider the full range of argument, grants Sierra Club's  
motion for leave to file a reply.

6 Sierra Club states more specifically in its petition that it wishes to intervene with respect  
to issues related to the Lower Snake River Wind Project and the Colstrip electricity  
generating facility. Sierra Club says the presence and significance of these issues in the  
pending general rate case became apparent to the organization too late for timely  
intervention.<sup>2</sup> Staff and PSE argue in opposition to Sierra Club's Petition that the  
presence of such issues should have been obvious to the organization from even a cursory  
review of PSE's filing, which has been publicly available since June 13, 2011. Thus,  
they argue, Sierra Club has not shown good cause for its late petition.

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<sup>1</sup> Sierra Club Petition at 4.

<sup>2</sup> See Petition at 2, 3. Sierra Club states that before the prehearing conference in this matter, it  
decided to focus its limited resources to address such issues in PSE's Integrated Resource Plan  
("IRP") proceeding rather than this proceeding. *Id.* at 1. Now that the Sierra Club has decided its  
efforts are better directed to PSE's pending general rate case, the organization states that it  
"would welcome an order from this Commission that expressly limits Sierra Club's involvement  
to issues related to the investments in the Lower Snake River Wind Project and the ongoing  
investments that PSE is making in the Colstrip facility". Sierra Club Reply at 6.

7 Sierra Club, apparently after ongoing discussions at the local level and follow-up discussions at the national level, changed its mind about whether PSE's pending general rate case is an appropriate forum for the application of its "limited resources."<sup>3</sup> Given that decision making in such organizations can be cumbersome and time-consuming, Sierra Club's tardiness should not be ascribed to a lack of diligence. Because Sierra Club filed its petition still relatively early in the process, the issue of good cause should not be dispositive so long as some reasonable explanation for tardiness is provided, as here. The Commission determines that Sierra Club's statement of good cause is sufficient to excuse its lateness in filing for leave to intervene.

8 Turning to the question of Sierra Club's substantial interest in this proceeding, the organization states as follows:

Sierra Club has extensive experience in the environmental benefits, the public health benefits, and the associated utility economics related to the increased use of renewable generation facilities to replace outdated coal-fired and other fossil fuel generation technology. Sierra Club's Beyond Coal campaign advances the development of energy conservation and renewable energy policies, which eliminate or reduce global climate change emissions, reduce utility bills, and generate renewable energy. Sierra Club's work includes advocating for the implementation of robust incentive programs that assist its members and utility consumers generally to generate their own renewable energy and increase energy efficiency. The Sierra Club's work includes intervening in efficiency and renewable energy dockets at public utility commissions nationwide and submitting comments in numerous state and federal agency energy-related proceedings and rulemakings. Sierra Club members work tirelessly to reduce reliance on carbon emitting energy sources such as the Colstrip plant by promoting clean energy alternatives, including projects such as the Lower Snake River Wind Project, and energy efficiency measures.<sup>4</sup>

9 Staff and PSE express concerns that the nature of the Sierra Club's interests in these issues is such that it threatens to broaden this proceeding into areas of concern better considered in other fora (*e.g.*, in the IRP process where Sierra Club has focused its

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<sup>3</sup> Sierra Club Petition at 1.

<sup>4</sup> *Id.* at 4.

attention in the past,<sup>5</sup> before the Legislature, in Commission rulemaking, in Commission dockets addressing PSE's compliance with renewable energy targets, or in other energy policy stakeholder groups). PSE argues specifically that “issues relating to PSE's level of renewable generation and conservation can be addressed in the Commission dockets that review PSE's conservation program and compliance with conservation and renewable energy targets.”<sup>6</sup> Finally, PSE argues that “Sierra Club's concerns regarding limiting the use of coal-fired electric generation and health concerns associated with such plants are more appropriately addressed at the licensing and permitting proceedings for such plants.”<sup>7</sup>

10 The exact nature of Sierra Club’s interests in this proceeding is not entirely clear, and the Commission does perceive some risk that the organization may seek to broaden the issues beyond what is appropriate in a general rate proceeding. Nevertheless, the Lower Snake River project is before us at PSE’s request for determinations that the Company made a prudent acquisition and that the associated costs should be allowed for recovery in rates. While we are not currently aware that the prudence of any decisions PSE may have made concerning Colstrip is at issue in this proceeding, Colstrip’s costs and their rate accounting treatment are considerations in this general rate proceeding, whether or not controverted. Given that Sierra Club states an interest in the economic considerations related to these production assets, among other interests, we determine on balance that we should allow Sierra Club to intervene, subject to the limitations it invites and a caveat concerning the scope of its advocacy.

11 Sierra Club states in its reply that it “would welcome an order from this Commission that expressly limits Sierra Club’s involvement to issues related to the investments in the Lower Snake River Wind Project and the ongoing investments that PSE is making in the Colstrip facility.”<sup>8</sup> We accept this invitation to limit the organization’s participation to these issues. We do so with the caveat that the Commission is principally an economic regulator and that a general rate proceeding such as this is

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<sup>5</sup> According to PSE, Sierra Club is already active in PSE's IRP proceeding: “Sierra Club participated in the IRP advisory group and filed extensive comments to PSE's 2011 IRP. The IRP proceeding involves many of the same issues that Sierra Club lists in its Petition, including examination of new electricity generating resources such as Lower Snake River Wind Project and Colstrip.” PSE Objection ¶ 8.

<sup>6</sup> *Id.* ¶ 9.

<sup>7</sup> *Id.* ¶ 10.

focused specifically on the Company's costs and their recovery in rates. To the extent Sierra Club wishes to present evidence or advocacy on cost and ratemaking issues, it will be allowed to do so. If it strays from this focus, however, parties will be free to file appropriate motions, or the Commission may act on its own motion, to strike prefiled testimony or exhibits, or to refuse their admission into the record upon which this case will be decided.

**ORDER**

- 12 The Commission grants Sierra Club's Late-Filed Petition To Intervene subject to the limitations and guidance discussed in the body of this Order.

Dated at Olympia, Washington, and effective September 27, 2011.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS  
Administrative Law Judge

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<sup>8</sup> Sierra Club Reply at 6.

APPENDIX A				
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