

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKETS UE-121697
TRANSPORTATION COMMISSION,	)	and UG-121705 ( <i>consolidated</i> )
	)	
Complainant,	)	
	)	
v.	)	
	)	
PUGET SOUND ENERGY,	)	
	)	
Respondent.	)	
	)	
.....	)	
WASHINGTON UTILITIES AND	)	DOCKETS UE-130137
TRANSPORTATION COMMISSION,	)	and UG-130138 ( <i>consolidated</i> )
	)	
Complainant,	)	ORDER 13
	)	
v.	)	DENYING PUBLIC COUNSEL’S
	)	“MOTION FOR RECONSIDERATION
PUGET SOUND ENERGY,	)	OR CLARIFICATION OF ORDER 11”
	)	
Respondent.	)	
	)	
.....	)	

1 **PROCEEDINGS.** On July 24, 2013, the Washington Utilities and Transportation Commission (Commission) entered in these proceedings joint Order 07 - Final Order Granting Petition in Dockets UE-121697 and UG-121705 (*consolidated*), and Final Order Authorizing Rates in Dockets UE-130137 and UG-130138 (*consolidated*). The Industrial Customers of Northwest Utilities (ICNU) and the Public Counsel Division of the Washington State Attorney General’s Office (Public Counsel) filed Petitions for Judicial Review. The Thurston County Superior Court filed its order in Case Nos. 13-2-01576-2 and 13-2-01582-7 (*consolidated*) on July 25, 2014, Granting in Part and Denying in Part Petitions for Judicial Review. The Court remanded this case to the Commission “for further adjudication.”

- 2 On October 8, 2014, the Commission entered Order 10-Prehearing Conference Order; Order Denying Motion to Modify Order 07. Public Counsel filed a Petition for Review of Interlocutory Order and Request for Clarification and Modification of Order 10 on October 21, 2014. The same day, ICNU filed a Request for Clarification of Order 10.
- 3 On October 24, 2014, the Commission entered Order 11 Denying Petition for Review, Requests for Clarification, and Denying Without Prejudice Motions To Modify Procedural Schedule. On November 7, 2014, Public Counsel filed a Motion for Reconsideration or Clarification of Order 11.<sup>1</sup>
- 4 Order 11 is an interlocutory order under WAC 480-07-810(1). A party may file a petition for review of such an order under WAC 480-07-810(3). However, WAC 480-07-810(2) When Review is Available, provides that:

Interlocutory review is discretionary with the commission. The commission may accept review of interim or interlocutory orders in adjudicative proceedings if it finds that:

- (a) The ruling terminates a party's participation in the proceeding and the party's inability to participate thereafter could cause it substantial and irreparable harm;
- (b) A review is necessary to prevent substantial prejudice to a party that would not be remediable by post-hearing review; or
- (c) A review could save the commission and the parties substantial effort or expense, or some other factor is present that outweighs the costs in time and delay of exercising review.

Public Counsel does not allege or even infer that any of these criteria for review is present in this instance. In addition, as Public Counsel's filing states, Public Counsel already made this argument during the Commission's September 30, 2014, prehearing conference. In the colloquy to which Public Counsel refers, the presiding Administrative Law Judge made clear that nothing said in his exchange with Public Counsel on this point should be taken to imply a presumption such as Public Counsel alleges here. Nor is there anything in that exchange, or in Order 11, that suggests any

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<sup>1</sup> The Commission's procedural rules do not provide for a "motion for reconsideration." A *petition* for reconsideration is allowed under WAC 480-07-850, but only with respect to Final Orders as defined in WAC 480-07-820(1)(b).

party other than PSE bears the burden to support the return on equity of 9.8 percent that it seeks to have sustained on remand.<sup>2</sup>

5 Finally, RCW 80.080.04.130(4) provides:

At any hearing involving any change in any schedule, classification, rule, or regulation the effect of which is to increase any rate, charge, rental, or toll theretofore charged, the burden of proof to show that such increase is just and reasonable shall be upon the public service company.

Were there otherwise any doubt concerning the burden of proof in this case, this statute should lay it to rest.

6 Public Counsel's motion is unnecessary, does not satisfy the requirements of WAC 480-07-810(2), and should be denied.

### **ORDER**

7 THE COMMISSION ORDERS that Public Counsel's Motion for Reconsideration or Clarification of Order 11 is DENIED.

Dated at Olympia, Washington, and effective November 10, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS  
Senior Review Judge

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<sup>2</sup> TR. 504:23 – 507:11.