BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of Application No. 2009-01

WHISTLING RIDGE ENERGY, L.L.C. ASSOCIATION OF WASHINGTON BUSINESS' PETITION TO INTERVENE

WHISTLING RIDGE ENERGY PROJECT

I. INTRODUCTION

COMES NOW the Association of Washington Business ("AWB"), by and through its president, Don C. Brunell, and respectfully submits this petition to intervene in the above-captioned matter pursuant to RCW 34.05.443, WAC 463-30-091, RCW 80.50.040, and the Energy Facility Site Evaluation Council's ("Council") Notice of Opportunity to File Petitions for Intervention issued in this matter. Intervention should be granted as AWB and its members have economic and other interests in this proceeding which may be impaired or impeded if intervention is not granted.

Identification of Petitioner

Association of Washington Business
1414 Cherry St. SE
P.O. Box 658
Olympia, WA 98501  
(360) 943-1600 (tel.)  
(360) 943-5811 (fax)

II. STATEMENT OF PETITIONER'S INTEREST

The AWB is a private, non-profit, and tax-exempt corporation under Section 501 (c)(6) of the Internal Revenue Code. Formed in 1904, AWB is Washington's oldest and largest statewide business association representing the general business regulated community and includes more than 6,500 members who employ over 650,000 people in Washington state. AWB serves as Washington's chamber of commerce and the state's manufacturing and technology association. Acting as the state's chamber of commerce, AWB is an umbrella organization representing the interests of 114 trade and business associations engaged in industry-specific activities as well as 56 local and regional chambers of commerce across Washington. Representative industries include manufacturing, forestry and mining, retail and wholesale, utilities, construction and service industries. AWB represents small, medium and large businesses, both urban and rural. Ninety percent of AWB members employ fewer than 100 people and more than half of which employ fewer than 10 people. AWB is at the forefront of legislative and regulatory advocacy for policies promoting and ensuring reliability and economic competitiveness in the state's energy supply. AWB's primary goals are to encourage economic growth, boost productivity, and create jobs in Washington. AWB also advocates for a stable regulatory climate to encourage investment in the generation and transmission of energy resources necessary to sustain and encourage economic development.

III. LEGAL ARGUMENT

Under the Washington Administrative Procedures Act, RCW Ch. 34.05, "[t]he presiding officer may grant a petition for intervention at any time, upon determining that the petitioner qualifies as an intervenor under any provision of law and that the intervention sought is in the
interest of justice and will not impair the orderly and prompt conduct of the proceedings.” RCW 34.05.443. Here, the controlling provision of law is that “[o]n timely application in writing to the council, intervention shall be allowed to any person upon whom a statute confers a right to intervene and, in the discretion of the council, to any person having an interest in the subject matter and whose ability to protect such interest may be otherwise impaired or impeded.” WAC 463-30-091.

As the only state-wide business association representing a broad range of electricity rate-paying businesses and industries that will be affected by this proceeding, AWB seeks intervention on the basis of the following interests in the Whistling Ridge Energy Project (“Whistling Ridge”) that are otherwise unprotected and may be impaired or impeded by the proceeding.

A. The Growing Demand for Renewable Sources of Electricity in Washington

On behalf of its electricity rate-paying members, AWB has an interest in ensuring that our state’s power demands are met in a manner that keep energy costs stable and competitive. The applicant’s project must be approved to meet the growing demand for electricity in our state while complying with the standards imposed by the recently enacted Initiative Measure 937 (2006) while keeping power rates cost-competitive.

In November of 2006, Washington voters approved Laws of 2007, ch. 1 (Initiative Measure 937). I-937 requires, inter alia, that:

Each qualifying utility shall use eligible renewable resources or acquire equivalent renewable energy credits, or a combination of both, to meet the following annual targets: (i) At least three percent of its load by January 2, 1012, and each year thereafter through December 31, 2015; (ii) At least nine percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and (iii) At least fifteen percent of its load by January 1, 2020, and each year thereafter.

This renewable energy standard requires that qualifying Washington utilities use these specified percentages of eligible renewable resources, or renewable energy credits, by the target dates. Based on the definitions of “eligible renewable resources” contained in I-937, most of Washington’s vast hydropower does not qualify as an eligible renewable resource. By contrast, wind power, such as the applicant’s proposed project, unqualifiedly counts as an eligible renewable resource and is an economically feasible and desirable renewable energy source under I-937.

In the event a qualifying utility does not meet the standards set forth above, the utility must pay an administrative penalty of $50 per megawatt hour of shortfall to the state. RCW 19.285.060(1). Provided that certain criteria are met, that penalty may be passed on to consumer ratepayers. RCW 19.285.060(4)-(7). These potential consumer ratepayers include all AWB members.

While projects like the applicant’s are desirable under I-937, economically viable wind energy sites in Washington are limited.¹ In order to comply with the policy mandates of I-937, without reference to existing hydropower resources, qualifying utilities must look to projects like the applicant’s to achieve compliance and avoid costly penalties.

Moreover, approval of the applicant’s project is important to replace the renewable hydropower lost from the removal of the Condit Dam on the White Salmon River in the next few years.

Given that demand for our state's electricity supply continues to grow, projects like the applicant's must be approved to comply with the standards contained in L-937 and to avoid penalties for non-compliance, meet our state's growing demand for electricity, and keep power rates competitive for AWB members across the state.

In addition, AWB and its members are very concerned about the continued uncertainty about the status of the future operation of dams on the Columbia and Snake Rivers. AWB has supported the agreement reached by most Tribes, farmers, foresters, federal and state agencies, business and other interests. However, implementation of this agreement (the National Ocean and Atmospheric Administration's (NOAA) 2008 Final Columbia-Snake River Basin/Federal Columbia River Power System (FCRPS) Biological Opinion) is in doubt because of recent federal court decisions. Such uncertainty seriously jeopardizes the future of reliable, cost-effective and adequate electricity for Washington families, businesses, industry, agriculture, hospitals, schools and others in our population which is using greater amounts of electricity. To offset these growing problems, projects such as Whistling Ridge, must be expeditiously approved.


A substantial component of AWB's membership has operations tied directly or indirectly to the health of our state's forest products industry and the association maintains an active public interest in the economic vitality of our state's forest industry, particularly in the small, local, timber-dependent communities like White Salmon and Bingen that would be affected by the applicant's project approval.

The applicant's proposed project breathes new life into an ailing Washington timber industry and provides a creative and entrepreneurial new way for forest land owners to utilize their land in an environmentally responsible way.

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Over the past two decades, Washington’s forest industry and timber-dependent communities have been decimated by the federal Endangered Species Act endangered listing of the Northern Spotted Owl, the Marble Murrelet, and some wild salmon runs. The applicant’s proposed project creates hope for a struggling forest industry and creates a novel new way for landowners to use land that has otherwise been taken out of production.

It is becoming increasingly clear that for the remaining forest industry to survive in Washington, it must diversify. In addition to intensive silviculture, the industry must now look to creative new business practices. Siting wind energy projects on forest lands that have high potential for the production of wind energy is a prime example of this diversification.

In addition to the positive economic benefits to be gained by the forest landowner, an equally positive economic benefit will be realized by the surrounding community due to the creation of hundreds of new jobs and an increased tax base for local governments – elements that are extremely important during this historic economic recession.

C. Project Opponents Misconstrue Legal Requirements Affecting Siting.

Finally, AWB is very concerned about a precedent that may be set by opponents if this project is not approved. Opponents argue that the federal Columbia River Gorge Scenic Area Act and National Scenic Area Act require that buffers be established that would adversely affect the siting of the applicant’s project and have an adverse affect on the myriad AWB members who own land and operate businesses in this area.

Other parties to this proceeding do not adequately represent these interests of AWB and without intervention, the ability of the association to protect its members and their interests may be impaired or impeded. AWB is familiar with state and federal laws and policies, such as Initiative 937 and the Columbia River Gorge Scenic Act, and how interpretation and
implementation of those laws and policies affect local and state-wide businesses on a day-to-day basis.

It is this unique and critical perspective of AWB that will provide valuable input in assisting the Council in its assessment of the Whistling Ridge proposal.

IV. CONCLUSION

In accordance with the foregoing, AWB respectfully requests that the Council grant its petition to intervene in these proceedings. The outcome of this matter is of interest not only to the applicant, but will have a permanent and significant affect on state energy policy and the economic interests of the entire state. AWB requests to be heard as a voice in these proceedings and to be given the right to fully participate in all aspects and issues in accordance with the rules and regulations that guide the Council in this matter.

DATED this 26th day of June, 2009.
STATE OF WASHINGTON) ) ss.
County of Thurston )

Don C. Brunell, the Petitioner herein, being first duly sworn on oath, deposes and says: I
am the president of the Association of Washington Business and as such am authorized to
execute this verification. I have read the foregoing Petition to Intervene, know the contents
thereof and believe the same to be true.

Don C. Brunell
President
Association of Washington Business

SIGNED AND SWORN TO before me on June 26, 2009, by Don C. Brunell.

NOTARY PUBLIC in and for the State of
Washington residing at Olympia.
My commission expires Jan 1, 2012.