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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 LAKE WASHINGTON SCHOOL DISTRICT)
NO. 414,)

4)
Complainant,)

5)

6 vs.) DOCKET NO. UE-990917

7) Volume No. 1

8 PUGET SOUND ENERGY, INC.,) Pages 1 - 11

9)

10 Respondent.)

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13 A prehearing conference in the above matter
14 was held on November 10, 1999 at 10:05 a.m. at 1300
15 South Evergreen Park Drive Southwest, Olympia,
16 Washington, before Administrative Law Judge MARJORIE R.
17 SCHAER.

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19 The parties were present as follows:

20 THE WASHINGTON UTILITIES AND TRANSPORTATION
21 COMMISSION, by SALLY G. JOHNSTON, Assistant Attorney
22 General, 1400 South Evergreen Park Drive Southwest,
23 Post Office Box 40128, Olympia, Washington, 98504-0128.

24 Also Present: Mary Taylor, Doug Kilpatrick,
25 John Thompson

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27 PUGET SOUND ENERGY, INC., by KIRSTIN S.
28 DODGE, Attorney at Law, Perkins Coie, 411 108th Avenue
29 Northeast, Suite 1800, Bellevue, Washington,
30 98004-5584.

31 Also Present: Lynn F. Logen

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33 LAKE WASHINGTON SCHOOL DISTRICT NO. 414, by
34 TIMOTHY S. McCREDIE, Attorney at Law, Livengood, Carter
35 Tjossem, Fitzgerald & Alskog, 620 Kirkland Way,
36 Suite 200, Post Office Box 908, Kirkland, Washington,
37 98083-0908.

38 Also Present: Barry A. Baker

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Kathryn T. Wilson, CCR, Court Reporter

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1 JUDGE SCHAER: Let's be on the record. This
2 morning we are in a prehearing conference in Docket No.
3 UE-990917, which is the Lake Washington School District
4 No. 414, Complainant, versus Puget Sound Energy, Inc.,
5 Respondent. We are meeting at 10:00 a.m. in Commission
6 hearing room 108. Today's date is November 10th, 1999.
7 I'm Marjorie Schaer, and I am the Administrative Law
8 Judge appointed by the Commission to this proceeding.
9 The hearing today regards a complaint by Lake
10 Washington School District against Puget Sound Energy
11 claiming that there were overcharges for two
12 underground utility conversion projects which took
13 place in 1997 and 1998.

14 I'd like to begin by taking appearances, and
15 I'd like you to give your complete appearance with your
16 name and address for this first appearance in the
17 hearing and then we'll go more briefly in the future,
18 and we'll start with the Complainant.

19 MR. McCREDIE: I'm Timothy McCredie, attorney
20 for the Lake Washington School District. I am with the
21 law firm of Livengood Carter. My mailing address is
22 P.O. Box 908, Kirkland, Washington, 98083.

23 JUDGE SCHAER: Then for the Respondent?

24 MS. DODGE: Kirsten Dodge with Perkins Coie.
25 My business address is 411 108th Avenue Northeast,

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1 Suite 1800, Bellevue, 98004. I'm representing Puget
2 Sound Energy in this proceeding.

3 JUDGE SCHAER: The Commission staff?

4 MS. JOHNSTON: Sally G. Johnston, Assistant
5 Attorney General. My address is 1400 South Evergreen
6 Park Drive, Olympia, Washington, 98504. My telephone
7 number is area code (360) 664-1193. My fax number is
8 area code (360) 586-5522, and my e-mail address is
9 sjohnston@wutc.wa.gov.

10 JUDGE SCHAER: Mr. McCredie, would you like
11 to add your phone numbers and e-mail to the record in
12 case we need to get in touch with you in a hurry?

13 MR. MCCREDIE: I'd be happy to. My phone
14 number is (425) 822-9281. Fax number is
15 (425) 828-0908. I do have e-mail as well. The address
16 is mccredie@lclaw.com.

17 JUDGE SCHAER: And you, Ms. Dodge?

18 MS. DODGE: Telephone, (425) 453-7326; fax,
19 (425) 453-7350; e-mail, dodgi@perkinscoie.com.

20 JUDGE SCHAER: Is there anyone in the hearing
21 room who wishes to intervene in this matter or anyone
22 on the conference bridge? Hearing no response, I will
23 note that there are no intervenors in this matter
24 before us this morning. The next thing I would like to
25 talk with you about is whether or not there is going to

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1 be a need for a protective order in this matter.

2 MS. DODGE: Yes, Your Honor. Puget Sound
3 Energy would like to request one.

4 JUDGE SCHAER: The Commission does have a
5 provision in its rules for entering protective orders
6 in contested cases, and when such an order is in place,
7 you will be able to obtain confidential information
8 from the company that's marked as such in your
9 discovery and to present that information in hearings,
10 so I think it would be of assistance to everyone in
11 this case if a protective order would issue, and I will
12 have that issued this week. I would encourage the
13 parties to go ahead and act as if it is in place and
14 begin sharing information at the conclusion of this
15 hearing so that we can move expeditiously in resolving
16 the disputes before us.

17 The next point I would like to take up is the
18 schedule for this proceeding. Before we went on the
19 record, the parties had extensive discussions regarding
20 the schedule, and I would like you to tell me now what
21 recommendations you have come up with. I believe,
22 Mr. McCredie, you are ready to do that.

23 MR. MCCREDIE: Yes. The District would
24 request permission to file an amended Complaint in this
25 matter, and we discussed that the deadline for filing

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1 that amended Complaint would be November 29, 1999, and
2 that the answer of Puget Sound Energy would be due
3 December 13, 1999. I'll need to talk to you about a
4 number of copies for those.

5 JUDGE SCHAER: We'll get to that. It's on my
6 list for today.

7 MR. McCREDIE: The parties also agreed to a
8 form of ADR with a mediator that will take place before
9 mid January the year 2000.

10 MS. DODGE: We would like to request for
11 that, if possible, the use of an ALJ of the Commission
12 as a settlement judge, if it's something that the
13 Commission would make available.

14 JUDGE SCHAER: It is something the Commission
15 would make available. Ms. Johnston had mentioned to me
16 during a break in your discussions that that might be
17 needed. I have talked with my supervisor, and I
18 believe an Administrative Law Judge, Dennis Moss, will
19 be assigned to be a mediator to this proceeding. If
20 it's not he, there will be someone else assigned from
21 this section.

22 MR. McCREDIE: We talked about invoking the
23 discovery rule to allow discovery as permitted by the
24 rules, data requests, depositions, and we agreed that
25 that will be done here.

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1 JUDGE SCHAER: That's another point that
2 we'll reach after the schedule is out.

3 MR. McCREDIE: As far as a schedule goes,
4 March 1, 2000, would be the deadline for the prefiling
5 testimony from the Complainant, the District.

6 MS. DODGE: I just want to back up. One
7 other thing we agreed to was to try to reach stipulated
8 facts a week before any settlement conference. It may
9 become apparent that no facts are in dispute when we go
10 through that exercise in which case it would make sense
11 to file motions for summary determination, but we will
12 know when we go through that exercise.

13 MS. JOHNSTON: Stipulated facts will greatly
14 benefit the settlement judge.

15 JUDGE SCHAER: I think that's right. As we
16 discussed earlier off the record, it doesn't appear
17 that there are factual disputes, necessarily. It may
18 be there are only a few or there are none. What
19 appears to be at issue with the facts that are here is
20 how the tariff should be interpreted. Is that a
21 correct understanding of where we are?

22 MR. McCREDIE: Under the existing Complaint
23 and Answer, yes. The context may change with the
24 amended complaint and answer. We will just have to
25 wait and see.

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1 JUDGE SCHAER: Go ahead with the schedule,
2 please.

3 MR. McCREDIE: March 29 -- and these dates
4 are all in the year 2000 -- Respondent's response, and
5 that would also include the Commission if it decides to
6 respond with its prefiling testimony. April 19 would
7 be the date for prefiling testimony as between Puget
8 Sound Energy and the Commission, if they determine as
9 between themselves to file such testimony.

10 JUDGE SCHAER: So that would be an
11 opportunity for Puget Sound Energy to rebut Commission
12 staff testimony or Commission staff to rebut Puget
13 Sound Energy testimony.

14 MS. JOHNSTON: If necessary.

15 MR. McCREDIE: May 3, rebuttal from the
16 Complainant, the District; May 8, deadline to issue
17 discovery requests. May 15 would be the deadline to
18 file final discovery responses based on whatever is the
19 most previous discovery request at that time.
20 Otherwise, the discovery exchange would be governed by
21 the deadlines and rules. May 24 and May 25, the
22 hearing date, and then we thought as far as
23 post-hearing matters briefing, we would take that up at
24 a later date, and we have not built in any additional
25 prehearing conferences, and we would leave that to you

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1 and your discretion on if you wanted to schedule
2 something like that now.

3 JUDGE SCHAER: What I would expect is if
4 there are at some point cross motions for summary
5 determination filed that we would suspend this schedule
6 until those motions were dealt with and then we would
7 look at the schedule again to see what was needed to be
8 remaining and if we could continue with the same dates
9 or if we would have to move them out somewhat because
10 of the time taken to process the order. So if that
11 were to happen and we would bifurcate this proceeding,
12 I would expect to have another prehearing conference to
13 talk about what was left and how most expeditiously to
14 deal with it, but with this schedule of things, if that
15 does not happen, I would expect that we could stay with
16 this schedule through the end of the proceeding. Does
17 that sound reasonable to everyone?

18 MR. McCREDIE: It does to the District.

19 MS. JOHNSTON: Yes.

20 MS. DODGE: That sounds reasonable.

21 JUDGE SCHAER: This schedule certainly looks
22 workable to me, so I will adopt this schedule as a
23 schedule for the proceeding.

24 Going to the next step, which is discovery, I
25 understand from what you've said, Mr. McCredie, that

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1 the parties have agreed that the Commission discovery
2 rule should be triggered, so I will rule that
3 WAC 480-09-480 will be available to the parties in this
4 proceeding as they pursue discovery.

5 We've already decided a protective order
6 should issue. We're talking about filing the copies of
7 materials. I'm going to ask you to file an original
8 plus 10 copies. That should be sufficient for the
9 Commission's needs. If I discover at some point that
10 more people have put their name on the distribution
11 list, and that would require our records center to
12 start making extra copies, I may raise that, and I will
13 probably do that kind of administrative letter either
14 by letter or e-mail to the parties, counsel for the
15 parties. I would not contact the parties directly.

16 I would like to receive prior to the
17 hearing -- we've reached the point that we're going to
18 go to hearing. At least three days before the first
19 hearing day, I would like to receive witness and
20 exhibit lists from each party so I know which exhibits
21 you are going to have for each of the witnesses that
22 are being presented. I would like the parties to have
23 informal discussions between themselves and agree on an
24 orders of witnesses. I would also like the parties to
25 give me time estimates for each witness as an estimate

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1 of what cross-examination they will have for that
2 witness so that I can do my own planning for the
3 hearing.

4 I think at this time what I would do is I
5 would assign a number series to each party so that you
6 may go ahead and prenumber the exhibits that you
7 prefile and then we will number consecutively beyond
8 that in a series for exhibits that come in under your
9 witness list, so I'm going to assign the Complainant
10 the 100 series, so your first exhibit should be
11 No. 101, and if you look in the Commission rules, there
12 is a hearing guidelines rule for conference
13 proceedings, and that will explain to you how we number
14 exhibits before they prefile, and I'm going to assign
15 the Company the 200 series, so you would start with
16 201, and I'm going to assign the Commission staff the
17 300 series, so you would start with 301.

18 MS. JOHNSTON: And we would make all of these
19 terms a part of your order of prehearing conference?

20 JUDGE SCHAER: Yes. So I would ask that
21 when you prefile your testimony, on top of that
22 testimony if you provide an exhibit list that lists
23 each exhibit and the numbers you have given it with the
24 initials of the witness and then the number for that
25 witness's testimony. I would also like you to include

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1 the exhibit numbers for those for identification
2 starting, in your case, Exhibit 101, going forward,
3 201, 301, so that at the hearing when we need to have
4 one, we don't have to waste a lot of time for those.
5 We can quickly identify them and go forward.

6 Is there anything else that we need to
7 discuss this morning?

8 MS. JOHNSTON: I don't believe so.

9 JUDGE SCHAER: I have said to each of you off
10 the record that looking through the Complaint and
11 Answer it looks to me that this is the kind of
12 proceeding that should be able to be settled, and so
13 I'm going to say that officially as well that I would
14 encourage you to look at this dispute. It seems that
15 you have some objective information. You have tariffs
16 you need to perhaps sit down and talk those things
17 through. If we need to go to hearing, of course we
18 will. If we need to have a settlement judge, of course
19 we will, but to the extent that you can solve this
20 problem yourself, that would be a better use of
21 everyone's resources. Is there anything further?
22 Hearing nothing, the hearing is adjourned and we are
23 off the record.

24 (Prehearing concluded at 10:25 a.m.)

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