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1 PROCEEDINGS

2 JUDGE MOSS: Good morning, everyone. We are  
3 convened for our prehearing conference in anticipation  
4 and preparation for settlement hearing proceedings in  
5 the matter styled Washington Utilities and  
6 Transportation Commission against Puget Sound Energy,  
7 Docket Numbers UE-011570 and UG-011571. I'm going to  
8 start with appearances. I'm not going to review the  
9 agenda today. We will just rip through it, so we'll  
10 start with the Company.

11 MR. QUEHRN: Mark Quehrn for Puget Sound  
12 Energy.

13 MS. DODGE: Kirstin Dodge for Puget Sound  
14 Energy.

15 MR. VAN CLEVE: Brad Van Cleve for the  
16 Industrial Customers of Northwest Utilities.

17 MS. ARNOLD: Carol Arnold for the Cities of  
18 Auburn, Bellevue, Burien, Des Moines, Federal Way,  
19 Maple Valley, Redmond, Renton, SeaTac, and Tukwila.

20 MS. DIXON: Danielle Dixon, Northwest Energy  
21 Coalition and Natural Resources Defense Council.

22 MS. KIRKPATRICK: Traci Kirkpatrick for AT&T  
23 Wireless.

24 MR. GIBSON: Kirk Gibson for WorldCom.

25 MR. FFITCH: Simon ffitch for Public Counsel.

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1           MR. CEDARBAUM: Robert Cedarbaum for  
2 Commission staff.

3           JUDGE MOSS: Those of you who are in the  
4 gallery, if you could approach a microphone and enter  
5 your appearance, I would appreciate it.

6           MR. CHARNESKI: Michael Charneski for the  
7 Cites of Kent and Bremerton.

8           MR. SHEPPARD: Robert Sheppard for Seattle  
9 Steam Company.

10          MR. SPIGAL: Harvard Spigal for Microsoft.

11          MR. ROSEMAN: Ronald Roseman for the  
12 Opportunity Council, Multi-Service Center, and The  
13 Energy Project.

14          MR. MCMAHON: Dennis McMahon, deputy  
15 prosecuting attorney for King County.

16          JUDGE MOSS: Now we'll turn to the telephone,  
17 so let's have appearances from those on the  
18 teleconference bridge line.

19          MR. FINKLEA: Ed Finklea for the Northwest  
20 Industrial Gas Users.

21          MR. KURTZ: Michael Kurtz for Kroger Company.

22          MS. THOMAS: Liz Thomas for Sound Transit.

23          MS. SPENCER: Elaine Spencer for Seattle  
24 Steam Company.

25          MR. FURUTA: Norman Furuta for the Federal

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1 Executive Agencies.

2 JUDGE MOSS: Are there any others on the  
3 bridge line? We seem to have something less than a  
4 full complement of our 31 parties, but quite a few  
5 participants. I did allow for participation in today's  
6 prehearing conference via the teleconference bridge  
7 line, so I will leave the two-way communications  
8 channel open throughout this prehearing conference.

9 I did send out an e-mail late yesterday  
10 afternoon indicating that sometimes one of the problems  
11 with that is logistical, but we will certainly do our  
12 best to accommodate everybody. I have a few  
13 preliminary comments, and they are, in fact, prepared  
14 comments, so I'm going to put those into the record.

15 I want to begin by complimenting all of you,  
16 all of the parties on the significant accomplishment  
17 they have achieved in preparing and presenting this  
18 omnibus settlement agreement package to the Commission.  
19 The settlement stipulation obviously represents a  
20 tremendous amount of work by all of you. Your work is  
21 largely, but not completely done. Our work just began  
22 last Thursday evening insofar as the settlement  
23 stipulation is concerned. That is when we received it.

24 I know you all have firmly in mind the fact  
25 that our processes as a regulatory agency are not like

1 those in a civil court. When a settlement agreement is  
2 presented in civil court proceedings, there usually is  
3 little or nothing for the court to do unless the matter  
4 is a class-action lawsuit or something similar where  
5 there are unrepresented interests at stake.

6           When a settlement agreement is presented to  
7 the Commission, the Commission is being asked to  
8 approve and adopt the settlement stipulation as its own  
9 resolution of the case. The Commission, accordingly,  
10 must be fully satisfied that the proposed resolution is  
11 one in the interest of parties, other potential  
12 stakeholders, and most significantly, in the public  
13 interest generally.

14           This is not a responsibility that can be  
15 taken lightly. It is indeed a very serious  
16 responsibility. Your hard efforts in negotiating and  
17 crafting this settlement stipulation cannot be  
18 adequately rewarded unless and until the Commission has  
19 a reasonable opportunity to review and analyze the  
20 details of the proposal, to hear testimony and argument  
21 concerning the proposal, and to deliberate over the  
22 substance of the proposed solutions to the highly  
23 significant issues that have been in dispute.

24           As we informed you in our notice of today's  
25 proceeding, it appeared to us on first blush that

1 despite best efforts, it might prove impossible to  
2 bring the Commission's consideration of this settlement  
3 stipulation to an orderly conclusion in times for rates  
4 to be implemented by July 1st, 2002, as is requested.  
5 The heart of the problem is timing and the convergence  
6 of several events. We made contingency plans for  
7 processing any settlement that might materialize in  
8 this proceeding so we could finish by the end of June.  
9 However, certain of the assumptions upon which those  
10 contingency plans were based have not materialized.

11           One of our assumptions was that any  
12 settlement agreement that might be filed would be filed  
13 no later than June 3rd or 4th. As you all know for  
14 whatever reasons, we did not receive the settlement  
15 stipulation for filing until late June 6th, last  
16 Thursday. We did not receive the supporting testimony  
17 and exhibits until Friday. A few days delay relative  
18 to our assumptions concerning the timing may not seem  
19 like much, but it has proven to be more of an acute  
20 problem for us because of the press of other important  
21 business currently before the Commission.

22           Among other things, on May 31st, 2002, Avista  
23 Corporation filed a comprehensive settlement proposal  
24 in its general rate proceeding. Like the settlement  
25 proposed in this case, the Avista proposal raises



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1 significant issues of fact and policy. We are  
2 conducting proceedings in the Avista case this week  
3 also. Avista has asked for a July 1 effective date as  
4 the parties in this proceeding have requested.

5           At the same time, the Commission has just  
6 completed the so-called 271 proceedings in the telecom  
7 sector. That is a highly significant case of state,  
8 regional, and even national importance, and it is being  
9 processed on an aggressive-decision schedule. The  
10 Commissioners will be heavily involved in the decision  
11 making and decision-writing process in the 271  
12 proceeding over the next couple of weeks.

13           Next week, beginning on June 18th, the  
14 Commission goes into a two-week hearing in the Olympic  
15 Pipe Line general rate proceeding. This promises to be  
16 a hearing of considerable complexity, and it will be a  
17 highly demanding exercise for the Commission. We have  
18 undertaken a preliminary review of the settlement  
19 stipulation that you presented to us last Thursday and  
20 the testimony that was filed on Friday. Again, it is  
21 obvious that there are many highly significant  
22 substantive issues of fact, law, and policy included in  
23 what you have presented through your settlement  
24 stipulation and in the supporting materials filed so  
25 far.

1           In discussing this with the Commissioners,  
2 they are of the view that it is unrealistic to expect  
3 that this process can be completed by the end of this  
4 month along with everything else that is in the queue.  
5 With that in mind, we need to discuss today the  
6 alternatives that will best meet your needs, the  
7 Commission's needs, and that will serve the particular  
8 public interest.

9           So in short, we need to discuss the  
10 implications of delay and the plans that we might  
11 formulate to accommodate the situation as I have  
12 described it in my remarks. I will say as a  
13 preliminary matter in this connection that the  
14 Commission has set aside a time in July, early in July,  
15 when we could continue the process of hearing  
16 evaluation and deliberation concerning the settlement  
17 stipulation, and I would like to suggest as a first  
18 alternative for discussion that the parties discuss on  
19 the record the implications of doing what we can in the  
20 remaining time available this week, which is Thursday,  
21 all day. We've set half a day on Friday. There is an  
22 open meeting Friday morning. We may need additional  
23 time in the hearing room. We certainly will need  
24 additional time to process the whole matter.

25           So let me put that idea out, and really, I

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1 guess the first question is what sorts of issues did  
2 the parties see in terms of continuing into the July  
3 time frame? I should note one other thing. The notice  
4 of our prehearing today included several other notices  
5 as well, and that is that the hearing proceedings and  
6 the final notice was captioned, "Notice of Hearing to  
7 Consider Modification of Ninth Supplemental Order Re:  
8 Interim Rates," so an option that we can consider is  
9 one that would allow us to complete such process as we  
10 can this week and make some sort of an accommodation,  
11 if you will, to carry the process forward for a period  
12 of a few weeks in order to let this thing be fully  
13 processed. So let me hear from the parties, and I'll  
14 turn first to the Company.

15 MS. DODGE: Thank you. It's extremely  
16 important to the Company that rates go into effect July  
17 1st, 2002, for the reasons that were fully explored in  
18 the interim case hearings in looking at financial  
19 stability and in looking at making the transition from  
20 the situation this winter into having new rates in  
21 effect going forward. On the other hand, the parties  
22 have been discussing some alternatives to avoiding  
23 financial difficulty for the Company while at the same  
24 time giving the Commission adequate time to do the work  
25 it needs to do, and it may be that Staff would be the

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1 one to talk about some of those alternatives.

2 We also hope -- this is a daunting filing.

3 On the other hand, I think it's the parties' hope that  
4 by providing more detail than you might normally see in  
5 a settlement that it will make the Commission's work  
6 easier, because there is a lot of information, a lot of  
7 detail that might otherwise give rise to some  
8 discomfort and the need for additional process to fully  
9 understand what the parties are agreeing to. So I  
10 think we still have hope that the Commission would be  
11 able to conduct the full process it needs to conduct,  
12 that we would be able to have rates in effect July 1st,  
13 or barring that, that some accommodation could be made  
14 to meet everybody's interests.

15 JUDGE MOSS: Thank you for your comments, and  
16 I'm particularly pleased to hear that the parties have  
17 had some preliminary discussion about this. I will say  
18 too that I will not be making a final decision on this  
19 this morning. I needed to raise it to you all for  
20 discussion. We need to work out a contingency plan to  
21 the best of our ability to do so, and we will return to  
22 this issue on Thursday morning as our first item of  
23 business when the Commissioners are on the Bench.

24 Daunting is perhaps not a word I would have  
25 used, but since you did, I think it's a fair one. It

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1 is something of a double-edged sword. The Commission  
2 is appreciative of the fact that the parties did file a  
3 very complete agreement and also the prefiled  
4 testimony. It is all very helpful, but at the same  
5 time, it's a great deal of information to consider a  
6 process. Mr. Cedarbaum?

7 MR. CEDARBAUM: I just wanted to agree with  
8 Ms. Dodge's statement that we are hopeful that the  
9 Commission could issue an order to allow rates to go  
10 into effect July 1, but obviously, we are very  
11 understanding of the predicament that the Commission is  
12 in with respect to not only this case but the other  
13 cases.

14 So we did talk, and by "we," I mean the  
15 Company, Staff, and Public Counsel, this morning, and  
16 other parties weren't in on this discussion, and they  
17 may disagree with our suggestion. That's their right  
18 to express that disagreement. But the options that we  
19 discussed, the one that seemed to be the best both from  
20 a substantive and procedural point of view and  
21 administrative point of view from the Company's  
22 perspective would be to have the Commission issue an  
23 order allowing the settlement rates that we filed last  
24 week to go into effect on a temporary basis, effective  
25 July 1st, subject to whatever modification might be

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1 necessary based on a final Commission order on the  
2 settlement, and that that would be then the rates that  
3 the Company would be charging beginning on July 1st  
4 until a Commission order were issued and a compliance  
5 filing were made.

6           We did discuss, as opposed to that option,  
7 because the notice that was issued last Friday for the  
8 hearings to commence on Friday was directed towards an  
9 amendment to the interim rate filing. So I talked with  
10 Staff about that and whether we would want to have  
11 those rates stay in effect pending a Commission  
12 decision, but the option that we thought was better was  
13 the one that I discussed first allowing temporary rates  
14 based on the settlement so we could have only  
15 potentially one change of rates effective July 1,  
16 assuming the Commission were to accept our settlement  
17 rates on a permanent basis rather than having interim  
18 rates stay in place and then be changed again with the  
19 Commission's order on the settlement itself.

20           So that was our proposed suggestion, again,  
21 in fairness of the Company, to allow the July 1  
22 effective date based on settlement rates but also  
23 recognize that from a customer's perspective, that  
24 would also be the easiest to understand and move  
25 forward but still allow the Commission the time that it

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1 needs on the settlement itself.

2 JUDGE MOSS: A couple of questions. You use  
3 the word "modified based on final order," and I need to  
4 understand what you meant by that.

5 MR. CEDARBAUM: I guess it would be subject  
6 to refund based on the final decision of the  
7 Commission. I suppose there is a possibility that some  
8 customers could see a surcharge, so I suppose it would  
9 be subject to refund or surcharge. I'm assuming the  
10 Commission would, even if it were to approve the  
11 revenue requirement that we have stipulated to, the  
12 58.8 million, I suppose it's within the Commission's  
13 discretion to allow rates to move up or down compared  
14 to what we have agreed to based on that revenue  
15 requirement.

16 That's not what we are asking the Commission  
17 to do, but it could be that a customer under the  
18 settlement rates might see a rate from a Commission  
19 order that was lower or a rate that was higher. So  
20 modification wasn't the best choice of words. It would  
21 be temporary rates subject to refund or surcharge based  
22 on the settlement that was filed last Thursday.

23 JUDGE MOSS: When you mention the settlement  
24 rates, there is, as I recall, an approximately 4.6  
25 percent across-the-board rate increase in permanent

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1 rates. In addition, there are certain features of the  
2 settlement that would, for example, move costs to  
3 time-of-use rates. Was it the contemplation of your  
4 proposal that we would implement the general rate  
5 increase at 4.6 percent and leave the time-of-use  
6 matter for consideration on full deliberation or that  
7 we would implement both pieces of that?

8 MR. CEDARBAUM: I may need to have a  
9 confirmation discussion off the record with Public  
10 Counsel and the Company. I'm certain that we meant all  
11 of the general rates to be going into effect as the  
12 settlement calls for, and my understanding is the  
13 Company can be ready with those tariffs to the effect  
14 of July 1. I quite honestly would want to check with  
15 the other two parties on the remainder of your  
16 questions.

17 JUDGE MOSS: There can be an opportunity to  
18 discuss that, and of course, I should mention then in  
19 light of this suggestion that we would want to have  
20 some sort of record supporting such a move, and we  
21 could develop that on Thursday by focusing initially on  
22 revenue requirement and the various pieces of that, the  
23 testimony and so forth that relate to that so we could  
24 build an appropriate record for ordering temporary  
25 rates such as you suggest.



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1           There might be some other pieces we can  
2 discuss in a moment if we decide to go a little further  
3 with this, what all we might want to do in terms of the  
4 aspects of the matter that we would want to take up  
5 first, what order we would want to do that in. Does  
6 that complete your proposal?

7           MR. CEDARBAUM: Yes, it does.

8           JUDGE MOSS: Did the Company have anything to  
9 say about that?

10          MS. DODGE: Just one additional item. There  
11 is some advantage to having the new rates in effect as  
12 of July 1 because there are some other time periods and  
13 triggers that start as of July 1, for example with the  
14 power cost adjuster, and it would be simpler, probably,  
15 to not have to think later about whether we are doing  
16 something retroactive to come back and stick with some  
17 of the four-year plans or the six-month time periods or  
18 whatever else is involved.

19          MR. CEDARBAUM: That's a good point. I think  
20 the PCA is something we would include in the temporary  
21 rate proposal. When you said "time-of-use," that's  
22 what I was having to think on my feet a little bit too  
23 much and wanted to double-check with the other parties,  
24 but Ms. Dodge is correct about the implementation of a  
25 mechanism for PCA.

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1           JUDGE MOSS: To reiterate then, as I  
2 understand the suggestion, it would be to put into  
3 effect on a temporary basis subject to refund the rates  
4 that are included in the settlement proposal, which  
5 would minimally mean the 4.6 percent across-the-board  
6 increase. You will get back to us on the question of  
7 the time-of-use piece, and the PCA mechanism, at least  
8 in terms of the accounting aspects of that and so  
9 forth, would be initiated subject to a final order.

10           Is that essentially the proposal? Let's see  
11 if other parties have remarks they would like to make,  
12 and I'll start with those here present here in the  
13 hearing room, and then I will turn to those on the  
14 teleconference bridge line, so Mr. Van Cleve, did you  
15 have anything for us?

16           MR. VAN CLEVE: Yes, Your Honor. Having just  
17 heard the temporary rate proposal for the first time,  
18 it does strike me as a reasonable solution to the  
19 problem, but I think the parties would benefit by  
20 having some off-the-record discussion about how it  
21 might work, but as Ms. Dodge noted, there are a number  
22 of dates in the settlement agreement that key off of  
23 the July 1st, and I think to preserve the overall  
24 settlement that having those rates go into effect on a  
25 temporary basis would be a good solution.

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1 JUDGE MOSS: Thank you, Mr. Van Cleve.

2 MS. ARNOLD: The part of the settlement that  
3 has to do with underground conversion and relocation  
4 involves two complicated contracts plus a new version  
5 of Schedule 71. The impact, according to all the  
6 testimony on the revenue requirement, is zero. It has  
7 no impact on revenue requirement. It does, however,  
8 set out a detailed and complicated procedure for the  
9 Company to work together with government entities to  
10 effect underground conversion in a cost effective,  
11 uncontentious basis, and we've worked hard to develop  
12 this process, and the process is really the heart of  
13 the whole thing.

14 This is the beginning of the construction  
15 season, and several of the cities are commencing  
16 construction on the Highway 99 project that brought us  
17 to the Commission in the first place, and it would be  
18 beneficial if the parties and the Company could work  
19 together in the agreed process. I don't think that it  
20 will take the Commission -- I don't think these are  
21 particularly complex issues for the Commission to  
22 deliberate on, unlike some of the financial issues that  
23 are before the Commission.

24 So it would be beneficial if this  
25 collaborative, the relocation and underground

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1 conversion collaborative could go forward this week  
2 and make its presentation to the Commission. I would  
3 not think it would take more than an hour's worth of  
4 time and get approval on the new Schedule 71 and the  
5 attached contracts so that these plans can go forward  
6 during the construction period.

7 JUDGE MOSS: Thank you, Ms. Arnold.

8 MS. DIXON: I agree with Mr. Van Cleve that  
9 it might be useful to go off the record so that parties  
10 can discuss some of these proposals. I guess the one  
11 other piece that I would like to add to the puzzle here  
12 is one of the stipulations is focused on low income  
13 assistance and assumes that cost recovery on the  
14 electric side will begin July 1st, and as part of that,  
15 it's providing some funding for the low-income agencies  
16 to move forward with putting together a program that  
17 would begin October 1, and so I guess in considering  
18 the types of things that might go into place on a  
19 temporary basis, I would like that to be taken into  
20 consideration as well; especially given that a  
21 low-income assistance program is filed and taken care  
22 of completely absent a rate case anyway. So again,  
23 just something to be keeping in mind as we are trying  
24 to figure out how to go forward on this.

25 JUDGE MOSS: As we continue, let's be mindful

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1 that everyone has their piece that they would like to  
2 see go into effect immediately, and that is the  
3 problem. I do want to ask you, Ms. Dixon, in  
4 connection with that, that you mentioned an October 1  
5 target date. Am I also safe in believing that the  
6 low-income assistance program, insofar as the benefits  
7 it might confer on some members of our society, would  
8 confer those benefits largely in the winter season.

9 MS. DIXON: It's actually a year-round  
10 program. We have envisioned a start date for providing  
11 that October 1st, and on the electric side, the cost  
12 recovery was starting earlier in part to allow the  
13 folks that will be implementing this to put together  
14 the program and be able to utilize some of those funds  
15 in advance of that October 1st date, basically creating  
16 and developing the program and moving forward with  
17 what's been put together in the stipulation.

18 MS. KIRKPATRICK: I would just echo the  
19 sentiment that initially putting temporary rates into  
20 effect July 1 does seem reasonable, but it probably  
21 makes some sense to discuss the details off line.

22 JUDGE MOSS: Just to cut off the continuing  
23 requests for that, I will certainly give you an  
24 opportunity to discuss this off the record and then  
25 revisit the matter with you, so your request is granted

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1 in that connection.

2 MR. GIBSON: I think it's a reasonable  
3 solution that the Staff, the Public Counsel, and the  
4 Company has worked out. I would add that rate cases  
5 are very difficult things to sort of work out among  
6 parties and have all special interests participate in,  
7 but the collaborative process that we have undertaken  
8 in this case and the testimony that's given to the  
9 Commission now, I would ask the Commission to take some  
10 comfort in all of that as they move forward and see if  
11 they could possibly hit the deadline on time, and I'm  
12 only saying that not to urge them to rush but to take  
13 some comfort in the process that was much different in  
14 a normal rate case that ends in settlement after  
15 hearings and things like that, but the tenor of my  
16 comment is it's an absolutely reasonable settlement and  
17 resolution to this issue.

18 JUDGE MOSS: We will just continue with you,  
19 Mr. ffitch, unless you have a preference in that  
20 regard.

21 MR. FFITCH: I will just add that we do  
22 support the suggestion Mr. Cedarbaum has made for  
23 implementing the settlement rates on July 1st.

24 JUDGE MOSS: Do any of those who are not  
25 sitting at counsel table wish to come forward and make

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1 any sort of statement on this subject? Mr. Spigal,  
2 will you come forward? Mr. Roseman, go ahead.

3 MR. ROSEMAN: We would support Mr. Cedarbaum  
4 and the Company in the July 1st date, and I also would  
5 echo, I've been for this Commission for more years that  
6 I would like to remember, and I cannot recall any  
7 settlement proceeding that has worked as well and as  
8 comprehensively as this one has to bring very diverse  
9 parties with very different issues together in a  
10 well-thought-out and I think justified and  
11 substantiated settlement.

12 My only hesitancy if we go beyond July 1st,  
13 and I'm only picking up on what you said, Judge Moss,  
14 is that the Commission, if there is some time where we  
15 run over the schedule, are you saying that the  
16 Commission would be ready to rule the first week in  
17 July, or they would just be ready to receive testimony  
18 the first week in July?

19 JUDGE MOSS: My only comment was to the  
20 effect we have set aside time early in July if there is  
21 a need for further hearing proceedings involving live  
22 testimony and that sort of thing. The timing of a  
23 ruling is uncertain.

24 MR. ROSEMAN: Thank you.

25 JUDGE MOSS: Mr. Spigal, and then Mr. McMahon

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1 after that.

2 MR. SPIGAL: On behalf of Microsoft, we  
3 support the proposal by the Company and by Commission  
4 staff and all the rates to be effective on an interim  
5 basis July 1. We would be concerned about a process  
6 which pulled the settlement apart and did not implement  
7 certain of the settlement terms. We are certain of the  
8 collaborative recommendations that set that aside for  
9 further Commission proceedings, in effect procedurally  
10 splitting up the settlement, which was an integrated  
11 settlement.

12 JUDGE MOSS: Mr. Spigal, let me ask you if  
13 that last remark included the suggestion that  
14 Ms. Arnold made that she would like to see the Schedule  
15 70 and 71 piece of this be allowed to become effective  
16 earlier rather than later, which I would regard that as  
17 an amendment to Staff's proposal. Did your comments  
18 encompass that as well?

19 MR. SPIGAL: No. I think Ms. Arnold  
20 described the reasons why that piece could be treated  
21 differently, but I think some of the other major pieces  
22 were integrally related, including rate spread, rate  
23 design, conservation, time-of-use.

24 JUDGE MOSS: Mr. McMahon?

25 MR. MCMAHON: Your Honor, the Commission has



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1 already approved the settlement stipulation whereby  
2 King County withdrew its intervention in this matter  
3 except for the relocation of undergrounding issue, so I  
4 have no comment on the temporary rate increase or  
5 whatever. I do want to support what Carol Arnold said  
6 about putting Schedule 71 with the rest of the  
7 settlement of the underground and relocation into  
8 effect.

9 JUDGE MOSS: Thank you.

10 MR. CHARNESKI: Of course, we are also  
11 supportive of anything that will put the Schedule 71  
12 rates into effect by July 1st, and if not, if it's only  
13 on a temporary-settlement basis, that would be  
14 acceptable also.

15 JUDGE MOSS: I think that completes those in  
16 the room. On the bridge, Mr. Finklea?

17 MR. FINKLEA: Your Honor, I concur with Staff  
18 and the Company. They have worked out a procedural way  
19 to have the rates on the electric side go in place July  
20 1st and the gas side, conservation, and the low-income  
21 program and the stipulation -- those are implemented.

22 JUDGE MOSS: Mr. Kurtz?

23 MR. KURTZ: Your Honor, thank you. Kroger  
24 agrees with the July 1 temporary or interim rate  
25 increase idea.

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1 JUDGE MOSS: Ms. Spencer?

2 MS. SPENCER: Seattle Steam supports the  
3 temporary rates on July 1.

4 MS. THOMAS: Sound Transit likewise supports  
5 the July 1 implementation.

6 MR. FURUTA: Federal Executive Agencies would  
7 also support the Staff and Company's proposal.

8 JUDGE MOSS: Anyone else? Perhaps this would  
9 be an opportune moment to give the parties the  
10 opportunity that several requested to have some  
11 off-the-record discussion, and then we can get back  
12 together and have some further discussion about this,  
13 and then we do have some other business to conduct  
14 today. How much time do the parties anticipate that  
15 they would like to have or might need, I should say; 20  
16 minutes? We'll shoot for 10:30 by the wall clock. Off  
17 the record.

18 (Discussion off the record.)

19 JUDGE MOSS: Do the parties have anything  
20 they wish to report back based on their discussions, or  
21 were you just having a good time?

22 MR. CEDARBAUM: Yes, Your Honor, we did have  
23 a chance to talk about the temporary rate option that  
24 was discussed before we went off the record, and I  
25 think it's the parties' agreement that the Commission

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1 allow temporary rates go into effect based on the  
2 entire settlement package that was filed last Thursday,  
3 and that those rates would go into effect subject to  
4 refunds effective July 1. So there would be no  
5 splintering of any issue that wouldn't go into effect  
6 on July 1. It would be the entire package that was  
7 filed.

8 JUDGE MOSS: By that, do you mean the 4.6 and  
9 the TOU?

10 MR. CEDARBAUM: Yes. It would be all of the  
11 rate effective, all the agreements that were attached  
12 to what we've call the umbrella stipulation. The main  
13 stipulation would go into effect temporarily July 1  
14 subject to refund.

15 JUDGE MOSS: Let me come back at you then  
16 with the question, one of your comments in introducing  
17 this contingency plan was the idea of not wanting to  
18 put something in place and then have to undo it a month  
19 later or what have you; in other words, not to do  
20 something that is disruptive in terms of the customers,  
21 putting a rate in place and then potentially undoing  
22 it. How does the idea of putting the time-of-use into  
23 effect on a temporary basis square with that  
24 suggestion?

25 MR. CEDARBAUM: I guess in two respects. The

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1 first is that the parties were hoping the Commission  
2 would accept the stipulation in its totality, including  
3 time-of-use, so there would be no change, but the  
4 second point is that all of the parties have approached  
5 this settlement, or at least many of the parties have,  
6 as a package deal. All of these issues are very much  
7 interrelated with one another, so it was felt that to  
8 be fair to that position that the temporary rate  
9 situation would apply as well to time-of-use.

10 JUDGE MOSS: Let me throw out a possibility  
11 that there conceivably could be some concern about  
12 because that piece of the proposal certainly has some  
13 substantive and policy dimensions to it that could  
14 cause the Commission to be reluctant to make that kind  
15 of a change on a temporary basis, potentially effective  
16 for a very short period of time. Currently there is in  
17 place a five percent surcharge that was intended to  
18 generate 25 million dollars? Is that basically what  
19 the interim rate situation was?

20 MR. CEDARBAUM: The interim rate situation is  
21 designed to collect 25 million, and the interim rate  
22 relief, I believe, it was higher than five percent.

23 JUDGE MOSS: Eight percent?

24 MR. FFITCH: I was just going to respond on  
25 the TOU question. It is an optional program that is

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1 another piece of the picture, if you will. If the  
2 participants in the program are not -- you don't want  
3 to pay the new rate, if you will, I assume you are  
4 referring to there is two pieces to it. There is a new  
5 differential and there is a charge for participating.  
6 Parties can simply opt out. They don't have to pay  
7 those new rates if they don't want to.

8 JUDGE MOSS: My concern is that the options  
9 available to the Commission would be those that are  
10 minimally disruptive, and my concern in terms of this  
11 proposal that you have just discussed and suggested to  
12 me is that it has potential to be disruptive precisely  
13 for the reason you just mentioned, Mr. Ffitch. If you  
14 change the rules of the game, so to speak, to those  
15 that are currently in the PDM or change the cost  
16 consequences of that participation, certainly the  
17 Commission, I don't think, would be in a position to  
18 approve the whole program on a temporary basis, and  
19 even if it were, you could potentially cause  
20 significant disruption with respect to that program on  
21 a temporary basis. That seems risky to me.

22 MR. FFITCH: I guess I would have a thought,  
23 Your Honor, which is that the time-of-use program has  
24 been a pilot already and continues to be a pilot. It  
25 was approved on a relatively short-term basis before.

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1 If the Commission did decide that ultimately it was  
2 going to suggest a different approach or order a  
3 different approach for time-of-use, it could set a time  
4 line for that decision so that there would not be  
5 immediate changes.

6 I think all of the parties who have signed  
7 the time-of-use agreement are strongly urging the  
8 Commission to approve this portion of the agreement  
9 along with the other portions, and we believe it's  
10 strongly supported by the testimony and the terms of  
11 the stipulation itself.

12 I think the comments you are making are fair  
13 ones. There is a certain element of calculated risk in  
14 going with this approach, but I think you are hearing  
15 from the parties here, a large number of parties  
16 representing diverse interests, that there is such  
17 confidence in the reasonableness of this settlement  
18 that I think the consensus is that the calculated risk  
19 is not that high. We understand that the Commission  
20 needs to make its separate evaluation. Other parties  
21 can speak for themselves, but we believe ultimately the  
22 risk is not that significant of disruption to other  
23 customers or disruptive to the customers from maybe  
24 future changes after the Commission has had a chance to  
25 evaluate this.

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1           JUDGE MOSS: Another option that strikes me  
2 as a possibility that would achieve the goal of keeping  
3 the Company whole, if you will, vis-a-vis the proposal  
4 and under the circumstances of the interim rate order  
5 that ends by its terms, I believe, June 30th subject to  
6 some small adjustment if things didn't work out exactly  
7 as planned, would be that the suggestion has been for  
8 the Commission to implement a temporary rate, which  
9 subject to refund or surcharge, which is a viable,  
10 legal option, but one, of course, that would depend  
11 upon the development of an appropriate record later  
12 this week as we go forward.

13           Another option then would be to inform the  
14 Commission of what would be required in addition to a  
15 4.6 percent temporary rate to keep the Company whole  
16 with respect to the dollars that have been allocated,  
17 or I should say the dollars that are proposed to be  
18 allocated directly to the time-of-use program, so that  
19 would be information that I would like to have on  
20 Thursday along with other evidence that we will hear so  
21 that the Commission's options in this connection are as  
22 wide as may be necessary to permit them to achieve a  
23 result here that is workable for everyone and without  
24 prejudice to anyone.

25           So let me ask that you do that. Ms. Dodge,

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1 did you get that? You can work with the other parties  
2 on that, and I would encourage you to do that. I have  
3 your ideas in mind. Is there anything else that I  
4 should convey back to the Commissioners on this subject  
5 matter, or can we move on to other aspects of our  
6 discussion?

7 MR. QUEHRN: Your Honor, if I may, just a  
8 final thought on this for your consideration. Apart  
9 from the comments that have been made that I think the  
10 Company will certainly join in that this was a package  
11 deal and the result of a lot of people working very  
12 hard and making a lot of compromises to make it happen,  
13 there is also some external concerns that the Company  
14 has in the need to project forward the certainty and  
15 the stability of this settlement as we think about  
16 having to deal in the capital markets and other places,  
17 and we are concerned that another interim this or  
18 interim that doesn't necessarily send the right  
19 message, so again, we would certainly, as I think  
20 Mr. ffitich said earlier, we've worked hard to give the  
21 Commission a package that is amply supported with  
22 testimony that we would hope we could still meet the  
23 deadline.

24 If that's not possible, what we are proposing  
25 now as the fall-back, and that's to put the whole thing



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1 into effect to give the Commission more time to  
2 consider it I think also sends a good strong message to  
3 the capital markets that this settlement is going to  
4 stick. We have a high degree of confidence, and as  
5 Mr. ffitch said, we agree the risk factor is relatively  
6 low, and it is important to the Company to project that  
7 certainty and stability externally as well as the  
8 issues we have before us here in this forum.

9 JUDGE MOSS: Anything else?

10 MR. FFITCH: I would just make one other  
11 comment with respect to the settlement being a package.  
12 It is our fervent hope that the Commission will approve  
13 the settlement and all the provisions of the  
14 settlement, and we support all the pieces of the  
15 settlement that we have signed.

16 The umbrella stipulation does provide that if  
17 there is a material change to any stipulation that a  
18 party can withdraw from that stipulation and all the  
19 other stipulations to which it has agreed and seek  
20 litigation of those issues, and we would, of course,  
21 find that an extremely difficult decision to make as I  
22 think any party would, and we would, I think, really  
23 hope that we would never reach that point in this  
24 process where we would have to consider that.

25 I just wanted to note that that is part of

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1 the settlement package that's been put before you, and  
2 it's a piece of the puzzle that is important to Public  
3 Counsel, and we are supporting this settlement as  
4 written, I think as every party is, and if there are  
5 material changes, then there is going to be some even  
6 more difficult procedural issues that I think are going  
7 to be presented here. I just wanted to kind of  
8 underline that concern that we have.

9 JUDGE MOSS: Certainly we recognize that the  
10 settlement has been presented as a package, as an  
11 integrated whole, and it is for that reason that we are  
12 having this discussion. It is a very large,  
13 complicated document. It has a lot of provisions, a  
14 lot of interplay among provisions, and that's what we  
15 want to do is have time to consider it adequately as a  
16 whole with the possible exception of perhaps carving  
17 out the Cities' matter. There is a lot of  
18 interrelationship among the various parts, so that's a  
19 problem we are wrestling with, and that's how the  
20 Commission wants to go forward.

21 On the other hand, there is the question of  
22 how far the Commission can or would be willing to go.  
23 I think we have to keep our minds open to the options  
24 for buying a little time in order for the Commission to  
25 consider this matter appropriately and adequately, and

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1 of course, that's what we are looking for here is the  
2 options. I think we have to be mindful of that and  
3 also be mindful of the messages that might be sent to  
4 the financial community or others, and the Commission  
5 is mindful of that, as it has been in this and in other  
6 cases in its orders considering the matters that have  
7 been brought before us in the last year or two years in  
8 connection with the financial circumstances of various  
9 companies that are regulated by the Commission. So you  
10 can be assured that the Commission is fully mindful of  
11 the concerns that you have all raised. As always, it  
12 will do its best. Anything else on this subject  
13 matter?

14 MS. DIXON: While we were off the record,  
15 parties also expressed a strong preference to do  
16 whatever we can to finish the settlement hearings this  
17 week, even if the Commission ends up needing time into  
18 the July month to do their evaluation. Given our  
19 witness schedules and how difficult it's been even to  
20 get our witnesses ready to go at the end of this week,  
21 given upcoming vacation schedules for various folks,  
22 and given our inclination to not splinter the issues, I  
23 just wanted to express strong preference that those  
24 hearings be concluded at the end of this week. One  
25 idea we had to float forward was perhaps parties would

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1 be willing to start earlier on Thursday morning, maybe  
2 at 8 a.m., maybe to get in extra time during that day  
3 so get through all of these agreements.

4 MR. ROSEMAN: And continue through the  
5 evening. We are very interested in having the  
6 Commission hear all the witnesses on these days, so  
7 hopefully, they would have their questions answered,  
8 and we are willing to stay whatever time it takes to  
9 insure that that takes place. I think everyone is  
10 pretty much in agreement on that.

11 JUDGE MOSS: How about a hearing on Sunday at  
12 midnight? I will convey the message back, but I think  
13 you must all understand and recognize that the front  
14 end is as much a problem here as anything else. This  
15 is a lot of material. You can't expect me or the  
16 Commissioners or anybody else to work 24 hours a day to  
17 get through this stuff and get ready to get all this  
18 done. That's part of the problem, to be blunt about  
19 it. There are limits to what human endeavor can  
20 accomplish in the amount of time available. It's just  
21 as simple as that, so we will do what we can.

22 We are trying very, very hard in light of all  
23 the things before the Commission to get this thing  
24 done. I think we need to talk about witness schedules  
25 and take care of that part of business. That's part of

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1 my agenda today. I've had a number of e-mail requests  
2 and telephone calls asking to slot witnesses at  
3 particular times. We will probably have to go off the  
4 record to discuss this stuff and get it worked out.  
5 I'm certainly not in a position sitting here right now  
6 today to say, "Oh, yes, we can get all this done in a  
7 day and a half," even if we do start early and go late,  
8 so we will do what we can.

9           Let's turn our attention to the exhibit list.  
10 I hope everybody has had an opportunity to review the  
11 exhibit list and tell me if there are any omissions,  
12 errors, or additions. I know I did hear from the  
13 Company and from Staff, and I believe Public Counsel.  
14 As far as Public Counsel, we had the one witness,  
15 Ms. Kimball. Staff was okay, and we did have a few  
16 glitches with the PSE list that I think we straightened  
17 those out. Did we leave any witnesses off or anything?  
18 I'm not hearing anything, so I'm assuming the exhibit  
19 list is correct.

20           MR. MCMAHON: Your Honor, perhaps I don't  
21 understand. I don't know if the Commission is going to  
22 want a witness from King County to address the  
23 relocation stipulation. There is no witness listed  
24 here. If necessary, we will have a witness. Is that  
25 what you are saying?

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1           JUDGE MOSS: I'm focusing on the exhibit list  
2 right now. We are going to talk about the broader  
3 issue of witnesses momentarily, but right now, I'm just  
4 focused on the exhibit list. I want to make sure I  
5 have all the prefiled documents, including prefiled  
6 testimony, and that doesn't mean there aren't going to  
7 be other witnesses.

8           MR. MCMAHON: I understand.

9           JUDGE MOSS: Since I'm not hearing any  
10 concerns in that regard, it appears that the exhibit  
11 list is complete. Now, Mr. Ffitch, I have reserved  
12 No. 526 for public comments, and we have scheduled a  
13 public comment hearing for Thursday evening at 6:30,  
14 which I suppose takes care of the idea of going late on  
15 Thursday. So we will take those exhibits at that time,  
16 assuming there are some for you to offer.

17           MR. FFITCH: Thank you, Your Honor. I think  
18 with regard to the use of the evening hours, actually,  
19 I think that it's unclear how much public comment we  
20 would have. We are not aware at this time of any large  
21 number of people who are planning to attend.

22           I had one communication with one group. I'm  
23 not sure if they are planning to attend or not, so it  
24 might be that that time slot would be available if the  
25 public hearing portion might be short, an hour,

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1 perhaps, and if we could otherwise use that time, it  
2 might still be available, but certainly, we have had  
3 the notice for 6:30; that is true.

4 JUDGE MOSS: We will have to conduct those  
5 proceedings whether anybody shows up to speak or not,  
6 but we won't sit here quietly for two hours, I'm sure.  
7 I'll provide a copy of this to the court reporter. It  
8 may save time in hearing. I'm assuming these exhibits  
9 are coming in unobjected to, basically, by stipulation.  
10 I can't rule on that today because this is a prehearing  
11 conference. I'll have to reserve ruling until Thursday  
12 morning.

13 In terms of potential other witnesses, I did  
14 have some inquiries about that over the course of the  
15 last day or so, and some parties indicated that while  
16 they had somebody available, they were basically  
17 holding that individual in reserve. If the  
18 Commissioners had questions, a person would be made  
19 available, and if the Commissioners didn't have  
20 questions, they wouldn't.

21 Well, again, I'm unfortunately not pressing  
22 it, so I don't know what the Commissioners' questions  
23 will be at this juncture. I think that we need to do  
24 is be certain that the various subject areas, at least,  
25 are covered by at least one witness who can respond to

1 questions from the Bench with respect to whatever the  
2 individual element of the settlement stipulation is. I  
3 don't think it's necessary for all 31 parties in the  
4 case to individually present one or more witnesses, but  
5 we do need to make sure our subject areas are covered,  
6 so I guess we need to do two things. One, we need to  
7 talk about the order in which we are going to consider  
8 the various issues, and in connection with that, to  
9 make certain that we have at least one witness able to  
10 respond to questions on the particular issues.

11 I've indicated that revenue requirement is a  
12 matter that we are going to want to take up first. So  
13 we are looking at Exhibit B to the settlement  
14 stipulation, which is captioned itself "Settlement  
15 Terms for Electric Revenue Requirements, Common Cost  
16 Allocation, and Overall Rate of Return." We will  
17 certainly want to take that up, and I think we should  
18 take that up as our first substantive area, and I know  
19 we have prefiled testimony from a number of witnesses  
20 on this subject. Have the parties talked among  
21 themselves as to whether they feel the range of  
22 interest is fully represented by the witnesses that  
23 have prefiled testimony or whether we need to consider  
24 the necessity for other witnesses on this subject  
25 matter?



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1 MS. DODGE: I think we believe the range is  
2 fully covered. There are at least a Company and Staff  
3 witness or witnesses on every topic. The testimony  
4 that has been filed by the Company, Staff, and Public  
5 Counsel, in general, I think covers the range of issues  
6 and is not all the same, but it is very complementary.

7 MR. CEDARBAUM: I would agree with that.  
8 Mr. Lott, who will be the Staff witness on that subject  
9 matter and others, is a Staff lead, and he's quite  
10 familiar with the range of revenue requirement issues,  
11 so I think we anticipate with respect to that subject,  
12 and probably other subjects, putting on a panel of  
13 those particular witnesses and having them field  
14 questions as necessary.

15 I would just ask one clarification question.  
16 We indicated in our e-mail to you on Monday that Staff  
17 had consulted with Dr. Woolridge on cost-of-capital  
18 matters. I believe Public Counsel said the same with  
19 respect to Mr. Hill. Dr. Woolridge can be made  
20 available by phone if the Commission has questions on  
21 that particular subject, so if you knew ahead of time  
22 that they had those types of questions, I could arrange  
23 for that to happen.

24 JUDGE MOSS: Sitting here right now, I don't  
25 know the answer to that question.

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1           MR. FFITCH: For Public Counsel, our revenue  
2 requirement witness is Jim Dittmer, and we would like  
3 to have him be available by phone. He's in Kansas  
4 City.

5           JUDGE MOSS: Again, we will have to make  
6 accommodations as we go. If there are questions that  
7 arise that require his particular expertise and input,  
8 then we will make whatever arrangements we need to make  
9 to get that into the record. Similarly with respect to  
10 Staff's witness who may not be in the hearing room or  
11 other parties who may have witnesses on standby, so to  
12 speak, we will make necessary accommodations, whether  
13 we have to schedule that particular piece for another  
14 day or hour or do it by telephone or whatever we need  
15 to do to get the record fully developed. I think we  
16 can be flexible enough to accommodate both the  
17 witnesses and the Commission's needs.

18           MR. FFITCH: I appreciate that, Your Honor,  
19 and I guess what I would suggest and what I've been  
20 envisioning was, for example, when the Bench takes up  
21 revenue requirement, we would have Staff and Company  
22 witnesses here available, and we can simply have  
23 Mr. Dittmer available on the bridge line at that time,  
24 and then if there were questions that naturally fell to  
25 him or that he wanted to supplement, he could do that.

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1           JUDGE MOSS: That might work well. Now the  
2 parties have raised this question of time-of-use, as  
3 we've been exploring the options this morning, and of  
4 course, you have stated your preference in that  
5 connection, so assuming we can get through the revenue  
6 requirements in the portion of the morning, then we  
7 should probably devote the balance of the morning to  
8 the time-of-use witnesses.

9           With respect to the Cities, I had an e-mail  
10 from you, Ms. Arnold, I believe indicating a preference  
11 for 1:30 in the afternoon of Thursday basically  
12 blocking from that period until three o'clock in the  
13 afternoon on Friday. Do you have a witness  
14 availability issue that would make your witness most  
15 readily available, say, Thursday afternoon?

16           MS. ARNOLD: I don't think that was the  
17 Cities' -- we just asked that we have a time certain  
18 because there are so many people coming at the same  
19 time to support the stipulation. We will be bringing  
20 at least 10 individuals, a representative from each  
21 city, and one of the public works directors is prepared  
22 to be on the panel available for the Commission to ask  
23 questions, but we don't have any particular time. We  
24 would just like a time certain so we can tell these  
25 people when to come.

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1 MS. THOMAS: That time frame was for a Sound  
2 Transit witness. He was not planning to be part of any  
3 panel. He was just available to testify.

4 JUDGE MOSS: I did receive quite a flood of  
5 communications in connection with this. I apologize  
6 for saddling you with that, Ms. Arnold, but  
7 nevertheless, it would be best, given the large number  
8 and given the witness availability situation and given  
9 the potential, at least, for breaking out the Schedule  
10 70 and 71 piece of this, and of course we've talked  
11 about that at several points during this process, the  
12 idea of breaking out the Schedule 70, 71, 72 and Gas  
13 Rule 8 issues for some sort of separate track, and I  
14 haven't heard anybody suggest that that's an untenable  
15 thing to do, so I want to keep that option open. To  
16 keep that option fully open means we do need to set a  
17 time and get that testimony arranged. Mr. Charneski?

18 MR. CHARNESKI: For Kent and Bremerton, I'll  
19 have two potential witnesses coming, and it would be  
20 very useful if we knew, for example, that we could get  
21 to it sometime Thursday afternoon. We wouldn't need a  
22 time certain, but my primary witness is available  
23 Thursday but not Friday, actually, so they would be  
24 happy to be here all day Thursday if they knew they  
25 could get to it sometime on Thursday.

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1           JUDGE MOSS:  Let's set 1:30 Thursday  
2  afternoon to hear the piece on Schedule 70 and 71,  
3  Exhibit "I" to the settlement stipulation bearing the  
4  caption, "Settlement Terms for Relocation and  
5  Underground Conversions."

6           MS. SPENCER:  I ask that as you are  
7  considering setting specific times for those schedules  
8  that you also include low income and conservation  
9  issues from which to the extent that it's possible,  
10 given the nature of these proceedings, a specific time  
11 also be set.

12           MR. FINKLEA:  Along those lines, we have  
13 checked with Mr. Schoenbeck, who will be our witness on  
14 those two issues, and he is available Thursday but is  
15 not available Friday, so along the same lines, if we  
16 could set conservation and low income for Thursday  
17 afternoon after the Schedule 71 issue, I know that  
18 Mr. Schoenbeck will be available at that time.

19           MS. DIXON:  To echo on that as well, if it's  
20 possible to set conservation and low income for  
21 Thursday and also to set line extension for Thursday.  
22 Technically, I'm supposed is to be out of town on  
23 Friday, so if it's at all possible, that would be ideal  
24 since I'm testifying on all three of those.

25           MR. ROSEMAN:  Your Honor, trying not to be

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1 contrary, but our conservation witness, Mr. Eberdt, is  
2 only available Thursday morning and all day Friday, and  
3 you know this is what's going to happen when people are  
4 trying to arrange their witnesses, and he's just not  
5 available Thursday afternoon.

6 There are Public Counsel and other people who  
7 have different interests who will be here on  
8 conservation, but he has a unique perspective.

9 MR. GIBSON: Instead of a time certain, I  
10 wonder if the Commission would need to have witnesses  
11 and people, for example, like WorldCom who has signed  
12 two of the settlements, but the Staff and Company and  
13 Public clearly can answer any question that the  
14 Commission would have, and practically speaking, the  
15 witness I can bring can say, "Yes, we agree," which is  
16 what the signature does, and the technical aspects of  
17 anything that would be asked by the Commission could  
18 clearly be represented by the others, so I'm wondering  
19 why not have one less witness.

20 JUDGE MOSS: Would it be helpful for us to go  
21 off the record for a few minutes. I think it would be  
22 helpful for me to go off the record for a few minutes  
23 and have the parties sit down with a list of "A"  
24 through "K" and prepare a witness list for each of  
25 those and also propose an order of presentation keeping

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1 in mind some of the discussion that we have had so far  
2 this morning. I'm seeing some nods of assent. At  
3 least that's something. That's what we will do.

4           Why don't you all have that discussion in  
5 this room using the microphones so that those who are  
6 on the telephone can participate with you, and we are  
7 in a cycle here, 20 minutes. I'll come back at 11:30,  
8 and hopefully that will be worked out. That's subject  
9 to the understanding that we can make these  
10 arrangements to accommodate your witnesses' needs and  
11 all this sort of thing, but I'm not sitting here making  
12 any commitments that we will not have to have some or  
13 all of these people back at another time. It truly  
14 depends upon the Commission's ability to prepare fully  
15 to inquire as to each area of interest. If I sound a  
16 little doubtful about the ability to accomplish that  
17 with respect to such a comprehensive package of  
18 material, then it is because that is how I feel, and  
19 perhaps I underestimate, but it's a possibility.

20           Now, having said that, it's also entirely  
21 possible that we will be able to accomplish a great  
22 deal on Thursday and Friday, and that if there are  
23 follow-up questions, they can be handled through Bench  
24 requests or other means that we have employed in the  
25 past to get our inquiries responded to, so things are

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1 open at this point, but I just don't want anybody to be  
2 getting too optimistic that we are going to get every  
3 question prepared and resolved on this type of  
4 schedule, but let's do our best, and part of that will  
5 be for you all to try to come up with something that  
6 will work for everybody.

7 MS. DIXON: There had been some discussion  
8 off the record earlier about whether the hearing Friday  
9 afternoon that's contemplated in the notice you sent  
10 out is still taking place then or whether we would be  
11 scheduling witnesses and issue areas at that time,  
12 because it sounded like perhaps some of that would be  
13 addressed Thursday morning.

14 JUDGE MOSS: There is some overlap here. We  
15 will be doing both things on Friday. That is to say,  
16 we will be taking up in a formal sense the suggestion  
17 that we've taken up today regarding the temporary rate  
18 possibility as an expedient that will allow us to have  
19 sufficient time to complete our process. We will also  
20 have that afternoon reserved to hear additional  
21 witnesses, and we probably will talk a bit on Thursday  
22 as well about the options available for going forward,  
23 but in terms of actually implementing any sort of  
24 interim rate or whatnot, that will probably be the  
25 first order of business on Friday. Any other questions



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1 before we go off the record?

2 MR. FFITCH: Your Honor, should we assume  
3 that maybe just as a working hypothesis that we would  
4 have one or more witnesses, perhaps those that have  
5 prefiled, on an issue, and then we would have sort of a  
6 second category of people available for questions if  
7 the Commission had them?

8 JUDGE MOSS: Yes, that sounds workable.  
9 Along the lines we were discussing before, identify  
10 both sets. Identify the set of witnesses who you  
11 definitely want to appear on each individual piece, and  
12 also if there are some witnesses that would be  
13 available, if the panel was presented with a question  
14 it could not respond adequately to. We'll be off the  
15 record.

16 (Recess.)

17 JUDGE MOSS: I've been informed that the  
18 parties have completed their off-the-record discussions  
19 about witness issue order, so who wishes to report?

20 MS. DODGE: I'm the note-taker. We have done  
21 two things. We have a list of witnesses for each issue  
22 and a suggested order of presentation. Should I just  
23 go through?

24 JUDGE MOSS: Why don't we start down that  
25 path and see.

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1 MS. DODGE: For Exhibit A, the PCA, and I  
2 should explain that we have witnesses that are listed  
3 as panelists who will sit as a panel. Then we have a  
4 second category for some of the issues of witnesses who  
5 will be available for any questions or issues that may  
6 come up that they should address.

7 There was a little bit of concern along the  
8 way. There aren't necessarily more witnesses required  
9 for each of those panels. People feel there is  
10 adequate coverage, but there is a little concern that a  
11 notice went out requiring witnesses from every party to  
12 be available, and no one wants to disobey an order.

13 JUDGE MOSS: Notice is amended to provide  
14 that the concern of the Bench is that there be adequate  
15 coverage, and frankly, we followed the process and  
16 procedure that we have adopted over the course of the  
17 past couple of years in terms of preparing for this,  
18 and frankly, I will just go ahead and acknowledge on  
19 the record that I didn't stop to think of the fact that  
20 we had 31 parties in this case, and I don't want 31  
21 witnesses on each issue, so adequate coverage is the  
22 key, so you will not risk running afoul of a Commission  
23 order by this process.

24 MS. DODGE: Exhibit A, the PCA, the panelists  
25 will be for the Company, Bill Gaines; for Public

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1 Counsel, Jim Lazar; for Staff, Merton Lott. Exhibit B,  
2 revenue requirements, for the Company, Karl Karzmar;  
3 for Public Counsel, Jim Dittmer, who will be a panelist  
4 via telephone, and for staff, Merton Lott.

5 JUDGE MOSS: Mr. Dittmer will be available by  
6 phone? He can't be here for this even though he's a  
7 panelist?

8 MR. FFITCH: If that's a problem, we could  
9 have the panel be Staff and the Company, and  
10 Mr. Dittmer could be available for additional  
11 questions.

12 JUDGE MOSS: He's in a remote location?

13 MR. FFITCH: Kansas City.

14 JUDGE MOSS: If he needs to be on the panel,  
15 let's have him on the phone.

16 MS. DODGE: And the backup witnesses, and  
17 particularly with respect to cost of capital if there  
18 is in-depth discussion, for the Company, Don Gaines;  
19 for Public Counsel, Steven Hill; for Staff,  
20 Mr. Woolridge. Exhibit C, rate spread, panelists will  
21 be for the Company, Mr. Pohndorf; Staff, Mr. Lott;  
22 Public Counsel, Mr. Lazar, and for ICNU,  
23 Mr. Schoenbeck, and backup witnesses who will be  
24 available are for Microsoft, Jerry Gertler, and for  
25 Federal Executive Agencies, Mr. Selecke (phonetic).

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1 MS. DODGE: Exhibit D, rate design, for the  
2 Company, Mr. Pohndorf; for Staff, Mr. Lott; for Public  
3 Counsel, Mr. Lazar; for ICNU, Mr. Schoenbeck, and then  
4 as backup witnesses, Microsoft, Jerry Gertler, Federal  
5 Executive Agencies, Mr. Selecke; for Kroger, Kevin  
6 Higgins; for WorldCom, Jeff Grumm; for AT&T Wireless,  
7 Bill Hunter.

8 MR. GIBSON: Based on your earlier decision,  
9 I would like to pull off Jeff Grumm and make the whole  
10 thing more efficient.

11 JUDGE MOSS: So you don't want to offer  
12 Mr. Grumm as a backup witness?

13 MR. GIBSON: I don't think he's necessary  
14 based on your ruling. There is adequate coverage.

15 MS. DODGE: For Exhibit E, time of use, for  
16 the Company, Mr. Pohndorf; for the Staff, Mr. Lott, for  
17 Public Counsel, Mr. Lazar. Backup witnesses will be  
18 for Microsoft, Jerry Gertler; for Northwest Energy  
19 Coalition, Danielle Dixon.

20 Exhibit F, conservation, for the Company,  
21 Mr. Pohndorf; for Staff, Ms. Steward; for Public  
22 Counsel, Ms. Klumpp; for Northwest Energy Coalition,  
23 Ms. Dixon; for the Energy Project, Mr. Eberdt, and for  
24 NWIGU, Mr. Schoenbeck. Exhibit G, low income, for the  
25 Company, Mr. Pohndorf, for Staff, Ms. Steward; for the

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1 Multiservice Project, Energy Project, and the  
2 Opportunity Council, Mr. Brannon; for Northwest Energy  
3 Coalition, Ms. Dixon; for NWIGU, Mr. Schoenbeck.

4 Exhibit H, line extension, for the Company,  
5 Mr. Pohndorf, for Staff, Mr. Lott; for Public Counsel,  
6 Mr. Lazar; for Northwest Energy Coalition, Ms. Dixon,  
7 and backup witness for Microsoft, Jerry Gertler.  
8 Exhibit I, the Cities, for the Company, Ms. Harris; for  
9 Staff, Ms. Etchart; for the Cities, Carrie Roe, and  
10 then backup witnesses available for questioning will be  
11 for Sound Transit, Bill Gunzler; for King County, Lydia  
12 Reynolds-Jones, and for City of Kent, Tim LaPort, but  
13 he may not be available if not necessary.

14 JUDGE MOSS: LaPort is a backup witness, and  
15 we are going to talk about issue order here in a  
16 minute, but I think we are probably going to take the  
17 Cities up, I think we talked about doing that Thursday  
18 afternoon.

19 MS. DODGE: We've changed that.

20 MS. ARNOLD: I might include as witnesses, I  
21 will be there for the Cities and Michael Charneski will  
22 be available for legal questions.

23 JUDGE MOSS: Counsel need to be available for  
24 legal points or argument, sure.

25 MS. DODGE: Exhibit J, SQI, for the Company,

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1 Mr. Pohndorf; for Public Counsel, Ms. Kimball, on the  
2 phone?

3 MR. FFITCH: In person on Thursday, on the  
4 phone on Friday subject to availability. She has  
5 limited Friday phone availability, and if she's not  
6 available, the other panelists are adequate, given her  
7 prefiled testimony.

8 MS. DODGE: Finally for Staff, Ms. Steward,  
9 and Exhibit K, backup distribution, for the Company,  
10 Mr. Pohndorf; for staff, Mr. Lott.

11 JUDGE MOSS: That completes our sets of  
12 panels and the potential backups. Mr. McMahon?

13 MR. MCMAHON: On the Exhibit "I," Gunzler,  
14 Liz Thomas requested that he be available by telephone.  
15 Does it make a difference as far as your list is  
16 concerned?

17 MS. DODGE: I think that the backup witnesses  
18 in general will be either in person or on the phone,  
19 but more likely on the phone for many of them.

20 JUDGE MOSS: That piece is completed. Now,  
21 you are going to turn me on my head.

22 MS. DODGE: Only partially. We were trying  
23 to work through various conflict issues and trying to  
24 predict which issues go naturally together and things  
25 like that. We started looking at revenue requirements

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1 Thursday morning, Exhibit B, followed by Exhibit C and  
2 D, rate spread and rate design; then Exhibit F,  
3 conservation; then Exhibit G, low income, and there is  
4 some hope that all of that would fit within Thursday  
5 morning, or at least conservation.

6 Then Exhibit H, line extension; Exhibit J,  
7 SQI; Exhibit K, backup distribution. Sorry, I've  
8 skipped one. After line extension, Exhibit H, she come  
9 Exhibit E, time-of-use.

10 JUDGE MOSS: And following that, SQI and  
11 backup distribution?

12 MS. DODGE: Following that, SQI, which is  
13 Exhibit J, and then line Exhibit K, backup  
14 distribution; then Exhibit I, the Cities; then  
15 Exhibit A, PCA, and there is some hope that by the time  
16 we get to Exhibit I, Cities, that that's Friday at  
17 1:30, and in any case, we thought to set Friday at 1:30  
18 for the Cities so they have their set time and we can  
19 make adjustments as requires by the others.

20 JUDGE MOSS: So we want to set the Cities  
21 definitely Friday at 1:30. Okay, and as to the others,  
22 we will start with the revenue requirement and move  
23 through the list as we are able to do.

24 MS. DODGE: Yes.

25 JUDGE MOSS: Now, it is impossible to predict

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1 whether these issues will take minutes or hours, so  
2 it's going to be important that the witnesses be here  
3 so that if it's minutes instead of hours, we don't lose  
4 time during the day.

5           On the other hand, that needs to be with the  
6 understanding that if it's hours and not minutes that  
7 witnesses may be here and not get called, and also we  
8 may have to make adjustments, depending on how things  
9 go. We will try to follow this. I don't see any  
10 particular problem with this order, but it's  
11 conceivable that a problem could develop along the way,  
12 so then we would have to perhaps move something up a  
13 bit.

14           We will set the Cities at 1:30 since that  
15 seems to be a good plan for that piece of the case,  
16 which does sort of stand on its own, unlike many of the  
17 other interrelated issues, and it does seem to me that  
18 you have arranged things fairly logically together,  
19 particularly as to the first three pieces, which I  
20 think are essential to the consideration of the various  
21 procedural options that we've discussed and in a sense  
22 more substantive options, if we do need additional time  
23 beyond the day-and-a-half that's currently set aside,  
24 and just to reiterate, those various options as I have  
25 them down include the parties' wish that we finish



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1 everything that needs to be done and proceed  
2 accordingly.

3           The other possibilities, the contingency  
4 possibilities we discussed include, as initially  
5 proposed, implementing a temporary 4.6 percent rate  
6 increase pending final determination of the matter. I  
7 raised the possibility of 4.6 plus something to keep  
8 the Company whole if the Commission was not interested  
9 in implementing the time-of-use on a temporary basis,  
10 and then the other suggestion was 4.6 and the  
11 time-of-use piece on a temporary basis. So those are  
12 the options we've discussed so far, and as I told you  
13 at the outset, I'm not going to make a decision on  
14 that, and the Commissioners will be in a position to  
15 decide exactly how we will proceed, and we will take  
16 that up as appropriate.

17           That takes care of witnesses, the order of  
18 presentation. We have already confirmed our exhibit  
19 list. In those subject areas, is there anything else  
20 the parties want to bring up? I have one other matter  
21 to bring up. Mr. Roseman?

22           MR. ROSEMAN: I was just going to inquire  
23 whether -- I think the hearing is scheduled for 9:30 on  
24 this Thursday? Do you want to or would you let us know  
25 whether --

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1           JUDGE MOSS: I don't think I can change that  
2 at this point, so we will proceed at 9:30. We may make  
3 some adjustments for the second day depending on what  
4 happens with our public hearing. Anything else in this  
5 connection?

6           One other subject matter that I have down on  
7 my agenda, I noticed that as I reviewed the materials  
8 over the past several days that Cost Management  
9 Services is listed as a participating party, yet they  
10 are not a signatory, as I understand it, so I wanted to  
11 get clarification on their status.

12           MS. ARNOLD: Your Honor, Cost Management  
13 Services is intending to be involved in the gas  
14 collaboratives and is a party and has no objection to  
15 any of the stipulation that's been presented but didn't  
16 participate in any of the collaboratives so didn't feel  
17 it was appropriate to sign or not sign.

18           JUDGE MOSS: But they are listed as a  
19 participating party in the prefatory language in the  
20 umbrella settlement agreement. Do I misspeak?

21           MS. DODGE: In Paragraph 1, they are listed.  
22 I think that was an oversight all around.

23           JUDGE MOSS: So that's something that will  
24 have to be taken care of, but we just need to be clear,  
25 and I'll just confirm for the record then that the only

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1 other party in the case that is not a signatory to the  
2 settlement stipulation is Seattle Times and that they  
3 also are not opposed, as I understand it.

4 MS. KIRKPATRICK: That's correct.

5 JUDGE MOSS: These are small details, but  
6 they can be important, so I just wanted to clarify  
7 that. Is there any other business that we need to take  
8 up today? Mr. McMahon?

9 MR. MCMAHON: I would like to make sure that  
10 if there is any change that I am sent notice of it, and  
11 the reason I bring this up is other attorneys in the  
12 prosecuting attorneys office have filed appearances  
13 rather than myself, so I don't know if whoever sends  
14 out the notices has got my e-mail or telephone, so I  
15 just want to make sure I find it if the schedule is  
16 changed.

17 JUDGE MOSS: We'll put you on the global  
18 list. As far as official notice is concerned, each  
19 party has one person designated for official service,  
20 and I would not recommend changing that at this  
21 juncture, but let me back up half a step for everyone's  
22 benefit.

23 When we are in an intensive mode and schedule  
24 situation such as we are now in, it is my standing  
25 practice that in addition to the official notice you

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1 receive via facsimile and hard copy through mail to  
2 have a global e-mail to all the parties so that you  
3 actually receive notice of anything that's happening  
4 earlier than you otherwise might. So I will continue  
5 that practice throughout, but the official notice may  
6 take a day or two to reach you, but you will know.

7           Any other business this morning? Thank you  
8 all very much for being here this morning, and thank  
9 you for your additional hard efforts in getting us  
10 procedurally on track here, and I look forward to  
11 seeing you all Thursday morning at 9:30. We are off  
12 the record.

13           (Prehearing concluded at 12:20 p.m.)

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