0001

 1

 2 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

 3 COMMISSION

 4

 5 WASHINGTON UTILITIES and ) DOCKET NO. UG-101644

 TRANSPORTATION COMMISSION, ) Volume I

 6 ) Pages 1 - 29

 vs. )

 7 )

 PUGET SOUND ENERGY, INC. )

 8 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

 9

10 A hearing in the above matter was held on November 19,

11 2010, at 1:30 p.m., at 1300 South Evergreen Park Drive

12 Southwest, Olympia, Washington, before Administrative Law

13 Judge DENNIS J. MOSS.

14

15 The parties were present as follows:

16

17 WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, by

 Simon Fitch, Assistant Attorney General, 800 5th Avenue,

18 Suite 2000, Seattle, Washington, 98104. Telephone number is

 (206) 389-2055.

19

 WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, by

20 Robert Cedarbaum, Assistant Attorney General, Heritage Plaza

 Building, 1400 South Evergreen Park Drive, Southwest, Olympia,

21 Washington, 98504. Telephone number is (360) 664-1188.

22 PUGET SOUND ENERGY, by Sheree Carson of Perkins Coie,

 10885 Northwest 4th Street, Bellevue, WA 98004. Telephone

23 number is (425) 635-1400.

24 ///

25 ///

0002

 1 NORTHWEST INDUSTRIAL GAS USERS, by Chad Stokes and

 Tommy Brooks of Cable Huston Law firm, 1001 Southwest

 2 5th Avenue, Suite 2000, Portland, Oregon, 97204. Telephone

 number is (503) 224-3092.

 3

 ENERGY PROJECT, by Ronald Roseman, 2011 14th Avenue

 4 East, Settle, Washington, 98112. Telephone number is (206)

 324-8792.

 5

 COST MANAGEMENT SERVICES, INC., by John Cameron, Davis

 6 Wright Tremaine, LLP, 1300 Southwest 5th Avenue, Suite 2300,

 Portland, Oregon, 97201. Telephone number is (503) 778-5206.

 7

 SEATTLE STEAM COMPANY, by Elaine Spencer, Graham &

 8 Dunn, Pier 70, 2801 Alaskan Way, Seattle, Washington,

 98121-1128. Telephone number is (206) 340-9638.

 9

 NUCOR STEEL, by Damon Xenopoulos of Brickfield,

10 Burchette, Ritts & Stone, 1025 Thomas Jefferson Northwest, 8th

 Floor, West Tower, Washington DC, 20007. Telephone number is

11 (202) 342-0800.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

0003

 1 P R O C E E D I N G S

 2 JUDGE MOSS: Good afternoon, everyone. My name is

 3 Dennis Moss. I'm the Administrative Law Judge with Washington

 4 Utilities and Transportation Commission. The Commission has

 5 delegated to me the responsibility to be the presiding officer

 6 in this matter, styled, "Washington Utilities and

 7 Transportation Commission against Puget Sound Energy, Inc.,

 8 Docket UG-101644," which is a tariff filing by the company

 9 proposing to increase the natural gas service rates previously

10 suspended by the Commission and set for hearing.

11 We'll begin by taking appearances. We'll start, as

12 usual, with the company.

13 MS. CARSON: Good afternoon, Your Honor. Sheree

14 Carson with Perkins Coie. I'm representing Puget Sound Energy.

15 My address is 10885 Northwest 4th Street, Bellevue, Washington,

16 98004. That's suite 700. Phone is (425) 635-1400. Fax is

17 (425) 635-2400. Email address is "scason@perkinscoie.com."

18 Although not here, also appearing is Donna Barnett, same

19 address, same phone number. Email address is

20 "dbarnett@perkinscoie.com."

21 JUDGE MOSS: Thank you, Ms. Carson.

22 Let's proceed around the room.

23 Mr. Stokes.

24 MR. STOKES: Thank you, Your Honor. Chad Stokes from

25 the Cable Huston Law Firm. Address is 1001 Southwest 5th

0004

 1 Avenue, Suite 2000, Portland, Oregon, 97204. Telephone number

 2 is (503) 224-3092. Fax number is (503) 224-3176. My email is

 3 "cstokes@cablehuston.com." Also appearing with me will be

 4 Tommy Brooks, same address, same phone number. His email

 5 address is "tbrooks@cablehuston.com." We're appearing for the

 6 Northwest Industrial Gas Users. Thank you.

 7 JUDGE MOSS: The firm name is spelled the longer firm

 8 name?

 9 MR. STOKES: Yes. We go by "Cable Huston" now but it

10 is still officially the longer version.

11 JUDGE MOSS: I want to make sure my service list was

12 correct. I'll leave the longer version.

13 MR. STOKES: Okay.

14 JUDGE MOSS: Mr. Roseman to that table.

15 MR. ROSEMAN: Thank you, Your Honor. My name is

16 Ronald Roseman. I'm an attorney who is representing the Energy

17 Project. My address is 2011 14th Avenue East, Seattle,

18 Washington, 98112. My email address is

19 "ronaldroseman@comcast.net." My telephone is (206) 324-8792.

20 My fax is (206) 568-0138.

21 JUDGE MOSS: Backing up half a second here,

22 Mr. Stokes, does "Brooks" have an "E" on the end or not?

23 MR. STOKES: No.

24 JUDGE MOSS: Thank you.

25 All right. Mr. Fitch.

0005

 1 MR. FITCH: Good afternoon Your Honor. Simon Fitch,

 2 Assistant Attorney General, Public Counsel, 800 5th Avenue,

 3 Suite 2000, Seattle, Washington, 98104. Phone number is

 4 (206) 389-2055. Fax number is (206) 464-6451. Email is

 5 "simonf@atg.wa.gov."

 6 JUDGE MOSS: Mr. Cedarbaum.

 7 MR. CEDARBAUM: Thank you, Your honor. I'm

 8 representing Commission staff. My name is Robert Cedarbaum,

 9 Assistant Attorney General. My business address is the

10 Heritage Plaza Building, 1400 South Evergreen Park Drive

11 Southwest, Olympia, Washington, 98504. My direct dial number

12 is (360) 664-1188. My fax is (360) 586-5522. My email address

13 is "bcedarbaum@utc.wa.gov."

14 JUDGE MOSS: Thank you very much.

15 Mr. Cameron on the telephone conference, please.

16 MR. CAMERON: Good afternoon. John Cameron appearing

17 for Cost Management Services, Inc. I am with Davis Wright

18 Tremaine, 1300 Southwest, 5th Avenue, Suite 2300, Portland,

19 Oregon, 97201. Phone number is (503) 778-5206. Fax number is

20 (503) 778-5299. Email address is "johncameron@dwt.com."

21 JUDGE MOSS: Thank you.

22 Ms. Spencer, I overlooked you out of the left side of

23 my vision here a moment ago. If you would go ahead and give

24 your appearance.

25 MS. SPENCER: Elaine Spencer on behalf of Seattle

0006

 1 Steam Company. My address is Graham & Dunn, Pier 70,

 2 2801 Alaskan Way, Seattle, Washington, 98121-1128. My phone

 3 number is (206) 340-9638. My fax number is (206) 340-9599. My

 4 email address is "espencer@grahamdunn.com."

 5 Thank you.

 6 JUDGE MOSS: Thank you. The prefix on your phone, was

 7 that "340?"

 8 MS. SPENCER: It's 206.

 9 JUDGE MOSS: 206 and then what?

10 MS. SPENCER: 340-9638.

11 JUDGE MOSS: Thank you very much.

12 I have most of this information down but sometimes

13 things change a little bit.

14 MS. SPENCER: Sure.

15 JUDGE MOSS: Let's see. I was expecting

16 Mr. Xenopoulis for Nucor Steel. Is there anyone on line for

17 Nucor Steel?

18 MR. XENOPOULIS: Yes, Your Honor. This is Damon

19 Xenopoulis.

20 JUDGE MOSS: Go ahead and enter your appearance, Mr.

21 Xenopoulis.

22 MR. XENOPOULIS: Thank you. Damon Xenopoulis for

23 Nucor Steel. I'm with Brickfield [unintelligible] at

24 1025 Thomas Jefferson Street Northwest, 8th floor, West Tower,

25 Washington DC, 20007. Telephone number is (202) 342-0800. Fax

0007

 1 number is (202) 342-0807.

 2 JUDGE MOSS: Thank you very much.

 3 Is there anyone else who wishes to enter an appearance

 4 today?

 5 Apparently not.

 6 That meaning that we have written petitions to

 7 intervene. How novel. Everybody filed their written petition

 8 to intervene this time. Northwest industrial Gas Users,

 9 Seattle Steam, Nucor Steel Seattle, Inc., Cost Management

10 Services, Inc., and the Energy Project.

11 Is there objection to any of these.

12 MS. CARSON: Yes, Your Honor. PSE has an objection to

13 Cost Management Services, Inc.'s, intervention.

14 JUDGE MOSS: Would you go ahead and explain the basis

15 for objection?

16 MS. CARSON: Your Honor, there are two bases for our

17 objection. Number one, the issue that Cost Management Services

18 has raised relates to a conservation tariff that's not

19 suspended in this case. This is not the appropriate proceeding

20 for this to be raised. It would broaden the scope of issues

21 that need to be addressed in this proceeding so we object on

22 that ground.

23 Secondly, Cost Management Services is not a customer

24 of PSE. It purports to represent customers but, to the best of

25 our knowledge, has not been designated as a representative by

0008

 1 any customer group in the way that [unintelligible] or public

 2 counsel is. In fact, we believe that the customers at Cost

 3 Management Services purports to represent are probably already

 4 represented by public counsel and [unintelligible.] That's the

 5 second ground on which we object.

 6 JUDGE MOSS: All right. Mr. Cameron -- I'm sorry.

 7 MR. CEDARBAUM: Your Honor --

 8 JUDGE MOSS: Okay. Mr. Cedarbaum wishes to say

 9 something.

10 MR. CEDARBAUM: Well, staff would also object to the

11 intervention of CMS. I can provide my rationale in addition to

12 Ms. Carson's before Mr. Cameron responds.

13 JUDGE MOSS: Sure, then he can respond to everything

14 at once.

15 MR. CEDARBAUM: Our reasons are similar to the

16 company's, and I would point to the Commission's ruling

17 intervention, which is WAC 480.07.355 in which the standards

18 are you're allowed intervention if you have substantial

19 interest in the proceeding or there's a public interest in your

20 participation of proceeding.

21 With respect to the substantial interest piece, we

22 would agree with a company that because the conservation

23 tariffs, both surcharge to customers and the program

24 implementation of the conservation program tariffs, are not

25 under suspension, that the issues raised by CMS are not

0009

 1 properly before the Commission in this case, therefore, they do

 2 not have a substantial interest in the case. Likewise, they

 3 are, in essence, a competitor of Puget Sound Energy with

 4 respect to providing supply and transportation service to its

 5 own customers, and, as a competitor, they would also not have

 6 substantial interest in this proceeding. I would point to the

 7 State's Supreme Court case of Coal, at 79 Washington 2nd, 302,

 8 in which the Court upheld a Commission determination that a

 9 competitor of a regulated company does not show substantial

10 interest in the proceeding.

11 With respect to public interest, we would say the

12 inclusion of the issues presented by CMS would broaden the

13 scope of this proceeding and make the case more complicated.

14 We have been working on a schedule in the case that we have not

15 reached agreement on yet but is a condensed version of the

16 normal full 11 months suspension period and adding CMS' issues

17 may make it more difficult to achieve an accelerated schedule

18 in the case.

19 Finally, I would just say that CMS does have

20 possibility of an alternative remedy before the Commission

21 under the complaint statute 8004110. Now, there may be issues

22 with respect to standing under that statute but certainly I

23 think those issues can be explored by CMS before they are

24 allowed to participate in this proceeding, Your Honor.

25 Thank you.

0010

 1 JUDGE MOSS: All right. Does anyone else wish to add

 2 voice to these objections before I give Mr. Cameron an

 3 opportunity to respond to them?

 4 Apparently not.

 5 Mr. Cameron.

 6 MR. CAMERON: Thank you, Your Honor.

 7 I must say, I had conversations with each of

 8 Ms. Carson and Mr. Cedarbaum so these objections do not hit me

 9 by complete surprise.

10 Our intervention petition attempted to describe with

11 great specificity the exact issues of concern to us. I do not

12 think they would broaden the scope of the proceeding, in fact,

13 they go hand in hand with the rates under review in this

14 proceeding.

15 Paragraph number four of the Commission suspension

16 order of October 28 notes that the Commission has discretion to

17 shake the processes would address the needs of each case. I

18 would suggest to you that that language is broad enough to

19 encompass the situation. Our issues are discrete. Addressing

20 them will not broaden the scope of the preceding unduly. We

21 are committed to resolving them amicably and expeditiously.

22 Our frustration may be somewhat apparent in our intervention

23 proceeding. My client is quite frustrated having attempted to

24 raise these issues previously with the Commission last summer

25 in [unintelligible] 100522, the conservation in Senate

0011

 1 investigation in this by the Commission. We've attempted to

 2 address them informally with the company and informally with

 3 the staff. Thus far no one seems to have been willing to get

 4 off the dime and help us resolve an issue which we think

 5 unnecessarily inhibits competition and creates undue

 6 discrimination amongst various recipients of rate-payer funded

 7 conservation money.

 8 Regarding Mr. Cedarbaum's suggestion that we initiate

 9 a complaint, we did explore that, and may do so again, but it

10 seemed to us, as a matter of practicality, that raising these

11 issues in an existing proceeding, coupled with a commitment to

12 resolve them expeditiously, seems to be the more pragmatic

13 approach.

14 In terms of our representation of customers, I would

15 dispute Ms. Carson's statement that our customers are already

16 represented by [unintelligible]. As we explained in the

17 intervention petition, we represent commercial and industrial

18 end-users who have substantial usage but not large enough to

19 warrant inhouse expertise and not really part of the membership

20 of [unintelligible]. Knowing that there was opposition, I've

21 been instructed by my client not to withdraw our petition to

22 intervene but instead to press ahead and request a ruling

23 either granting or denying the petition. Again, if granted

24 we'll work to resolve our issues expeditiously as possible.

25 We'll accept the schedule adopted by the Commission after

0012

 1 consultation by the parties for the balance of this pre-hearing

 2 conference. If it's denied, on the other hand, we'll consider

 3 our options to obtain a remedy elsewhere.

 4 JUDGE MOSS: All right. Thank you, Mr. Cameron.

 5 Just to be clear, CMS does not actually represent it's

 6 customer, does it? It's just representing itself. It's not an

 7 industry group?

 8 MR. CAMERON: We're not a trade association, that's

 9 for sure. We do have arrangements with our clients, our

10 customers. We are not in competition with Puget for purposes

11 of transportation service. Every one of our customers use

12 transportation to only service of the company under public rate

13 schedule. We do supply natural gas commodity from the

14 competitive market, of course, that's the part of Puget service

15 which is a cost [unintelligible] on which they earn no profit,

16 so it seems a bit strange to suggest we're in competition with

17 Puget when it is not in the profit-making business of supplying

18 commodity.

19 JUDGE MOSS: Thank you very much.

20 Anything further from those in the room?

21 Mr. Fitch.

22 MR. FITCH: Just briefly, Your Honor. I need to say

23 something about who public counsel represents because of

24 Ms. Carson's comment. This has come up periodically in

25 intervention matters at pre-hearing conferences.

0013

 1 It is not our view that we represent customers of CMS.

 2 Public Counsel's focus is on residential and small business

 3 customers. Having said that, as a matter of policy, our office

 4 supports liberal intervention, and there is sometimes, from

 5 time to time, overlap between our representation on rule under

 6 statute and other intervenors representing subsets of

 7 consumers, and the Commission is generally allowed other

 8 intervenors to participate and address that concern of

 9 duplication by just counseling parties to coordinate

10 presentations and to not burden the record with duplication.

11 So, I just wanted to make that statement for the record,

12 Your Honor.

13 JUDGE MOSS: Thank you, Mr. Fitch.

14 MR. CAMERON: Your Honor, may I make one more point?

15 JUDGE MOSS: Sure.

16 MR. CAMERON: That is that CMS has a history of

17 intervention in commission proceedings so this would not be a

18 break with precedence but instead would follow that precedence.

19 JUDGE MOSS: Thank you, Mr. Cameron. Your observation

20 is, perhaps, an appropriate segway to the point that CMS'

21 participation in prior cases, in my experience, has largely

22 been in general rate proceedings in which the company places

23 all or at least a significant portion of its tariffs in issue.

24 This case, on the other hand, is one that has been brought to

25 the Commission on a much more limited basis. I'm struck by

0014

 1 Ms. Carson's representation that the conservation tariffs are

 2 not suspended as part of this proceeding. I am concerned about

 3 the prospect of seeing the issues broadened beyond those the

 4 Commission is interested in hearing in this proceeding.

 5 Accordingly, I'm going to deny Cost Management

 6 Services' Petition to Intervene. And you, of course,

 7 Mr. Cameron, have been here frequently. You understand your

 8 recourse. You can, of course, appeal that decision and, then,

 9 of course, you can consider the company's other options.

10 Mr. Cedarbaum suggested that the complaint statute the only

11 other options for you. But that is my determination on the

12 basis of what I have heard today and read previously.

13 MR. CAMERON: Will your ruling be in writing, Your

14 Honor?

15 JUDGE MOSS: Yes. I will put this in my Pre-Hearing

16 Order and then, of course, you'll have ten days to object.

17 All right?

18 MR. CAMERON: Very well.

19 JUDGE MOSS: Thank you, Mr. Cameron.

20 Of course, you're welcome to continue to monitor our

21 proceedings today. They are open to the public and we do have

22 a number of people in the hearing room.

23 All right. With that done I note that discovery has

24 already commenced under the Commission's procedural rules,

25 480-07-400 through 425.

0015

 1 Off the record.

 2 (Brief discussion was held off the record.)

 3 JUDGE MOSS: So discovery is underway and we have

 4 prior determination, the five-day turnaround period on

 5 discovery and, so, it would be my inclination to simply

 6 continue that through the Pre-Hearing Order, unless somebody

 7 has a strong objection to that today.

 8 Apparently not.

 9 As I went back and reviewed the file I recognized

10 there probably is a need for a protective order in this

11 proceedings. I missed that point earlier. I have with me

12 today a standard form of protective order which, unless there

13 needs to be some deviation from it.

14 MS. CARSON: Your Honor, we anticipate that the

15 standard form protective order should be fine.

16 I should say, though, that we've run into already some

17 discoveries in data requests that ask for broad records, like

18 board minutes, that do have electric-related information that

19 would be highly confidential. So our proposal is, because that

20 isn't relative to this case, that would be redacted or not

21 provided. As long as we proceed that way I think a standard

22 form protective order is fine.

23 JUDGE MOSS: Okay. I think that would fall, then,

24 within the compass of ordinary discoery practice whereby you

25 furnish only the responsive material, I think it would be

0016

 1 useful and avoid the potential for discovery disputes that I

 2 have to deal with. If you can identify where you've redacted

 3 portions of board minutes or something -- the subject matter --

 4 concerns electric issues or something like that, you probably

 5 safe questions being raised in peoples' minds about whether

 6 you're hiding all the pertinent information.

 7 MS. CARSON: We will do that.

 8 JUDGE MOSS: Thank you.

 9 MR. CEDARBAUM: Your Honor, at some point I'd like to

10 ask you if we could take a break so we could talk schedule off

11 the record. I would like to discuss that issue on the

12 protective order with staff and get back to you. I'm wondering

13 what route to go is to have a standard form with the highly

14 confidential version, let the company provide the electric

15 information so that parties can judge for themselves whether

16 it's relevant or not to the gas case. I don't know the exact

17 nature of the information. I don't know whether it is or not

18 relevant to the gas issues. I'd like the chance to talk to

19 staff about that and see if they have an opinion.

20 JUDGE MOSS: Certainly you'll have the opportunity to

21 do that and talk to the company as well. But as I just stated,

22 to the extent the material is responsive, it will need to be

23 provided, which means it's relevant or likely to lead to the

24 discovery of relevant admissible information. So the company

25 is under that obligation already. I recognize that they may

0017

 1 exercise some judgment there that you may wish to question.

 2 You should probably talk to the company as well as talking to

 3 your own client to see if you can work out some combination

 4 that will take care of the issue. I don't want to encourage a

 5 practice whereby the company is proceeding volumes of responses

 6 that simply have nothing to do with the case here. We could

 7 broaden discovery to a very great extent if we allow that sort

 8 of practice. The company is under an affirmative obligation to

 9 provide you the responsive material.

10 MR. CEDARBAUM: I guess I need clarification. When

11 you say the "standard form protective order," you mean one with

12 highly confidential provisions in it?

13 JUDGE MOSS: I was just looking at that. I didn't

14 prepare this Order. I had it prepared for me. It does not

15 appear to have the highly confidential --

16 MR. CEDARBAUM: That's my concern. If we ask a data

17 request for board minutes, and include it in the board minutes

18 this information the company believes is highly confidential,

19 but preserves the electric side of the business, and we still

20 want to see it to make our own judgment, the company would not

21 provide it at all because there's no highly confidential

22 provision in the protective order you're contemplating issuing.

23 That's why I was like, perhaps, if you just hold off on that.

24 JUDGE MOSS: I can hold off on that, certainly. If

25 the combination is to provide that additional layer of

0018

 1 protection for certain material we can add that to the

 2 protective order easily enough. I have other signatures left

 3 in my pen so we'll be able to do that. I'll just take this

 4 back to my office.

 5 Again, I think we all understand sort of general

 6 parameters that we're operating under here. I don't want to

 7 have things go too broadly. But, in my experience, you all

 8 have always been able to work these things out without me

 9 having to become involved. That is my strong preference in

10 life. I'll leave it at that for now.

11 Yes?

12 MR. CEDARBAUM: Yes.

13 JUDGE MOSS: That does bring us to the question of

14 process and procedural schedule. Before we go off the record

15 to give you all an opportunity to continue your conversations

16 concerning scheduling, which I understand have been ongoing.

17 I want to ask if this is a case that -- I'm putting

18 the question primarily to staff and the other intervenors,

19 public counsel and so forth, how are you all viewing this case

20 in terms of -- I mean, this is a rather targeted case. It's

21 not -- what we call it, I don't know -- under our rules or

22 statutes and whatnot. I think the question is: What process

23 do we really need to get through in this case? Are staff

24 contemplating we're going to have several rounds of testimony

25 and the usual sorts of things or something different?

0019

 1 MR. CEDARBAUM: The process steps that we're

 2 contemplating, if we have a litigated case, are the same in

 3 terms of response testimony, rebuttal testimony, but we have

 4 been talking about an accelerated schedule that would complete

 5 the case quite a bit earlier than the full suspension period.

 6 We've also talked about having a settlement conference and that

 7 if we did settle all of that other stuff would be eliminated

 8 and we'd have a presentation hearing. It's too early in the

 9 staff and analysis to know which track we're going down. So I

10 can't list what issues or I can't tell you there won't be a lot

11 of issues and there will only be a few. I don't know.

12 JUDGE MOSS: I imagine that comment probably applies

13 to others as well that it's too early to make a full analysis

14 of what the issues are and so forth.

15 What we'll do today is set a full procedural schedule,

16 perhaps on an ambitious basis so as to encourage you all to

17 more efficient resolution and we'll take it from there.

18 MR. CEDARBAUM: I'd like to say, my statement about

19 the schedule is just that we've been talking about. We haven't

20 reached agreement. Hopefully, we will.

21 JUDGE MOSS: Very well. It seems we're at that point

22 I probably should give you some time among yourselves, unless

23 there's something else.

24 Mr. Xenopoulis, at least Nucor Steel [unintelligible]

25 your intervention and, so, you should stay on the line and

0020

 1 participate.

 2 Mr. Cameron, again, I don't think the parties would

 3 object if you want to listen in on the conversation.

 4 Mr. Fitch has something to say.

 5 MR. FITCH: Your Honor, just so we don't lose track on

 6 the agenda today, I would like to address the public comment

 7 hearing and public notice as well today before we adjourn.

 8 JUDGE MOSS: That's fine. I gave that a little bit of

 9 thought. I'll just hear what you have to say about it and

10 we'll take it from there.

11 If there's nothing further, then, I will absent myself

12 from the hearing room and anticipating you all resolve this in

13 the next 10 to 15 minutes. I'll just go down to the

14 Commissioner's waiting area and someone can come find me here.

15 We're off the record.

16 (Short break was taken in the proceedings.)

17 JUDGE MOSS: Back on the record.

18 Parties have had an opportunity to discuss procedural

19 schedule off the record, and Mr. Cedarbaum has informed me they

20 have agreed to a proposed schedule which they have presented to

21 me.

22 Let me just check it against my own calendar.

23 We did a settlement conference on January 14th, which

24 is not going to implicate my scheduling in any way, which is

25 good since I'll be in a hearing in another matter. February

0021

 1 7th for response testimony, likewise, does not implicate my

 2 schedule. February 23rd, rebuttle. Okay. Not a problem.

 3 Hearings March 14th through 15th does not appear to present a

 4 problem. I know that's available for the Commissions, as well.

 5 Mr. Cedarbaum asked me about that this morning and I was able

 6 to get that information.

 7 Let's see. So there's an agreement to reduce response

 8 for data request to five calendar days after February 7th.

 9 If that's an agreed schedule, we'll adopt it. It

10 looks like it'll work.

11 MR. CEDARBAUM: Just by way of explanation, on the

12 first paragraph below the dates, and, also, actually, as part

13 of the schedule itself, May 1st date, the parties have agreed

14 to request Commissioner orders either for fully litigated case

15 or settled case on particular dates, and we understand those

16 are just request dates that we're not binding the Commission on

17 that, but we also had some clarification with respect to the

18 March 1st aspirational date if we were to settle the case, and

19 I think Ms. Carson has agreed or we asked her to state what

20 that clarification was.

21 MS. CARSON: So the company are had requested, of

22 course, February 1 effective date and there have been some

23 compromise here, obviously, but if there was a settlement the

24 company is hoping for a March 1 date. There was some concern

25 there on the part of public counsel and [unintelligible] that

0022

 1 that would be an issue that should be negotiated in a

 2 settlement. We talked about that. Basically left it that we

 3 all agreed that its aspirational goal that if there is a

 4 settlement March 1 would be the date but that would not

 5 preclude other parties in settlement discussions from talking

 6 about potentially other dates, but with the understanding that

 7 nobody is trying to stall this thing. I don't know if I

 8 explained that well enough or not but that was the

 9 clarification that we wanted on the record.

10 JUDGE MOSS: Sitting where I sit I have the luxury of

11 not being bound by any of this stuff that you agreed to. I

12 think your explanation was adequate in that sense and if the

13 parties wish to include an effective date as part of their

14 negotiations there's nothing here that will preclude that. I

15 may or may not even mention the aspirational dates in the

16 procedural order. But I have them in mind and we always do our

17 best.

18 MR. FITCH: I would just thank counsel for the company

19 for her fair statement of the, I think, understanding that we

20 reached in the recess.

21 JUDGE MOSS: That's very nice of you, Mr. Fitch.

22 Mr. Cedarbaum.

23 MR. CEDARBAUM: There was a matter with respect to the

24 protective order.

25 JUDGE MOSS: Yes. Go ahead.

0023

 1 MR. CEDARBAUM: We had discussions, also during the

 2 recess, and based on the company's explanation of the type of

 3 information that pertains to the electric side of the business

 4 and not the gas side, we agreed that we don't need the highly

 5 confidential provisions of the standard protective order added,

 6 and that the company in its responses [unintelligible] to

 7 request, if there is some electrical information we'll have a

 8 description of what that is so parties can be sure that the

 9 information remains segregated just to the electric side.

10 JUDGE MOSS: Thank you very much. I'm glad you all

11 worked that out. We're on a roll here.

12 The rest should be fairly straightforward. You all

13 are very familiar with our processes here. I say "you all," I

14 mean, all the parties in this proceeding. I know you all from

15 long years of interaction here. Electronic submission means

16 that the dates that appear on the procedural schedule are for

17 the electronic submission of documents with the official filing

18 being the date following -- or next business day following --

19 when we expect to receive the hard copy here at the Commission.

20 Then, of course, the service, if you all wish to agree among

21 yourselves or some of you do for just electronic service,

22 please file a letter with the Commission waiving other forms of

23 service.

24 Ms. Carson.

25 MS. CARSON: Yes. I just wanted to make sure that on

0024

 1 the service list for discovery for data request that

 2 "psedrs@perkinscoie.com" is included so that all data requests

 3 go there as well. With this short turnaround time it's really

 4 important that we get those right away.

 5 JUDGE MOSS: It is already on my preliminary draft at

 6 the Pre-Hearing Conference Order. I'm glad you raised that

 7 subject. I, of course, have used a previous service list for

 8 purposes here today. Let me go through this and ask a couple

 9 of questions.

10 Mr. Fitch, we have in previous cases, rate cases,

11 included Ms. Kimball; regulatory analyst, Lee Dashel and legal

12 assistant, Carol Williams, on this list. Do you want that list

13 for other people on the service list?

14 MR. FITCH: Yes, for Ms. Kimball.

15 Let me briefly talk with Ms. Kimball about the support

16 person assigned to the case.

17 We'd request that Carol Williams also remain on. Lee

18 Daschel be removed. We would also ask for a second legal

19 assistant, Mary Harper. I'm not sure if you have that. I'm

20 sure it's on other service lists.

21 JUDGE MOSS: Is it just "Mary one," perhaps?

22 MR. FITCH: I'd have to get that to you.

23 JUDGE MOSS: Give that to me because I have Ms.

24 Kimball as "maryktwo." Get that to me quickly, if you can.

25 I'd like to get this Order out. I guess it will have to be

0025

 1 Monday.

 2 MR. FITCH: We might be able to get it to you now.

 3 JUDGE MOSS: Or at the end of the proceeding.

 4 Just going on through the list here. In previous

 5 proceedings, Mr. Stokes, we've had Paula [unintelligible] and

 6 Dawn Shonebeck on your list for electronic service.

 7 MR. STOKES: That's it. Thank you.

 8 JUDGE MOSS: For Seattle Steam we previously had

 9 Robert Shepard.

10 MS. SPENCER: That's correct.

11 JUDGE MOSS: These are for electronic service, as I

12 understand.

13 Mr. Roseman, we previously had Mr. Ebert again.

14 MR. ROSEMAN: That's correct.

15 JUDGE MOSS: That would appear to be it.

16 We'll get all that documented and included in our

17 service list that we attach to the Pre-Hearing Conference Order

18 so you'll have reference to that.

19 You all have already indicated a date for settlement

20 conference. I don't need to say any more about that. As far

21 as filings, we need an original plus nine copies in this

22 proceeding for internal distribution. Of course, the direction

23 is included in the Pre-Hearing Conference Order regarding any

24 documents that contain confidential information and so forth.

25 You filed the nine of completely un-redacted version and one

0026

 1 copy of the redacted version or versions.

 2 And, then, if we get down to the hearing stage, of

 3 course, I'll send the usual reminders about witness lists and

 4 cross-examination, exhibits and so forth. You all are familiar

 5 with that.

 6 Is there any other business we need to take up today?

 7 MR. FITCH: Yes, Your Honor, the public comment.

 8 JUDGE MOSS: Yes. I have not had an opportunity to

 9 discuss with the Commissioners what their inclination is with

10 respect to a public comment hearing. I will just make one

11 general observation in that regard which is that we are acutely

12 aware of budgetary restraints at this Commission at this time

13 and, so, that will be a factor that may influence that. I

14 don't know what their decision will be. I assume, Mr. Fitch,

15 that you would wish there to be a public comment hearing.

16 MR. FITCH: Yes, Your Honor, although my

17 recommendation may be welcomed based on what you just said. We

18 have conferred with the Commission's consumer protective and

19 communication staff about this and we are comfortable

20 recommending -- and I understand that Mr. Macuchi is here so he

21 can object if I'm wrong -- but we're willing to recommend that

22 a public comment hearing be held in conjunction with the

23 Commissions' Olympia evidentiary hearing or the settlement

24 hearing.

25 JUDGE MOSS: That's a useful recommendation,

0027

 1 Mr. Fitch. That is probably the way we're going to handle

 2 public comment hearings, generally, for awhile doing that and

 3 some other proceedings, as well. I appreciate that. I'll

 4 convey that to the Commissioners when we talk about it and that

 5 should make it a lot easier to make a decision on that.

 6 MR. FITCH: May I address the customer notice, Your

 7 Honor?

 8 JUDGE MOSS: Sure.

 9 MR. FITCH: On that issue we, sort of, a slight

10 streamlining of the ordinary process, my understanding is

11 consumer protection is going to be involved, as usual, in the

12 discussions of how it looks with the company in designing the

13 notice, and we've often had a report back or statute report

14 date for the customer notice. The sense in this case was we

15 have a short, like two week report back, consumer protection

16 will speak with the company and develop a notice and then let

17 us have a look at it and see if we have any comments and then

18 it would go forward, but there was the sense it could be

19 handled pretty expeditiously. It's not setting a precedent for

20 future cases in how notices are developed but in this

21 particular case I think we're comfortable with the laboring or

22 being in the company and the consumer protection staff. As

23 long as we could get a look at the notice before it goes out

24 and a chance to comment then we'd be comfortable with that.

25 JUDGE MOSS: We have on some occasions noted a date

0028

 1 for some sort of status report. Do we need that in this case

 2 or are we going to handle it more informally?

 3 MR. FITCH: I guess we're at the pleasure of the

 4 bench, Your Honor. I'd like, generally, just to keep us

 5 working on it and not let it drift along.

 6 JUDGE MOSS: I'll place my faith in the parties and

 7 not bother to put it in the order, then. I think the parties

 8 will move on this expeditiously.

 9 Ms. Carson.

10 MS. CARSON: Yes. I'd like to point out that the

11 company already has provided one round of notice under

12 WAC 489.81.94.

13 JUDGE MOSS: I thought I saw something. Okay. So

14 that process is already underway, to that extent, at least, and

15 there will be further interaction without it, I'm sure.

16 Very good.

17 Anything else?

18 I thank you all for being here and look forward to

19 working with you and bringing this case to its logical and

20 affective resolution.

21 (Hearing adjourned at 2:30 p.m.)

22

23

24

25

0029

 1 Certificate

 2

 3 I, LESLEY E. KAY, a duly authorized Court Reporter and

 4 Notary Public in and for the State of Washington, residing in

 5 Olympia, do hereby certify;

 6 That the foregoing proceedings were taken before me

 7 and thereafter transcribed by me by means of computer-aided

 8 transcription; that the transcript is a full, true and complete

 9 transcript of said proceedings;

10 That I am not a relative, employee, attorney or

11 counsel of any party to this action, or relative or employee of

12 any such attorney or counsel, and I am not financially

13 interested in the said action or the outcome thereof;

14 That upon completion of signature, if required, the

15 original transcript will be securely sealed and the same served

16 upon the appropriate party.

17 IN WITNESS WHEREOF, I have hereunto set my hand and

18 affixed my official seal this 6th day of December, 2010.

19

20

21

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

22 LESLEY E. KAY

 WA CCR #3244

23 CA CSR #6847

 NV CCR #791

24

25