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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

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COMMISSION

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WASHINGTON UTILITIES and) DOCKET NO. UG-101644
TRANSPORTATION COMMISSION,) Volume I

6

) Pages 1 - 29

7

vs.)

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PUGET SOUND ENERGY, INC.)

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

11

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

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Southwest, Olympia, Washington, before Administrative Law

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Judge DENNIS J. MOSS.

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The parties were present as follows:

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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.

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WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, by
Robert Cedarbaum, Assistant Attorney General, Heritage Plaza
Building, 1400 South Evergreen Park Drive, Southwest, Olympia,
21 Washington, 98504. Telephone number is (360) 664-1188.

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PUGET SOUND ENERGY, by Sheree Carson of Perkins Coie,
10885 Northwest 4th Street, Bellevue, WA 98004. Telephone
23 number is (425) 635-1400.

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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.

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JUDGE MOSS: Good afternoon, everyone. My name is Dennis Moss. I'm the Administrative Law Judge with Washington Utilities and Transportation Commission. The Commission has delegated to me the responsibility to be the presiding officer in this matter, styled, "Washington Utilities and Transportation Commission against Puget Sound Energy, Inc., Docket UG-101644," which is a tariff filing by the company proposing to increase the natural gas service rates previously suspended by the Commission and set for hearing.

We'll begin by taking appearances. We'll start, as usual, with the company.

MS. CARSON: Good afternoon, Your Honor. Sheree Carson with Perkins Coie. I'm representing Puget Sound Energy. My address is 10885 Northwest 4th Street, Bellevue, Washington, 98004. That's suite 700. Phone is (425) 635-1400. Fax is (425) 635-2400. Email address is "scason@perkinscoie.com." Although not here, also appearing is Donna Barnett, same address, same phone number. Email address is "dbarnett@perkinscoie.com."

JUDGE MOSS: Thank you, Ms. Carson.

Let's proceed around the room.

Mr. Stokes.

MR. STOKES: Thank you, Your Honor. Chad Stokes from the Cable Huston Law Firm. Address is 1001 Southwest 5th

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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.

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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

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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. Xenopoulos for Nucor Steel. Is there anyone on line for
17 Nucor Steel?

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

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

22 MR. XENOPOULIS: Thank you. Damon Xenopoulos 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

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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

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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

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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.

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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

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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

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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.

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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

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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.

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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 discovery practice whereby you
25 furnish only the responsive material, I think it would be

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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

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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

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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?

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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. Xenopoulos, at least Nucor Steel [unintelligible]
25 your intervention and, so, you should stay on the line and

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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

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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

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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.

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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

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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

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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

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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,

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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

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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.)

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Certificate

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I, LESLEY E. KAY, a duly authorized Court Reporter and
Notary Public in and for the State of Washington, residing in
Olympia, do hereby certify;

6

That the foregoing proceedings were taken before me
and thereafter transcribed by me by means of computer-aided
transcription; that the transcript is a full, true and complete
transcript of said proceedings;

10

That I am not a relative, employee, attorney or
counsel of any party to this action, or relative or employee of
any such attorney or counsel, and I am not financially
interested in the said action or the outcome thereof;

14

That upon completion of signature, if required, the
original transcript will be securely sealed and the same served
upon the appropriate party.

17

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my official seal this 6th day of December, 2010.

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LESLEY E. KAY
WA CCR #3244
CA CSR #6847
NV CCR #791

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