

**Docket Nos. UE-220066 and UG-220067 (Consolidated) -  
Vol. I**

**WUTC v. Puget Sound Energy**

**February 28, 2022**



**206.287.9066 | 800.846.6989**

1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101

[www.buellrealtime.com](http://www.buellrealtime.com)

email: [info@buellrealtime.com](mailto:info@buellrealtime.com)



BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, ) DOCKETS UE-220066 and ) UG-220067 ) (Consolidated) Complainant, ) vs. ) PUGET SOUND ENERGY, ) Respondent.

VIRTUAL PREHEARING CONFERENCE VOLUME I

Pages 1-101 ADMINISTRATIVE LAW JUDGE MICHAEL HOWARD

Washington Utilities and Transportation Commission 621 Woodland Square Loop Southeast Lacey, Washington 98503

(All participants appeared via videoconference.)

DATE TAKEN: FEBRUARY 28, 2022 REPORTED BY: ROSE DETLOFF, RPR, CCR #21036100

APPEARANCES (Cont.)

FOR PUBLIC COUNSEL:

LISA W. GAFKEN ANN PAISNER Assistant Attorneys General Washington Attorney General's Office Public Counsel Unit 800 Fifth Avenue Suite 2000 Seattle, Washington 98104 206-464-6595 lisa.gafken@atg.wa.gov ann.paisner@atg.wa.gov pccseaf@atg.wa.gov

FOR ALLIANCE OF WESTERN ENERGY CONSUMERS:

BRENT COLEMAN Davison Van Cleve PC 1750 Southwest Harbor Way Suite 450 Portland, Oregon 97201 971-710-1157 blic@dvclaw.com

FOR THE ENERGY PROJECT:

SIMON FFITCH Attorney at Law 321 High School Road Northeast Bainbridge Island, Washington 98110 206-669-8197 simon@ffitchlaw.com

YOCHI ZAKAI Shute, Mihaly & Weinberger LLP 396 Hayes Street San Francisco, California 94102 415-552-7272 yzakai@smwlaw.com

APPEARANCES

ADMINISTRATIVE LAW JUDGE:

MICHAEL HOWARD

FOR COMMISSION STAFF:

JENNIFER CAMERON-RULKOWSKI JEFF ROBERSON NASH I. CALLAGHAN HARRY FUKANO JOE M. DALLAS DANIEL J. TEIMOURI Assistant Attorneys General Office of the Attorney General P.O. Box 40128 Olympia, Washington 98504 360-664-1186 jennifer.cameron-rulkowski@utc.wa.gov jeff.roberson@utc.wa.gov nash.callaghan@utc.wa.gov harry.fukano@utc.wa.gov joe.dallas@utc.wa.gov dan.teimouri@utc.wa.gov

FOR PUGET SOUND ENERGY:

SHEREE STROM CARSON DAVID STEELE PAM ANDERSON BYRON STARKEY Perkins Coie LLP 10885 Northeast Fourth Street Suite 700 Bellevue, Washington 98004 425-635-1400 scarson@perkinscoie.com dsteele@perkinscoie.com pjanderson@perkinscoie.com byronstarkey@perkinscoie.com

APPEARANCES (Cont.)

FOR THE FEDERAL EXECUTIVE AGENCIES:

RITA LIOTTA Attorney at Law 1 Avenue of the Palms Suite 161, Room 8F San Francisco, California 94130 rita.liotta@navy.mil

FOR NUCOR STEEL SEATTLE:

DAMON XENOPOULOS SHAUN MOHLER LAURA BAKER Stone Mattheis Xenopoulos & Brew, PC 1025 Thomas Jefferson Street, NW 8th Floor, West Tower Washington, DC 20007 202-342-0800 dex@smxblaw.com smohler@smxblaw.com law@smxblaw.com

FOR WALMART:

VICKI BALDWIN Parsons Behle & Latimer 201 South Main Street Suite 1800 Salt Lake City, Utah 84111 801-536-6918 vbaldwin@parsonsbehle.com

FOR SIERRA CLUB:

GLORIA SMITH Sierra Club 85 Second Street Second Floor San Francisco, California 94105 415-977-5532 gloria.smith@sierraclub.org

Page 5

1 APPEARANCES (Cont.)  
2  
3 FOR KING COUNTY:  
4 BEN MAYER  
5 K&L Gates  
6 925 Fourth Avenue  
7 Suite 2900  
8 Seattle, Washington 98104  
9 206-623-7580  
10 ben.mayer@klgates.com  
11  
12 VERNA BROMLEY  
13 RAUL MARTINEZ  
14 King County Pros. Attys Office  
15 1191 Second Avenue  
16 Suite 1700  
17 Seattle, Washington 98101  
18 206-477-1097  
19 verna.bromley@kingcounty.gov  
20 raul.martinez@kingcounty.gov  
21  
22 FOR NORTHWEST ENERGY:  
23 JAIMINI PAREKH  
24 JAN HASSELMAN  
25 Earthjustice  
810 Third Avenue  
Suite 610  
Seattle, Washington 98104  
206-343-7340  
jparekh@earthjustice.org  
jhasselman@earthjustice.org

Page 6

1 APPEARANCES (Cont.)  
2  
3 FOR THE PUYALLUP TRIBE:  
4 LISA ANDERSON  
5 ALEC WROLSON  
6 Law Office of the Puyallup Tribe of  
7 Indians  
8 3009 East Portland Avenue  
9 Tacoma, Washington 98404  
10 253-573-7852  
11 lisa.anderson@puyalluptribe-nsn.gov  
12 alec.wrolson@puyalluptribe-nsn.gov  
13  
14 NICHOLAS THOMAS  
15 Ogden Murphy Wallace PLLC  
16 901 Fifth Avenue  
17 Suite 3500  
18 Seattle, Washington 98164  
19 206-447-7000  
20 nthomas@omwlaw.com  
21  
22 FOR FRONT AND CENTERED:  
23 MARIEL THURASINGHAM  
24 Front and Centered  
25 1501 East Madison Street  
Suite 250  
Seattle, Washington 98122  
206-487-4303  
info@frontandcentered.org  
FOR COALITION OF EASTSIDE NEIGHBORHOODS FOR SENSIBLE  
ENERGY:  
J. RICHARD ARAMBURU  
Law Offices of J. Richard Aramburu PLLC  
705 Second Avenue  
Suite 1300  
Seattle, Washington 98104  
206-625-9515  
aramburulaw@gmail.com

Page 7

1 APPEARANCES (Cont.)  
2  
3 FOR MICROSOFT CORPORATION:  
4 TYLER PEPPLER  
5 CORINNE MILINOVICH  
6 Davison Van Cleve PC  
7 1750 Southwest Harbor Way  
8 Suite 450  
9 Portland, Oregon 97201  
10 503-241-7242  
11 tcp@dvclaw.com  
12 com@dvclaw.com  
13  
14 \* \* \* \* \*  
15  
16  
17  
18  
19  
20  
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1 LACEY, WASHINGTON; FEBRUARY 28, 2022  
2 9:26 a.m.  
3 -o0o-  
4 P R O C E E D I N G S  
5  
6 JUDGE HOWARD: Good morning. We're here  
7 today for a prehearing conference in Dockets UE-220066  
8 and UG-220067. This case is captioned Washington  
9 Utilities and Transportation Commission versus Puget  
10 Sound Energy. This is a general rate case filed by  
11 Puget Sound Energy or PSE.  
12 My name is Michael Howard. I use he/him  
13 pronouns. I'm an administrative law judge with the  
14 Commission, and I'll be co-presiding in this matter  
15 along with the Commissioners. The Commissioners will  
16 not be joining us at this particular prehearing  
17 conference today, though.  
18 Let's start by taking appearances, beginning  
19 with PSE.  
20 MS. CARSON: Good morning, Your Honor.  
21 Sheree Strom Carson with Perkins Coie representing Puget  
22 Sound Energy.  
23 Also appearing with me today are David Steele  
24 with Perkins Coie, and Mr. Steele will be responding to  
25 petitions to intervene.

<p style="text-align: right;">Page 9</p> <p>1 Pam Anderson and Byron Starkey are also 2 appearing, and we have filed a notice of appearance. 3 JUDGE HOWARD: Thank you. 4 Could we have an appearance for Staff. 5 MS. CAMERON-RULKOWSKI: Good morning, Your 6 Honor. This is Jennifer Cameron-Rulkowski, Assistant 7 Attorney General, appearing on behalf of Staff. 8 And with me in this case are Assistant 9 Attorneys General, Jeff Roberson, Nash Callaghan, Harry 10 Fukano, Joe Dallas, and Daniel Teimouri. 11 JUDGE HOWARD: Thank you. 12 Could we have an appearance for Public Counsel. 13 MS. GAFKEN: Good morning, Judge Howard. My 14 name is Lisa Gafken. I'm an Assistant Attorney General 15 appearing on behalf of Public Counsel. 16 Also appearing in this case with me is 17 Assistant Attorney General, Ann Paisner. 18 JUDGE HOWARD: Thank you. 19 Do we have an appearance for AWEC? 20 MR. COLEMAN: Good morning, Your Honor. 21 Brent Coleman of the law firm Davison Van Cleve on 22 behalf of the Alliance of Western Energy Consumers. 23 JUDGE HOWARD: Thank you. 24 Could we have an appearance for The Energy 25 Project.</p>	<p style="text-align: right;">Page 11</p> <p>1 &amp; Latimer on behalf of Walmart. 2 JUDGE HOWARD: Thank you. 3 Could we hear from Sierra Club. 4 MS. SMITH: Yes, thank you, Your Honor. 5 This is Gloria Smith for Sierra Club. 6 JUDGE HOWARD: Thank you. 7 Could we have an appearance for King County. 8 MR. MAYER: Yes, good morning, Your Honor. 9 This is Ben Mayer from K&amp;L Gates for King County. 10 I'll be appearing with my partner K&amp;L Gates and 11 alongside Senior Deputy Prosecuting Attorneys, Verna 12 Bromley and Raul Martinez of King County. 13 JUDGE HOWARD: Thank you. 14 Could we have an appearance for NWEC. 15 MS. PAREKH: Good morning, Your Honor. 16 Jaimini Parekh with Earthjustice, and my colleague Jan 17 Hasselman is still on the line. And we are representing 18 Northwest Energy. 19 JUDGE HOWARD: Thank you. 20 Could we have an appearance for the Puyallup 21 Tribe. 22 MS. ANDERSON: Good morning, Your Honor. 23 I'm Lisa Anderson. I'm appearing for the Puyallup 24 Tribe. I am an in-house attorney with The Law Office of 25 the Puyallup Tribe.</p>
<p style="text-align: right;">Page 10</p> <p>1 MR. FFITCH: Good morning, Your Honor. This 2 is Simon ffitch appearing as counsel for The Energy 3 Project. 4 And in addition, intervening or appearing for 5 The Energy Project in this case will be Yochi Zakai, and 6 our information is provided in the notice appearance and 7 petition to intervene in the case. 8 JUDGE HOWARD: Thank you. 9 Could we have an appearance for The Federal 10 Executive Agencies. 11 MS. LIOTTA: Yes, good morning, Your Honor. 12 This is Rita Liotta representing The Federal Executive 13 Agencies. 14 JUDGE HOWARD: All right. Thank you. 15 And could we hear from Nucor Steel Seattle. 16 MR. XENOPOULOS: Good morning, Your Honor. 17 This is Damon Xenopoulos of Stone Mattheis Xenopoulos &amp; 18 Brew appearing for Nucor Steel Seattle. 19 Also appearing with me in this case are Shaun 20 Mohler and Laura Baker of Stone Mattheis Xenopoulos &amp; 21 Brew. Thank you. 22 JUDGE HOWARD: Thank you. 23 And could we have an appearance for Walmart. 24 MS. BALDWIN: Good morning, Your Honor. 25 This is Vicki Baldwin with the law firm of Parsons Behle</p>	<p style="text-align: right;">Page 12</p> <p>1 With me, I have Alec Wrolson, who is also a 2 staff attorney with The Law Office of the Puyallup 3 Tribe, and Nicholas Thomas, who is with Ogden Murphy 4 Wallace. 5 JUDGE HOWARD: Thank you. 6 So are there any other organizations on the 7 call today that would like to give a verbal notice of 8 appearance here? 9 MS. THURASINGHAM: Hello, my name is Mariel 10 Thuraisingham. I'm with Front and Centered, and I am 11 here. 12 MR. ARAMBURU: Your Honor, I am Richard 13 Aramburu, representing CENSE in these proceedings. 14 JUDGE HOWARD: I'm sorry. I did overlook -- 15 I had CENSE in my notes. I apologize. Thank you, 16 Mr. Aramburu. 17 MR. PEPPE: Good morning, Your Honor. This 18 is Tyler Pepple and Corinne Milinovich, both from 19 Davison Van Cleve, here on behalf of Microsoft 20 Corporation. 21 JUDGE HOWARD: All right. Thank you. 22 For -- first, Front and Centered, and then 23 Microsoft, would the attorneys mind giving the spelling 24 of their names and giving their contact information 25 because if you have filed a notice of appearance in this</p>

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1 docket, it hasn't gone through our case's online filing  
 2 app yet.  
 3 MS. THURASINGHAM: I can start. This is  
 4 Mariel Thuraisingham. I'm not an attorney with this  
 5 organization but a staff person. M-A-R-I-E-L,  
 6 Thuraisingham, T-H-U-R-A-I-S-I-N-G-H-A-M.  
 7 JUDGE HOWARD: Thank you. And can I ask  
 8 what your position is with the organization?  
 9 MS. THURASINGHAM: Clean Energy Policy  
 10 Lead.  
 11 JUDGE HOWARD: Thank you. And there are  
 12 many circumstances where it is perfectly fine for a  
 13 non-attorney to represent an organization before the  
 14 commission.  
 15 Just out of curiosity, does Front and Centered  
 16 anticipate hiring an attorney to represent them in this  
 17 proceeding?  
 18 MS. THURASINGHAM: We're not sure yet.  
 19 JUDGE HOWARD: Okay.  
 20 So I would turn next to Microsoft for the  
 21 attorney's contact information.  
 22 MR. PEPPLER: Yes, Your Honor. So my name is  
 23 Tyler Pepple, T-Y-L-E-R. Last name is P-E-P-P-L-E.  
 24 Also Corinne Milinovich, C-O-R-I-N-N-E,  
 25 M-I-L-I-N-O-V-I-C-H.

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1 And you need the address? Is that what you're  
 2 looking for?  
 3 JUDGE HOWARD: That would be great.  
 4 MR. PEPPLER: Address is 1750 Southwest  
 5 Harbor Way, Suite 450, Portland, Oregon 97201.  
 6 And we did file an intervention this morning,  
 7 so all that information should be in there once it makes  
 8 it through the process.  
 9 JUDGE HOWARD: Okay.  
 10 Are there any other organizations that I have  
 11 not addressed yet that wish to make a verbal notice of  
 12 appearance?  
 13 All right. Hearing none, let's turn to the  
 14 issue of the petitions for intervention.  
 15 So, Mr. Pepple, it does sound that Microsoft  
 16 has filed the petition for intervention this morning.  
 17 So it has not popped up in my e-mail yet, so I have not  
 18 had a chance to review it. And we will address that in  
 19 a moment.  
 20 Are there any other petitions for intervention  
 21 that any organization would like to make other than what  
 22 we have received in writing so far?  
 23 Okay. Hearing none.  
 24 From Front and Centered, does Front and  
 25 Centered plan to petition for intervention in this case?

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1 MS. THURASINGHAM: We may here as soon as  
 2 we make that determination, but it's still being  
 3 discussed by supervisors. And I think we have some time  
 4 there; is that correct? Do you need to know right now?  
 5 JUDGE HOWARD: Under our rules, the petition  
 6 should be filed three business days before the  
 7 prehearing conference. We can consider a late-filed  
 8 petition for intervention if there's good cause.  
 9 So if the organization does file a petition for  
 10 intervention, I would suggest you do that sooner rather  
 11 than later, and explain, to the best as you can, good  
 12 cause for not filing it earlier, and I'll consider that  
 13 at the time.  
 14 MS. THURASINGHAM: Thank you, Your Honor.  
 15 We'll know as soon as possible.  
 16 JUDGE HOWARD: Thank you.  
 17 So including Microsoft's petition for  
 18 intervention, we have received a total of 11 petitions  
 19 for intervention from the following organizations: The  
 20 Energy Project, AWEC, Federal Executive Agencies, Nucor  
 21 Steel Seattle, Walmart, the Sierra Club, Microsoft,  
 22 CENSE -- that's Coalition of Eastside Neighborhoods For  
 23 Sensible Energy if I have that correctly -- NWEAC, King  
 24 County, and the Puyallup Tribe.  
 25 And I have received and reviewed PSE's written

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1 objections to both CENSE and the Puyallup Tribe's  
 2 petitions for intervention, and we will discuss those in  
 3 a moment and give each side of that dispute a chance to  
 4 present argument.  
 5 But first, are there any verbal objections to  
 6 any of the petitions for intervention today?  
 7 MR. STEELE: Your Honor, this is David  
 8 Steele with Perkins Coie for PSE.  
 9 For Sierra Club, we do not object to their  
 10 intervention, but we do have concerns about the scope.  
 11 And so I'm happy to address that at the appropriate  
 12 time. I just wanted to note that now.  
 13 JUDGE HOWARD: Certainly. Let me just make  
 14 sure I add that to my notes here.  
 15 All right. Before we turn to CENSE and the  
 16 Puyallup Tribe --  
 17 MR. COLEMAN: Judge, may I briefly -- sorry,  
 18 I was waiting for you to check your notes. I apologize.  
 19 Brent Coleman on behalf of AWEC. And just  
 20 briefly, AWEC would join the Company's objection to  
 21 CENSE -- to their intervention. Just briefly, we agree  
 22 that we have some concerns with respect to relitigating  
 23 some of the issues that they have previously discussed  
 24 and potentially expanding the scope of the proceeding.  
 25 And we also agree that Public Counsel is

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1 certainly sophisticated and competent enough to  
2 represent the residential small commercial customers  
3 that are the membership of CENSE. So we think there's  
4 some duplication there.  
5 JUDGE HOWARD: Thank you. I will allow AWEC  
6 an opportunity to comment when we get to that point  
7 later on in a few minutes here.  
8 MS. GAFKEN: If I may also as well, Public  
9 Counsel does not object to any of the petitions for  
10 interventions, but we do have some opinions regarding  
11 the objections that have been raised. When the time is  
12 appropriate, we'd like to speak as well.  
13 JUDGE HOWARD: Certainly.  
14 MS. GAFKEN: Thank you.  
15 JUDGE HOWARD: And I would appreciate  
16 hearing Public Counsel's position on those.  
17 So before we turn to CENSE and Puyallup Tribe,  
18 I did want to address the representative for Microsoft.  
19 So it does appear that Microsoft has filed a  
20 written petition intervention, but it was this morning.  
21 As I mentioned earlier, the Commission can consider  
22 late-filed petition for intervention if there's good  
23 cause.  
24 Mr. Pepple, I don't want to rule on your  
25 petition for intervention without reading it. Does that

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1 petition address the good cause standard?  
2 MR. PEPPLE: Your Honor, it does not.  
3 My understanding is that a late-filed petition  
4 is actually a petition that's filed after the prehearing  
5 conference. I do understand that the Commission prefers  
6 written interventions three days before, but my  
7 understanding is that the actual late-filed petition  
8 would only occur if it was filed after the prehearing  
9 conference.  
10 However, I was out of the office all week last  
11 week, and so that's essentially why we got it in today.  
12 JUDGE HOWARD: Yeah. Mr. Pepple, I'm just  
13 refreshing my memory here looking at our rules.  
14 WAC 480-07-355 and Paragraph 1A does say  
15 written petitions to intervene should be filed at least  
16 three business days before the initial hearing date or  
17 prehearing conference date, whichever occurs first. So  
18 that is what I was referring to.  
19 I don't want to pry into your personal business  
20 by any measure, but is there -- you referred to being  
21 out of the office and that led to the petition being  
22 filed late. Can you tell me more about that.  
23 MR. PEPPLE: Certainly, Your Honor. It was  
24 simply that -- yeah, I mean, I was out of the office and  
25 did not have access to Internet last week for much of

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1 the week, and therefore, we simply didn't file it until  
2 this morning.  
3 But, again, I think my understanding of the  
4 rule is that late-filed petition occurs after the  
5 prehearing conference. But I do apologize for not  
6 getting it in within the preferred three-day window.  
7 JUDGE HOWARD: All right. Maybe our rules  
8 are a little ambiguous on that point. I'm going to take  
9 Microsoft's petition into consideration because I do  
10 want to read it before I have a ruling on it.  
11 But for the purposes of today, I would like  
12 Microsoft to participate in any scheduling discussions.  
13 MR. PEPPLE: Thank you, Your Honor.  
14 JUDGE HOWARD: Thank you.  
15 So let's turn to the two disputed petitions for  
16 intervention, CENSE and Puyallup Tribe. And I want to  
17 start with CENSE. Let me make sure I have something in  
18 my notes here first.  
19 So I want to ask a few questions of CENSE, and  
20 then I'll give CENSE an opportunity to just provide a  
21 more general argument on this issue. You know, a brief,  
22 brief argument. But I do want to ask a few questions of  
23 the organization first, and then I would turn to PSE and  
24 AWEC for their responses.  
25 So I did see that PSE filed a motion to strike

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1 CENSE's reply in support of its petition to intervene,  
2 and I did have a chance to read that.  
3 Does CENSE have any response to that motion?  
4 MR. ARAMBURU: I have not seen that motion  
5 or that response. I don't know when it was filed.  
6 JUDGE HOWARD: It was quite recently. I  
7 have it going through at 8:49 a.m. this morning. But  
8 there's frequently a bit of a delay between when  
9 something is filed and when it's actually processed and  
10 when I see it.  
11 MR. STEELE: Your Honor, that time is  
12 accurate. We filed it first thing this morning as soon  
13 as we could.  
14 JUDGE HOWARD: Okay. So, Mr. Aramburu -- am  
15 I saying your last name correctly?  
16 MR. ARAMBURU: You are. Thank you.  
17 JUDGE HOWARD: So with the caveat that this  
18 is all happening right before the prehearing conference,  
19 you might not have had a chance to read this motion, and  
20 that's understandable. I mean, PSE has moved to strike  
21 the reply because CENSE did not ask for leave to file  
22 the reply in support of its petition.  
23 Do you have any response to that argument?  
24 MR. ARAMBURU: We were in a hurry on Friday  
25 to respond to this so it could be submitted in time for

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1 the prehearing conference. And so we apparently erred  
2 in not seeking leave to file, but we do seek that leave  
3 this morning, please.  
4 JUDGE HOWARD: All right. I would take it  
5 you're formally seeking leave to file your reply now?  
6 MR. ARAMBURU: Correct.  
7 JUDGE HOWARD: All right.  
8 MS. CAMERON-RULKOWSKI: Your Honor, this is  
9 Jennifer Cameron-Rulkowski. May I interject something?  
10 JUDGE HOWARD: Certainly.  
11 MS. CAMERON-RULKOWSKI: I just noticed that  
12 I received a copy of the PSE motion to strike that was  
13 courtesy -- by courtesy, I received a courtesy copy this  
14 morning -- and it came into my e-mail at 9:34. So I  
15 could see if counsel first hasn't seen it yet.  
16 And I just wanted to make sure that the record  
17 had the benefit of that information. Thank you.  
18 JUDGE HOWARD: Certainly. I mean, this is  
19 all occurring within short order, so I understand that.  
20 All right. For the moment, I'm going to  
21 consider this particular issue as a motion to strike.  
22 But, of course, I think that -- I have reviewed PSE's  
23 motion to strike, and the Company is generally correct  
24 that the moving task to seek leave of the Commission to  
25 file reply and the parties -- all parties and everything

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1 should certainly be aware of that. But I will consider  
2 that for a few minutes here.  
3 So to move on to some other questions I had for  
4 CENSE, what specifically would be CENSE's position with  
5 respect to the prudency of the Energize Eastside  
6 project?  
7 MR. ARAMBURU: We believe the project -- as  
8 indicated in our motion to intervene and our reply to  
9 PSE's objections, we would be questioning the need for  
10 the project and its particular fashion, its response to  
11 reliability, other such needs.  
12 Perhaps, Mr. Examiner, your concern is that we  
13 would attempt to bring in environmental and land use  
14 issues into these proceedings. We have raised those  
15 issues in other forums. But our emphasis here would be  
16 on the prudency of the project for its inclusion and the  
17 rate base.  
18 JUDGE HOWARD: That leads very naturally  
19 into the next question I had for you and my answer. But  
20 I'm going to ask it anyway and be a little bit obtuse.  
21 Does CENSE anticipate that its arguments will  
22 broaden the scope of the issues before the Commission  
23 beyond the prudency determination on Energize Eastside?  
24 MR. ARAMBURU: No, we have no intention to  
25 do that. We've supplied in our response to the PSE

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1 objection some curriculum vitae of a sample of  
2 witnesses. Those witnesses are focused on economic,  
3 reliability, and need issues. They are not focused on  
4 environmental issues.  
5 I think the scope of Commission's  
6 responsibilities here -- you engaged the public  
7 interest. But we're not intending to spend much time,  
8 if any, on the environmental issues.  
9 JUDGE HOWARD: Has CENSE considered limiting  
10 the scope of its participation to only the issue of the  
11 prudency of the Energize Eastside project? Or would  
12 CENSE consider addressing other issues in its testimony?  
13 MR. ARAMBURU: We haven't made a final  
14 decision on that. We just became aware of this matter a  
15 couple of weeks ago, and we were involved in some other  
16 proceedings. So we've not reached a final decision on  
17 that matter. But we do intend to focus before the  
18 Commission on the prudency issues.  
19 JUDGE HOWARD: All right. And then my last  
20 question I had for you before I give you a chance to  
21 offer some brief comments, if you wish, would be does  
22 CENSE maintain that it represents vulnerable or highly  
23 impacted communities as defined by the Clean Energy  
24 Transformation Act?  
25 MR. ARAMBURU: I don't know -- I've not

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1 looked into that matter at this point. We've indicated  
2 our intention to file request for funding. We haven't  
3 done that yet, so we've not gotten into those issues at  
4 this point. We do represent a large number of persons  
5 in the five eastern King County cities that are impacted  
6 by these fines.  
7 So I'm not prepared at this point to respond to  
8 those matters. It may be that CENSE does not meet those  
9 requirements, but that is under consideration. And we  
10 will be filing our case certification request here based  
11 upon -- if we're permitted to intervene, we will be  
12 filing our materials on the case funding certification  
13 by the deadline indicated in your prehearing argument.  
14 JUDGE HOWARD: All right. So those are the  
15 main questions I had to ask CENSE today.  
16 Would you like to offer any general response to  
17 PSE's objections to your petition?  
18 MR. ARAMBURU: Your Honor, we have filed our  
19 response with you which includes some appendices.  
20 CENSE has been involved with the issue of this  
21 Eastside transmission line for seven years. We have  
22 consistently raised both land use and environmental  
23 objections, but also importantly for Commission work, we  
24 have raised the question of the need and reliability for  
25 this project.

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1 We have witnesses, three of which are  
 2 identified in our responses, that are prepared to  
 3 address those questions and whether or not the Energize  
 4 Eastside project is one that's necessary. We have cited  
 5 to previous Commission guidance to PSE concerning some  
 6 of the issues regarding Energize Eastside. We certainly  
 7 will be following up on some of those comments made for  
 8 the 2017 IRP. So we will be doing that as well.  
 9 So CENSE is well-positioned to provide useful  
 10 and appropriate information to address the question of  
 11 prudence as in these hearings. And I think the  
 12 Commission and the public would benefit by our  
 13 engagement in these proceedings.  
 14 So I have nothing further.  
 15 JUDGE HOWARD: All right. Thank you.  
 16 So I will turn to some other organizations now  
 17 for their responses. I turn first to PSE and  
 18 Mr. Steele.  
 19 MS. BALDWIN: I'm so sorry to interject  
 20 here, Judge Howard. This is Vicki Baldwin on behalf of  
 21 Walmart. I have another hearing in another jurisdiction  
 22 that is starting in two minutes.  
 23 We timely filed our intervention, and there  
 24 were no objections this morning. We understand there  
 25 are two proposed schedules circulating. We've seen both

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1 of them, and we can make either of them work. So we  
 2 don't have a preference for either one.  
 3 And I was just hoping that I could be excused  
 4 for the rest of prehearing conference so I could attend  
 5 this other hearing.  
 6 JUDGE HOWARD: That's fair. I was intending  
 7 to grant Walmart's petition. You may consider it  
 8 granted, and you will see that in the prehearing  
 9 conference order.  
 10 MS. BALDWIN: Thank you so much.  
 11 JUDGE HOWARD: And you may be -- yeah, you  
 12 don't have to attend the rest of this.  
 13 MS. BALDWIN: Okay. Thank you very much,  
 14 and I'm very sorry about that.  
 15 JUDGE HOWARD: No, it's perfectly fine.  
 16 Thank you.  
 17 All right. So, Mr. Steele, would you like to  
 18 respond?  
 19 MR. STEELE: Yes, thank you, your Honor.  
 20 I first wanted to briefly address  
 21 Mr. Aramburu's comment a minute ago where he represented  
 22 that CENSE did not intend to broaden the issues in this  
 23 case, and I think that the reply brief really calls it  
 24 into question. The reply brief expressly talks about  
 25 permitting issues, and since -- his concern is about

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1 permitting issues.  
 2 So even in the reply, the belated reply  
 3 following Friday, they have already demonstrated that  
 4 they're broadening the issues in this case and  
 5 referencing permitting issues, and I think that should  
 6 be a real concern of the Commission.  
 7 I wanted to turn briefly to the points we made  
 8 in our response brief and just highlight a few  
 9 additional concerns and comments.  
 10 First, as we noted previously, CENSE does not  
 11 meet the substantial interest standard for intervention.  
 12 As residential and small business customers, their  
 13 interests are already represented by Public Counsel by  
 14 statute. Their interest as customers are no different  
 15 than any other residential or small business customer.  
 16 All customers are impacted by rate changes, and  
 17 thousands of customers could be impacted by one of PSE's  
 18 many ongoing construction projects going on across its  
 19 service territory. While CENSE members may feel  
 20 strongly about this project, their interests are no  
 21 different from other customers.  
 22 The Commission recently confirmed that Public  
 23 Counsel adequately represents the interests of  
 24 residential and small business customers in its 2019  
 25 order in Dockets UE-190334, UG-190335, where it denied

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1 on interlocutory review a petition for intervention by  
 2 an organization remarkably similar to CENSE. In sum,  
 3 CENSE does not have a substantial interest in this  
 4 proceeding that is not already adequately represented by  
 5 the other parties.  
 6 Secondly, nor would CENSE's intervention  
 7 benefit the public interest. CENSE was formed in 2014  
 8 by a group of property owners in the Newcastle area.  
 9 They formed CENSE for the express purpose of opposing  
 10 Energize Eastside. Since that time, CENSE has  
 11 unsuccessfully challenged the project in nearly every  
 12 possible legal forum including FERC proceedings, land  
 13 use proceedings before King County Superior Court, and  
 14 conditional use permit proceedings.  
 15 In those cases, CENSE frequently relies on  
 16 recycled arguments and theories that have been rejected  
 17 by virtually every forum and called into question the  
 18 reliability of their so-called experts.  
 19 For example, from a recent order from the City  
 20 of Bellevue Hearing Examiner regarding CENSE's challenge  
 21 to PSE's conditional use permit -- which we attached  
 22 portions to our motion to strike -- found that arguments  
 23 in evidence presented by Mr. Robert Nicola, who since  
 24 referenced in his petition, quote, failed to account for  
 25 several considerations required by industry practice in



<p style="text-align: right;">Page 29</p> <p>1 applicable federal electrical system planning mandates 2 which would lead to, quote, erroneous results. 3 The Examiner also rejected arguments made by 4 Mr. Lockhart -- who since also referenced and may 5 participate in this case -- which he had previously made 6 to FERC, which FERC also rejected. 7 Since his arguments and so-called experts have 8 been repeatedly discredited, it's found again by the 9 Bellevue Hearing Examiner, who said, quote, CENSE's 10 representatives voiced concerns, but did not offer 11 sufficient, relevant, authoritative, or credible 12 evidence. PSE firmly established that several key 13 aspects of opposition reports, like CENSE's, were 14 defective and simply not credible because they failed to 15 follow industry practice, close quote. 16 Having now been involved in numerous 17 proceedings and seeing firsthand CENSE's constant 18 audience shopping, PSE is justifiably concerned that 19 CENSE intends to use this case as yet another forum to 20 advance its positions and push discredited theories and 21 opinions from individuals that are not actual experts. 22 It is not in the public interest to provide CENSE yet 23 another forum to litigate Energize Eastside, but would 24 abuse the general rate case process. 25 Moreover, there's really a question as to</p>	<p style="text-align: right;">Page 31</p> <p>1 construction before a prudency determination reflects a 2 fundamental misunderstanding of ratemaking, and it's 3 just wrong. Prudency determinations are typically made 4 after a project or portions of a project are completed, 5 not before. 6 CENSE seems to be looking at the Commission for 7 permitting denials to stop the project, rather than 8 recognizing the Commission's role for determining 9 appropriate cost recovery. CENSE has had ample 10 opportunities to address its concerns from a permitting 11 standpoint and can continue to pursue those interests in 12 different forums. 13 In its reply, CENSE also misrepresents facts 14 about permitting, suggesting PSE has not obtained 15 permits, when in actuality, PSE has obtained dozens of 16 permits for the project. CENSE also misrepresented 17 facts about the need for the project quoting information 18 about winter peak need, but failed to mention that PSE 19 has already suppressed summer peak need. 20 CENSE also questions in its reply without 21 evidence that Public Counsel does not have the resources 22 to adequately address Energize Eastside prudency, and 23 then states that it, on the other hand, has the 24 resources to comprehensively address the prudency 25 questions.</p>
<p style="text-align: right;">Page 30</p> <p>1 whether CENSE's interests benefit the public at all. 2 CENSE is primarily comprised of private homeowners who 3 are firmly entrenched and fundamentally opposed to the 4 project and would not be providing an objective analysis 5 as Public Counsel or Commission staff would. CENSE 6 members simply don't want their private interest to be 7 affected by the project. In other words, CENSE is 8 advancing private, not objectively public, interest 9 which does not meet the public interest standard. 10 Third, RCW 34.05.443 allows intervention only 11 if, quote, the intervention sought is in the interest of 12 justice. It will not impair the orderly and prompt 13 conduct of the proceeding. Not only would CENSE disrupt 14 the proceeding by using it as a collateral forum to 15 relitigate past issues, but CENSE's reply brief 16 demonstrates that CENSE already has not met that 17 standard. 18 First, CENSE failed to follow the Commission's 19 procedural rules, filing a reply when no reply is 20 authorized. Second, CENSE's reply demonstrates a 21 fundamental misunderstanding of the Commission's role in 22 large projects such as this, and also demonstrates that 23 it is willing to play fast and loose with the facts. 24 For example, CENSE's suggestion in its reply 25 that PSE is improperly proceeding with Energize Eastside</p>	<p style="text-align: right;">Page 32</p> <p>1 But in that same sentence included a footnote 2 stating that CENSE may require additional funding to 3 fully present the issues it intends to pursue in the 4 case. 5 Which is it? Notably, Public Counsel regularly 6 addresses the prudency of major projects in general rate 7 cases. 8 Lastly, Your Honor, there is already a process 9 in place for customers to participate in rate cases. As 10 the Commission stated in the docket I previously quoted, 11 which is an Avista order, the written and oral comment 12 process, quote, provide individual customers or groups 13 of customers like CENSE ample opportunity to share their 14 concerns and general rate proceedings. 15 As CENSE points out, it has in the past 16 participated in Commission proceedings by providing 17 comments. Like all residential and small business 18 customers, if CENSE members wish to participate in this 19 proceeding, they're free to provide both written and 20 oral comment. They're also free to coordinate with 21 Public Counsel. 22 Finally, while as I note today, PSE strongly 23 opposes CENSE's intervention. If the Commission decides 24 otherwise, PSE submits that CENSE's participation should 25 be limited as follows: First, it should be narrowly</p>

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1 tailored to only address the prudency issues surrounding  
2 Energize Eastside at issue in this case. CENSE should  
3 not be permitted to use prior arguments, opinions, or  
4 theories that have already been rejected, dismissed, or  
5 discredited in other forums. And for efficiency, it  
6 should be required to coordinate with Public Counsel so  
7 as to avoid duplicating efforts in this case.  
8 And, Your Honor, I'm happy to answer any  
9 follow-up questions you might have about those points.  
10 JUDGE HOWARD: Thank you, Mr. Steele.  
11 Mr. Coleman, I believe you said that AWEC  
12 joined in this objection. Would you like to comment?  
13 MR. COLEMAN: Your Honor, I wouldn't have  
14 much more to say other than what the Company said. I  
15 guess I would just reiterate two specific points.  
16 One, we are of the opinion that Public Counsel  
17 certainly has the strength and competency to represent  
18 the residential and small commercial interests of the  
19 members of CENSE.  
20 And two, with respect to the scope of the  
21 hearing, you know, just in the discussion today, I guess  
22 a concern has been highlighted for us and for me  
23 individually of the nuance between -- and I recognize it  
24 as a nuanced distinction, but I think it exists --  
25 between the questioning of the need of the project and

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1 the prudency of the costs that are being asked to be  
2 recovered. I think that there is a distinction between  
3 those two issues, and one I think is certainly within  
4 the scope and one is not.  
5 And just the discussion today I think has shone  
6 some light on our concern with respect to whether or not  
7 the issue of the need versus the prudency of the cost  
8 really is the proper issue to be discussed before the  
9 Commission.  
10 And with that, I have nothing further to add.  
11 I appreciate your time.  
12 JUDGE HOWARD: Thank you.  
13 Would Public Counsel like to comment on this  
14 particular petition?  
15 MS. GAFKEN: Yes, thank you, Judge Howard.  
16 This is the first time that Puget has sought a  
17 prudence determination and cost recovery for the  
18 Energize Eastside transmission project. So the issue is  
19 now ripe for participation by those interested in the  
20 project.  
21 The question for the Commission is whether  
22 CENSE meets the requirements for intervention and  
23 whether, in the Commission's view, CENSE's participation  
24 would be valuable.  
25 CENSE does make some unsubstantiated

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1 representations about Public Counsel's resources and  
2 potential focus. Energize Eastside is among the issues  
3 Public Counsel will address in our evaluation of this  
4 case. I'm not implying that we would have the same  
5 focus or conclusion, but I do want the record to be  
6 clear that Public Counsel has not discussed our strategy  
7 or witness lineup with CENSE or any other party.  
8 CENSE's interest as residential and small  
9 commercial customers are within those that Public  
10 Counsel represents before the Commission. Public  
11 Counsel does not represent individuals or specific  
12 groups of individuals, but customers as a whole. Public  
13 Counsel does not oppose the request by CENSE to  
14 intervene.  
15 If the Commission determines that their  
16 participation is valuable, we have no objection. Thank  
17 you.  
18 JUDGE HOWARD: Would CENSE like to offer a  
19 brief response to any of those comments from the other  
20 parties?  
21 MR. ARAMBURU: Yes, I would.  
22 There was an initial objection by counsel for  
23 PSE that we weren't going to get into permitting issues,  
24 but then he promptly launches onto citations from  
25 permitting proceedings and other such matters, and urges

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1 the Commission to not allow questions that have been  
2 previously decided in permitting proceedings.  
3 As you probably know, Mr. Examiner, permitting  
4 proceedings are land use proceedings. They have wholly  
5 different sets of criteria than the Commission does.  
6 The application for inclusion of the Energize Eastside  
7 project into the transmission base is a large one of a  
8 large component. There are no other identified parties  
9 in these proceedings other than Public Counsel and  
10 perhaps Staff counsel that are prepared to address these  
11 particularly in the detail that CENSE is prepared to  
12 discuss.  
13 We will be addressing the issues that are  
14 before the Commission regarding prudency. We represent  
15 a large number of persons on the Eastside, and they may  
16 have land use interest and environmental interest in  
17 this project. It does not exclude them from coming  
18 before the Commission to make objections and provide  
19 testimony and exhibits that relate to the rate issues.  
20 All of the CENSE members are ratepayers and  
21 will have to pay the rates if the Energize Eastside is  
22 included in the rate base. So there aren't other people  
23 prepared to address this very important and substantive  
24 issue in the manner that CENSE is. We stand alone in  
25 that regard.

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1 I apologize to Public Counsel that I may have  
 2 overstated the situation, but I think we have the  
 3 resources to proceed to address the prudence and public  
 4 interest issues, and so the petition for intervention  
 5 should be granted.  
 6 Thank you, Mr. Examiner, unless you have  
 7 further questions.  
 8 JUDGE HOWARD: Well, one question I would  
 9 have would be, what is your response to PSE's  
 10 in-the-alternative recommendation that CENSE coordinates  
 11 the presentation of its case with Public Counsel?  
 12 MR. ARAMBURU: Well, we don't have any  
 13 objection to that at all. And we don't know, at these  
 14 early stages of proceedings, just how much resources  
 15 Public Counsel intends to put into the Energize Eastside  
 16 project as opposed to the multiple other issues and the  
 17 multiple other matters that are being raised by various  
 18 parties.  
 19 I will note that you've granted interventions  
 20 to other parties with minimal indication of what the  
 21 public interest they represent is. And I think we are  
 22 being much more defined about our interest and the  
 23 matters that we intend to address and particularly the  
 24 disclosure of our witnesses.  
 25 JUDGE HOWARD: All right. Thank you.

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1 I think I have enough information to come to a  
 2 decision on this particular petition. This is just my  
 3 brief verbal ruling that will be explained in more  
 4 detail in the prehearing conference order.  
 5 MS. GAFKEN: Judge Howard, may I intervene  
 6 for just a moment.  
 7 I wanted to address the idea of coordinating  
 8 with Public Counsel, and I wanted to ensure that that  
 9 wasn't an additional requirement beyond what we normally  
 10 do, right? So we often communicate with parties in a  
 11 proceeding that have similar interests or are addressing  
 12 similar issues, but I don't know that we necessarily  
 13 plan our case out based on what other parties are doing.  
 14 So I just wanted to ensure that there wasn't an  
 15 additional restriction there that was being  
 16 contemplated.  
 17 JUDGE HOWARD: Well, it is a condition that  
 18 the Commission has used in the past in some of these  
 19 cases with multiple petitions for intervention. And  
 20 frankly, it's not the most precise condition. I mean --  
 21 but it does get to the idea of -- to some degree  
 22 coordinating the presentation of evidence. I mean, that  
 23 does involve careful judgment calls of the parties about  
 24 when they want to do that.  
 25 I mean, considering the fact that it's a

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1 relatively broad instruction, would Public Counsel think  
 2 that's workable?  
 3 MS. GAFKEN: I think so. If it's the sort  
 4 of condition that we've seen in prior cases, that's  
 5 fine. That has been workable. Thank you.  
 6 JUDGE HOWARD: Okay.  
 7 MR. STEELE: Your Honor, if I may just very  
 8 briefly.  
 9 JUDGE HOWARD: Yes.  
 10 MR. STEELE: I think this discussion  
 11 highlights sort of why the Commission has a process for  
 12 customers and groups of customers that want to comment  
 13 in a rate case -- to do it through the written and oral  
 14 comment process. They have many opportunities to submit  
 15 reports if they want. They can provide information to  
 16 Public Counsel.  
 17 But that's why there's that separation between  
 18 Public Counsel's role to represent their interest, and  
 19 then if other customers or groups have comments to add  
 20 to that, they can certainly do that through the  
 21 mechanisms the Commission has provided, and CENSE has  
 22 used in the past, and parties like CENSE have used in  
 23 the past.  
 24 So I think that's why it's coordinated like  
 25 that. And obviously they can certainly provide

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1 information to Public Counsel as well. But I think the  
 2 Company does have real concern about duplication here  
 3 and efficiency in the proceeding and what support -- you  
 4 know, an order where they're allowed to provide their  
 5 written and oral comments, but let Public Counsel  
 6 address the issues in the case as a party.  
 7 JUDGE HOWARD: Thank you for your comments.  
 8 I do think I have enough information and  
 9 argument at this point to issue my brief verbal ruling  
 10 that I'll explain more in the order.  
 11 So I will be granting CENSE's petition for  
 12 intervention subject to conditions on that  
 13 organization's participation in the case. I will also  
 14 grant PSE's motion to strike CENSE's reply. So as I  
 15 explain -- we'll explain more in the prehearing  
 16 conference order.  
 17 CENSE's participation will be limited to the  
 18 transmission issues, specifically the Energize Eastside  
 19 project. If CENSE, later in the case, wishes to address  
 20 other issues, it can raise that in the form of a motion  
 21 to amend the prehearing conference order or something  
 22 along those lines and seek leave. CENSE will also be  
 23 instructed to coordinate the presentation of its case  
 24 with Public Counsel.  
 25 I also want to give CENSE and all the other

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<p>1 parties a clear heads-up that the Commission is focused                  2 on the prudence of these investments. This is a                  3 specific legal issue. The Commission is not a                  4 permitting agency, a citing agency, or a safety                  5 regulator in this context.                  6 Furthermore, CENSE and the other parties must                  7 be sure to adhere to any Commission deadlines and rules.                  8 I hope that my ruling on the motion to strike gives an                  9 example of some -- in a sense, the astringency that                  10 we're looking for in following these rules to make this                  11 proceeding workable for all the parties and                  12 stakeholders.                  13 This is not a regular civil trial that can be                  14 extended indefinitely. The Commission has statutory                  15 authority to suspend the operation of a tariff for a                  16 certain number of months. So a discovery or a dispute                  17 should be brought to me as a presiding ALJ and resolved.                  18 But it should be clear to all the parties that                  19 we are on a specific schedule that cannot be extended                  20 indefinitely. Contentious behavior or disregard of                  21 Commission rules may lead to the Commission dismissing                  22 an intervenor from the case.                  23 So that would address CENSE's petition for                  24 intervention granted subject to conditions.                  25 So I'd like to move next to the Puyallup Tribe.</p>	<p>1 So we will make a full evaluation. It would be                  2 irresponsible of me to say we have an answer one way or                  3 another because that's very new to us. So we will                  4 evaluate that and get back to the Commission as soon as                  5 possible if that is appropriate.                  6 JUDGE HOWARD: Okay. Well, I would ask a                  7 follow-up, then.                  8 The Clean Energy Transformation Act -- the                  9 definition of a highly impacted community in the Act                  10 does incorporate the definition of Indian country found                  11 in Federal Law 18 USC 1151.                  12 Does the Puyallup Tribe fall within that                  13 definition and the sum of its land?                  14 MS. ANDERSON: Yes, absolutely, they do.                  15 JUDGE HOWARD: Okay. So I think what I                  16 might do is -- I might just offer you the opportunity to                  17 respond in the way you see fit to PSE's objections to                  18 the petition to intervene, and then I may have some                  19 follow-up questions.                  20 But why don't you go ahead and respond if you                  21 like.                  22 MS. ANDERSON: Okay, thank you.                  23 I'll start with basically whether or not the                  24 Tribe has either substantial interest or their                  25 participation would be in the public's interest in this</p>
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<p>1 And I'd like to follow roughly the same order, although                  2 I believe that AWEC does not join in this particular                  3 objection. I want to ask a couple of questions first of                  4 Puyallup Tribe's counsel, give Puyallup Tribe's counsel                  5 an opportunity to respond generally to the objections,                  6 and then we will turn to PSE and ask for input from                  7 Public Counsel.                  8 So I do have a couple of questions for Puyallup                  9 Tribe. So as Puyallup Tribe's attorneys may be aware,                  10 we have a recently enacted statute that sets up a new                  11 intervenor funding program before the Commission, and                  12 this prioritizes vulnerable and highly impacted                  13 communities. And the statute doesn't apply in these                  14 terms, but they are defined in the Clean Energy                  15 Transformation Act.                  16 Are you aware of the definitions of these                  17 terms? And would you submit that the Puyallup Tribe                  18 falls under one of these categories or both?                  19 MS. ANDERSON: We are aware that there is a                  20 funding mechanism available. We have not done a full                  21 analysis as to whether or not it applies to the tribe.                  22 We would seek to do that as soon as possible. But I                  23 would say in some instances, our intervention isn't                  24 necessarily hinging on the availability of those types                  25 of funds because of the issues that are involved.</p>	<p>1 proceeding. And I would submit that both situations                  2 exist on behalf of the Tribe.                  3 First, the Tribe has a substantial interest,                  4 and I will say that is not going to be adequately                  5 represented, with all due respect to Ms. Gafken, by                  6 Public Counsel because the Puyallup Tribe is itself a                  7 sovereign nation. We are not a member of the Washington                  8 public. We are not a small commercial business or                  9 residential customer. We are a sovereign nation                  10 somewhat akin to maybe the group of federal agencies                  11 that have also filed a petition to intervene.                  12 And we have interest in this case because as a                  13 sovereign nation, we are a ratepayer to Puget Sound                  14 Energy, but we also have citizens and members who pay                  15 rates -- who pay utility bills to Puget Sound Energy,                  16 some of whom from time to time also utilize our                  17 government's assistance programs to pay for those if                  18 they're in dire financial need.                  19 So we are a ratepayer. We have citizens who                  20 are ratepayers who are not represented by the general                  21 public interest. And we provide assistance to our                  22 member citizens as a service provider for financial                  23 hardship.                  24 So in that regard, we have a substantial                  25 interest in how the rates will be impacted in</p>

<p style="text-align: right;">Page 45</p> <p>1 particular, and we are limiting our participation to the 2 Tacoma LNG project and its prudence in being included in 3 the rate base. 4 PSE has raised objections, of course, as to our 5 appeals of environmental permitting in the past. Yes, 6 those have occurred. We are fully aware that this 7 proceeding is only limited to whether or not the Tacoma 8 LNG project is being appropriately factored into the 9 rate base for natural gas customers. 10 And to that degree, we hold a significant 11 amount of information because we have been evaluating 12 this project through every step of its development, from 13 the earliest permits and environmental reviews, all the 14 way up to its most recent permits. And we have been 15 doing this for admittedly seven years. 16 During that process, however, we have a very 17 deep understanding as to how the project has evolved 18 from one that was deemed to be a substantial peak 19 shaving facility to one now to meet its environmental 20 permitting requirements, which admittedly are not at 21 issue here, but play a role as to how much of that 22 facility will actually go to peak shaving now that it is 23 through several rounds of different environmental 24 permits. 25 And that facility design has changed. Its</p>	<p style="text-align: right;">Page 47</p> <p>1 proceedings and what the scope of these proceedings are. 2 We are not looking to relitigate any environmental 3 permitting dispute. At this time, we are simply looking 4 at how this facility -- and whether or not it's prudent 5 to include it in the rate base and to what degree. 6 They also have made allegations that we would 7 broaden the scope of this proceeding. We are not 8 looking to do that outside of the prudence 9 determination. We do not anticipate a heavy amount of 10 discovery, if any discovery. 11 PSE has raised a question as to whether or not 12 we have abused discovery in the past. Should that be 13 relevant to your decision today, I would be happy to go 14 through the disputes that we have had and discuss the 15 orders that have come down, actually in the Tribe's 16 favor, just to allow that discovery to occur because 17 every step of the way we have encountered fights 18 regarding discovery. 19 But I'm not sure that that's relevant here, 20 only because we really don't anticipate a heavy amount 21 of discovery. If there were a discovery dispute as to 22 scope, I would assume that that issue could be solved 23 expeditiously by yourself as part of the ALJ process. 24 But I don't really anticipate that to be the case. 25 And I think -- you know, I also -- with regard</p>
<p style="text-align: right;">Page 46</p> <p>1 capacity allocations have changed from peak shaving to 2 marine shipping and terminal fuels and other sources of 3 fuels, that when we look at how it might be included in 4 the natural gas rate base, it is going to differ from 5 what was originally proposed for this project 6 significantly. 7 So our interest is how much of that rate 8 should -- is appropriate to go to the ratepayers for the 9 actual services that that facility will provide to the 10 ratepayers, and whether the expenses in constructing 11 that were prudent in order to be included in that rate 12 base. Though we have that substantial interest 13 individually, but because of the depth of our knowledge, 14 we also believe it's in the public interest to allow us 15 to present the evidence as we have seen it evolve from 16 2015, 2016 until today with regard to the prudence of 17 that facility. 18 So that goes to the two prongs of interest that 19 PSE was objecting, that we, one, did not have a 20 substantial interest as an entity, but also that we 21 weren't in the public interest. And we believe that 22 they are wrong. 23 Puget Sound Energy has also made some other 24 allegations in its reply, and I want to just be clear 25 that, again, the Tribe is fully aware of these</p>	<p style="text-align: right;">Page 48</p> <p>1 to confidentiality, they have made allegations that we 2 would use information obtained in this proceeding to go 3 back and address things outside of this proceeding, and 4 they seek to limit our ability on any sort of 5 information that is obtained. 6 We understand, and we've participated in one 7 other type of a proceeding where we've had to sign 8 confidentiality agreements in WUTC proceedings. We 9 understand that process. We are ethical attorneys who 10 will live by the confidentiality agreements that we 11 sign. 12 To the extent that any nonconfidential 13 information is in this proceeding, that is public 14 information. To limit the Tribe and to treat the Tribe 15 differently than any other party to this proceeding just 16 seems unnecessary, and we would ask that we not be given 17 special treatment to limit our use of information that 18 would be generally available to the public anyway 19 because it's not confidential. 20 But I want to assure you that we understand the 21 confidential nature of the proceedings to the extent 22 that things are under the confidentiality of order, and 23 we fully intend to abide by that as attorneys. 24 JUDGE HOWARD: Thank you. And just a brief 25 follow-up question.</p>

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1 In your comments today, you referred to the  
2 Tribe limiting its participation to the Tacoma LNG  
3 plant. Does the tribe also want to address low-income  
4 issues because those were briefly referred to in your  
5 petition?  
6 MS. ANDERSON: To the degree that it's part  
7 of the Tacoma LNG rate base and issues, that would be  
8 the extent. We really aren't used to proceeding in  
9 these proceedings in a more broader spectrum. If other  
10 issues were to come up -- I think in the last -- also  
11 consideration, the last petition -- if something became  
12 evident that was heavily impacting tribal members, as  
13 attorneys inside the Tribe's law office, we would need  
14 to raise that with the Tribal Council.  
15 But I would expect that and hope that maybe we  
16 could be given the same leave to seek to amend a  
17 prehearing order if you were going to limit us here to  
18 the scope of the participation of the Tacoma LNG.  
19 I just don't want to commit -- as their  
20 attorney, it's my obligation to bring an issue -- if I  
21 were to see it -- that might impact tribal members so  
22 heavily that I should bring it to them. I would need to  
23 bring it to them to address that.  
24 JUDGE HOWARD: Okay. So I would look to PSE  
25 if it would like to. I, of course, have reviewed PSE's

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1 written objections.  
2 But, Mr. Steele, would you like to give any  
3 brief comments in response to what we've heard today?  
4 MR. STEELE: Thank you, Your Honor.  
5 Just very briefly, as you noted, we covered  
6 both the interest prongs in our opposition and won't  
7 rehash them here. We do have some concerns about really  
8 how different the Tribe is from any other residential or  
9 effectively small business customer with the amount of  
10 gas and electricity that they purchase from PSE. And we  
11 do believe that those interests are already going to be  
12 represented in this case if they have concerns about  
13 those types of issues.  
14 Our primary concern with the Tribe, and what we  
15 explain in our opposition, is just disruption of the  
16 process. And PSE's experience for several years in  
17 litigating issues surrounding LNG with the Tribe is  
18 that, for years, the Tribe has done everything it can  
19 from a litigation perspective to try and stop the  
20 project, including repeated appeals and extensive  
21 discovery, and while these actions have delayed the  
22 projects, the project has not been successful.  
23 And so I hear counsel's representation that  
24 they don't intend to do that in this case. PSE is just  
25 concerned from past experience that that's not been

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1 consistent with their conduct in other cases. And so  
2 PSE would be concerned with similar behavior in using  
3 this case as, again, a collateral forum to relitigate  
4 past issues.  
5 So I think that would be PSE's primary concern  
6 with the Tribe's intervention. And so, like CENSE, if  
7 they were granted intervention, we would ask that they  
8 be limited to -- narrowly tailored to only address the  
9 issues not already addressed by another party. They  
10 should not be permitted to use prior arguments or  
11 opinions or theories that have already been rejected in  
12 other forums, and that they also be required to  
13 coordinate with other parties to avoid duplicating  
14 efforts amongst parties.  
15 And so if the Commission decides to grant  
16 intervention, we would ask that those types of  
17 limitations be in place so to ensure this proceeding is  
18 not used to relitigate past issues. Thank you, your  
19 Honor.  
20 JUDGE HOWARD: Thank you. A brief question  
21 for you, Mr. Steele.  
22 I did see in PSE's written objections, in part  
23 of the alternative relief requested, that there's  
24 recommendation the Commission instruct the Tribe that it  
25 cannot take information gained in this proceeding and

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1 use it for purposes outside of the current proceeding.  
2 And I did hear Ms. Anderson's comments today  
3 making the distinction between what's covered by the  
4 confidentiality agreement, the protective order, and  
5 what is not confidential. So I'm reading PSE's  
6 recommendation as being broader and being a broader  
7 instruction.  
8 So are you aware of cases where the Commission  
9 has done that? Or are you aware of a provision of law  
10 that would give us that type of authority?  
11 MR. STEELE: I think our concern there was  
12 just simply their motives for intervening in the case.  
13 And, I agree, public information that's filed in the  
14 case, it's public. It's out there in the Commission  
15 website and anyone can download it. We understand that.  
16 I think our concern is, again, just more  
17 focused on why are they intervening and what's their  
18 motives given sort of past experience. And, certainly,  
19 information that's confidential or sensitive should  
20 obviously not be shared outside the construct of the  
21 case.  
22 So I think that was our only point there, is  
23 just our concern about motives and about why they're  
24 intervening.  
25 JUDGE HOWARD: All right. Thank you.

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1 Would Public Counsel like to comment at all on  
 2 this petition?  
 3 MS. GAFKEN: Yes, I would. Thank you.  
 4 One of the issues in this case is whether the  
 5 LNG project is prudent to whether it should be included  
 6 in customer rates, and the Tribe is also a customer, a  
 7 customer who has done a deep dive into this facility.  
 8 I would like to address the argument that there  
 9 is no nexus between evidence regarding the LNG facility  
 10 and the Tribe's status as a customer and its members who  
 11 qualify for need-based assistance. Rates must be fair,  
 12 just, and reasonable, and to meet the standard, the LNG  
 13 facility must be prudent to be included in rate.  
 14 The Tribe has a vested interest as a customer  
 15 and in ensuring that need-based members not draw  
 16 increased assistance due to inclusion of a plant that  
 17 may not be prudent, and that is ultimately the issue in  
 18 this case. Prudency has not been determined yet.  
 19 Because of the Tribe's interest in the LNG  
 20 facility, it has relevant information. The point is not  
 21 to relitigate the issues that have been litigated, but  
 22 to ensure the Commission has a full view of the facts as  
 23 they impact the prudence question.  
 24 I also want to address the argument regarding  
 25 whether the Tribe represents an interest that is not

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1 already represented. Public Counsel represents Puget's  
 2 residential and small business customers. We are a  
 3 statutory party to these proceedings. As I mentioned  
 4 earlier, we do not represent individuals or specific  
 5 groups of individuals, but customers as a whole. Our  
 6 representation would include, I believe, tribal members  
 7 who are also Puget customers.  
 8 Even so, even though we don't represent  
 9 specific individuals or groups of individuals, certain  
 10 interests do sometimes play more prominently in our  
 11 advocacy. Low income is a prime example of that. While  
 12 we are not a low-income advocate specifically, we do  
 13 engage in low-income issues. It's a very important  
 14 space, and one that we have a lot to contribute to.  
 15 But despite that, the Commission has long  
 16 recognized, and appropriately so, that dedicated  
 17 low-income advocates like The Energy Project are  
 18 valuable participants in this proceeding. Here, the  
 19 Tribe presents a unique voice among ratepayers that is  
 20 valuable. The Tribe is exactly the type of new  
 21 participant that the recently approved participant  
 22 funding is designed to draw into Commission proceeding.  
 23 Under CETA and the new participation funding  
 24 statute, the Tribe fall squarely within the definition  
 25 of a highly impacted community, see RCW 19.405.020

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1 Subsection 23 and RCW 80.28.430.  
 2 This general rate case represents the first  
 3 time that Puget has sought a prudence determination and  
 4 cost recovery for the complete LNG facility, though the  
 5 issue has never been ripe for the Tribe's participation.  
 6 I do acknowledge that one small portion having to do  
 7 with a pipe was prevented in a prior case related to --  
 8 well, it was a prior general rate case. The pipe was  
 9 related to LNG. But this is the first time we're  
 10 looking at full prudence for the facility.  
 11 Tribal members have participated in numerous  
 12 public comment hearings to date to address LNG, so not  
 13 only does the Tribe have a long-standing interest in the  
 14 facility, they also possess the unique voice that is  
 15 lacking among the other parties.  
 16 The Commission now has the opportunity to hear  
 17 from the Tribe, not only through public comment  
 18 hearings, but directly as a party. Public Counsel  
 19 believes that the Tribe will present relevant  
 20 information to the Commission regarding the LNG facility  
 21 and that it has a substantial interest in the case.  
 22 Thus, Public Counsel supports the Puyallup  
 23 Tribe's request for intervention. Thank you.  
 24 JUDGE HOWARD: All right. Thank you.  
 25 I think I have enough information to give my

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1 brief verbal ruling, and I will give this in more detail  
 2 in the prehearing conference order.  
 3 So I will grant Puyallup Tribe's petition for  
 4 intervention subject to conditions. As I'll explain  
 5 more in the prehearing conference order, the Tribe's  
 6 participation will be limited to the Tacoma LNG or  
 7 Liquid Natural Gas plant and low-income issues. The  
 8 Tribe will coordinate with The Energy Project on the  
 9 presentation of its case with regards to low-income  
 10 issues specifically. The Tribe's discovery will be  
 11 limited to these same two issues.  
 12 The Tribe will be bound by the protective  
 13 order, Order 02 in this docket. If the Tribe wishes to  
 14 expand the number of issues, it is addressing this  
 15 proceeding and may petition to amend this prehearing  
 16 conference order that I will be issuing.  
 17 The Tribe and all the other parties and  
 18 intervenors must bear in mind that the Commission is,  
 19 again, not a permitting agency and not charged with  
 20 regulating safety in this particular context. We are  
 21 only focused on the prudency of the Tacoma LNG expenses,  
 22 and a portion of that should be allocated to ratepayers.  
 23 I would also echo what I said earlier when  
 24 ruling on CENSE's petition. This proceeding is on a  
 25 very specific schedule. We have limited statutory

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1 authority to have a calendar for this proceeding and  
2 extend the effective date of tariffs.  
3 And I am also extremely mindful of the fact  
4 that we have a large number of parties in this  
5 proceeding. So failure to follow Commission rules or  
6 unreasonable behavior on the part of any intervenor may  
7 result in that intervenor being dismissed from the case.  
8 All right. So we have addressed the disputed  
9 petitions to intervene. I'd like to just check in  
10 with -- on a couple of the other issues that were raised  
11 earlier in this call. Before I do that, I want to check  
12 in with the attorneys for King County.  
13 So I am aware of King County's comments in  
14 PSE's power costs only rate case docket regarding the  
15 calculation of the Green Direct Energy Credit. I'm  
16 curious, does the County intend to address any other  
17 issues than the Green Direct Program?  
18 MR. MAYER: Thank you, Your Honor.  
19 No, the County plans to limit its intervention  
20 solely to the Green Direct, and in particular, the Green  
21 Direct Energy Charge Credit.  
22 JUDGE HOWARD: Thank you.  
23 One thing that we've included in prior  
24 prehearing conference orders in these cases would be  
25 having the parties identify the topic of discovery

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1 request at the top of them so it helps parties identify  
2 what's relevant to them.  
3 Would you support that requirement?  
4 MR. MAYER: Yes, Your Honor.  
5 You mean in the sense of saying that the  
6 County's sole interest in this proceeding is the Green  
7 Direct Energy Charge as well as the discovery would be  
8 limited to that?  
9 JUDGE HOWARD: I'm not necessarily -- I'm  
10 going to take the issue of whether we want to place  
11 conditions on King County's intervention under  
12 consideration. Because there aren't any objections, and  
13 you've indicated that King County is focused on the  
14 Green Direct Credit and doesn't have any intentions to  
15 expand beyond that, I may not want to go into the issue  
16 of placing any conditions on the County at this time.  
17 But I am trying to think of -- in King County's  
18 comments in that earlier docket, there was a concern  
19 about needing to intervene and the unfamiliarity with  
20 these proceedings when the County was really focused  
21 with this one particular issue. So I was wondering --  
22 that's why I was wondering if the County would support  
23 that sort of requirement for data request just to make  
24 it easier for parties to identify.  
25 MR. MAYER: Yes, Your Honor, the County will

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1 be in support of that.  
2 JUDGE HOWARD: Thank you.  
3 And the next issue we would have would be --  
4 Mr. Steele, I believe you raised a concern about the  
5 scope of Sierra Club's participation.  
6 MR. STEELE: Yes, Your Honor.  
7 JUDGE HOWARD: Please go ahead.  
8 MR. STEELE: Thank you, Your Honor.  
9 As I noted just briefly, previously, PSE does  
10 not oppose Sierra Club's intervention but is concerned  
11 based on Sierra Club's petition that Sierra Club may  
12 intend to expand the scope of this case, in which case  
13 Sierra Club's intervention -- I just want to highlight a  
14 few portions of their petition that concern the company.  
15 Firstly, in its petition, Sierra Club notes  
16 that it is, quote, an environmental and conservation  
17 organization dedicated to the protection of public  
18 health and the environment, but it appears to seek to  
19 address issues that are beyond that.  
20 And, for example, in paragraph six, Sierra Club  
21 states that, quote, Sierra Club seeks to intervene in  
22 this proceeding to test PSE's three-year rate plans,  
23 which would significantly increase both electric and gas  
24 base rates for all customers. Sierra Club will evaluate  
25 whether such large increases are in the best interest of

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1 ratepayers and whether more reliable, cost-effective,  
2 and equitable alternatives are available to PSE.  
3 Based on our reading of their petition, they  
4 have not provided any basis nor do they have the  
5 expertise to address such a broad issue, ratemaking  
6 generally, and there are other parties -- many other  
7 parties that are already addressing and playing that  
8 role in the case.  
9 Secondly, Sierra Club also appears to broaden  
10 the issues in the case. They state that, quote, they'll  
11 evaluate PSE's compliance with Washington's Clean Energy  
12 and Transformation Act and Senate Bill 5295 because  
13 continued gas expansion runs a real risk of PSE not  
14 meeting Washington's ambitious climate goals and  
15 stranding its customers without loaded carbon-intensive  
16 resources. That's also in paragraph six.  
17 Sierra Club appears to be conflating a few  
18 issues there. Neither of these laws are relevant to the  
19 discussion of gas expansion or gas infrastructure. CETA  
20 specifically applies only to electric generation and the  
21 sources of that electricity. CETA is silent on the use  
22 of natural gas for purposes other than electric  
23 generation.  
24 And so PSE is concerned that Sierra Club  
25 intends to use this proceeding to address policy issues



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1 tied to gas infrastructure generally, and PSE would be  
2 concerned about that expansion.  
3 In paragraph seven of their petition, they also  
4 talk about wanting to advance various campaigns and  
5 initiatives that they believe promote Sierra Club's  
6 interests, and we would just emphasize that this  
7 proceeding is not an open platform for Sierra Club to  
8 advance issues that are beyond those issues that are  
9 before the Commission in this case.  
10 In past interventions in PSE cases, Sierra  
11 Club's role and scope has been limited to issues  
12 specifically involving the environment and issues that  
13 are actually before the Commission in the case. And we  
14 believe that Sierra Club's intervention should be  
15 similarly limited, and PSE respectfully requests that  
16 the Commission do so.  
17 We would also request that Sierra Club work  
18 with other organizations to avoid duplication of  
19 efforts. Specifically, there appears to be overlapping  
20 interests between the Northwest Energy Coalition and  
21 Sierra Club with respect to environmental and  
22 conservation issues, and we'd ask that those  
23 organizations in particular be required to coordinate  
24 their reference to avoid duplication. Thank you.  
25 JUDGE HOWARD: Would Sierra Club like to

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1 respond?  
2 MS. SMITH: Thank you, Your Honor.  
3 Sierra Club is undoubtedly an environmental  
4 organization, but we don't participate as an  
5 environmental organization in the numerous rate cases  
6 we've litigated throughout the country and even before  
7 the UTC. We are very interested in the significant rate  
8 increases as they bear on our 25,000 members who are  
9 also Puget ratepayers.  
10 And, you know, this is -- this rate case is  
11 moving pretty quickly so far. We just filed our  
12 interventions. I've had a short amount of time to  
13 review the applications. But we do intend to hire  
14 experts to look at the gas distribution planning and  
15 also demand forecasting.  
16 I probably should have used the word "were"  
17 instead of "are" when I said we are interested to see  
18 that -- whether or not there were cost-effective  
19 alternatives to the decisions PSE made at the time, and  
20 that is the way you prove prudence, right? If there  
21 were more cost-effective alternatives available to the  
22 company, that would have been in the best interest of  
23 the ratepayers. So that was bad language on my part.  
24 And I'm just going to leave it there now,  
25 unless you have any additional questions.

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1 JUDGE HOWARD: What are your thoughts on  
2 Mr. Steele's recommendation that Sierra Club coordinate  
3 with NWECC?  
4 MS. SMITH: We'd have to check with NWECC. I  
5 think we'd be amiable to that. We have had  
6 conversations with them. We've worked well numerous  
7 times in the past.  
8 You know, again, because these papers were just  
9 filed at the end of the January, it's hard to get  
10 through all the testimony. But I think I've been pretty  
11 clear about what we're interested in. But I'd hate to  
12 see our involvement limited at this time given our track  
13 record of being on point in the past and participating  
14 beneficially to all parties in other rate cases.  
15 So I'm happy to hear what NWECC has to say about  
16 that.  
17 JUDGE HOWARD: Would NWECC like to give a  
18 brief response since this conversation is bringing up  
19 your organization?  
20 MS. PAREKH: Thank you, Your Honor.  
21 Northwest Energy Council doesn't have concerns  
22 with coordinating with the Sierra Club on issues, and of  
23 course we wouldn't want that to limit our participation  
24 in the forum in any way. But we are happy to coordinate  
25 with the Sierra Club.

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1 JUDGE HOWARD: All right. Thank you.  
2 Mr. Steele, I'm going to take your arguments  
3 under consideration. I'm aware that both Sierra Club  
4 and NWECC have appeared before the Commission on numerous  
5 occasions. So I'm going to be granting their petitions  
6 to intervene, but I will take your arguments into  
7 consideration about the scope, and I will address those  
8 in the order.  
9 MR. STEELE: Thank you, Your Honor.  
10 JUDGE HOWARD: And I just want to check in  
11 with Mr. Pepple again -- just to continually bother  
12 Mr. Pepple during this call -- because a question  
13 occurred to me.  
14 What issues does Microsoft intend to intervene  
15 on?  
16 MS. MILINOVICH: Good morning, Your Honor.  
17 This is Corinne Milinovich from the law firm Davison Van  
18 Cleve on behalf of Microsoft.  
19 Mr. Pepple had to drop off the call, but I am  
20 more than happy to answer your question regarding  
21 Microsoft's interest; is that correct?  
22 JUDGE HOWARD: That's right.  
23 What issues in the case would Microsoft intend  
24 to intervene on?  
25 MS. MILINOVICH: So Microsoft is interested

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1 in PSE's request for relief, which includes a proposal  
2 for how to allocate decommissioning and remediation cost  
3 from the Colstrip generating station to Microsoft. So  
4 that cost allocation is an issue that Microsoft is  
5 specifically interested in.  
6 JUDGE HOWARD: Okay. Would that be your  
7 primary concern? Is that fair to say?  
8 MS. MILINOVICH: Yes.  
9 JUDGE HOWARD: Okay. All right. That's the  
10 only question I had at this time. It just occurred to  
11 me to ask that.  
12 All right. So I believe we've heard from  
13 everyone on the petitions to intervene in the case. As  
14 I have indicated, CENSE and Puyallup Tribe's petitions  
15 are granted subject to conditions. The remaining  
16 petitions to intervene are granted to the extent that  
17 PSE has raised concerns about the scope of Sierra Club's  
18 participation in the case and whether to coordinate with  
19 NWECC. I will address that in the prehearing conference  
20 order.  
21 So let's move on to the issue of the procedural  
22 schedule. Before our call today, I e-mailed the parties  
23 with the possible dates for the hearing. I indicated  
24 the Commission could hold the hearing over two days,  
25 preferably on September 27th and September 28th.

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1 MS. CAMERON-RULKOWSKI: Your Honor, I'm  
2 sorry to interrupt, but I did have a point about the  
3 interventions. If I could raise that now before we move  
4 on, I'd appreciate it.  
5 JUDGE HOWARD: Sure, go ahead.  
6 MS. CAMERON-RULKOWSKI: Thank you.  
7 So I didn't -- I wasn't given an opportunity to  
8 say anything about the most recent interventions, and I  
9 did want to bring up a point. There are a lot of  
10 parties in this case, and I just want it to -- I want  
11 all of the parties to be aware of that, and the case  
12 administration in this particular case is going to be  
13 significant with the number of parties that we have.  
14 And I want -- especially newer parties, for  
15 example, Front and Centered, to be aware that there  
16 are -- that the Commission has procedural rules. And  
17 they may be engaging an attorney, but especially if they  
18 aren't, I just want them to be aware that there are  
19 procedural rules, and we all need to follow them or the  
20 case administration in this case is going to get very  
21 unwieldy.  
22 And I just wanted to bring up that point and  
23 make sure that, especially the new intervenors, are  
24 aware of the rules. And I did put a link to the  
25 intervention rule in the chat, and I hope that

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1 Ms. Thuraingham was able to see that. And that link  
2 will navigate to the other procedural rules as well.  
3 And thank you for entertaining me, Your Honor.  
4 JUDGE HOWARD: Yeah, and I agree with your  
5 comments.  
6 And I would say further, I mean, that the scope  
7 and number of issues and the nature of this being a  
8 multi-rate plan and the first one of these types of  
9 cases under the new statute with all these intervenors,  
10 it's going to require coordination and a lot of effort  
11 from everyone involved.  
12 MR. FFITCH: Your Honor, this is Simon  
13 ffitich. May I just be heard briefly on this point?  
14 JUDGE HOWARD: Certainly.  
15 MR. FFITCH: I wholeheartedly agree with the  
16 general observation about the administration and the  
17 number of parties.  
18 I do want to also just remind the Commission  
19 that another thing that we're trying to do here in the  
20 regulatory world is to open proceedings up to more  
21 participants, some of whom aren't historically very  
22 active in front of the Commission, but would like to get  
23 active on behalf of vulnerable populations particularly  
24 in highly impacted communities. And the Commission is  
25 making a real effort and initiative to try to make that

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1 pathway more accessible to people.  
2 So, you know, that can apply to some parties in  
3 this docket as well, and that's part of the picture as  
4 well. I just wanted to add that to the discussion.  
5 Thank you, Your Honor.  
6 JUDGE HOWARD: Certainly.  
7 So I'm talking about the issue of the  
8 procedural schedule. I mentioned that I proposed some  
9 hearing dates, and I believe Ms. Baldwin earlier  
10 referred to there being some proposed schedules  
11 circulating.  
12 So let's start discussing that. And would PSE  
13 or Staff or would another party like to say where the  
14 parties are at in these positions?  
15 MS. CAMERON-RULKOWSKI: Your Honor, this is  
16 Jennifer Cameron-Rulkowski for Commission Staff, and I'd  
17 be happy to describe where we're at.  
18 So Staff has prepared a schedule, and I'm happy  
19 to share that with you, and so has PSE. And we have --  
20 I would say we're pretty close on a number of the dates,  
21 and the primary difference that we have is at the end of  
22 the case. And I can go ahead with my remarks on that  
23 now, but I think it might be helpful for you to have  
24 both schedules in front of you before we provide those  
25 remarks.

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1 And I have a proposal, which is that both  
2 Ms. Carson and I e-mail you our schedules. And the  
3 parties, except for the newest intervenors or potential  
4 intervenors, have seen those schedules in large part.  
5 I'll clean mine up a little bit. And then I would just  
6 propose we e-mail those, and perhaps we could take a  
7 very short break.  
8 JUDGE HOWARD: I think that's a good idea.  
9 Yeah, if you could e-mail those to me. I think  
10 it would be a good time to take a break as well.  
11 And I'll just let everyone know that one thing  
12 I've been considering for the schedule in this case -- I  
13 mean, there's a number of moving pieces -- but I am  
14 considering the idea of setting -- putting a couple of  
15 dates in the schedule for discovery conferences if they  
16 are needed, just because we have so many parties and  
17 things that we need to coordinate, and we do have a  
18 history of contentiousness around some of these issues.  
19 So I think if we have these dates for discovery  
20 conferences, if disputes arise, that that could be  
21 helpful. So why don't you please send those to me.  
22 Let's take a break.  
23 MS. CARSON: Your Honor, may I speak just  
24 for a moment on behalf of the Company?  
25 JUDGE HOWARD: Yes.

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1 MS. CARSON: I agree with  
2 Ms. Cameron-Rulkowski that, really, our schedules are  
3 not that far apart in most respects. She highlighted  
4 one difference, and I want to highlight one other  
5 difference that's very important to PSE.  
6 The end of the case, as you'll see, we -- PSE  
7 accepted the first dates that you offered in September.  
8 Staff accepted the October dates. Staff does not allow  
9 for a reply brief, which is -- reply briefs are critical  
10 to PSE, and we have always, in past GRCs, had reply  
11 briefs, so that's very important. So I would consider  
12 that one difference.  
13 The second difference is the amount of time  
14 between response testimony and rebuttal testimony.  
15 Staff's is shorter. It's five weeks, which we think is  
16 unacceptable. We've followed closely the 2019 GRC  
17 schedule and other recent schedules, and we have six  
18 weeks, which we think is just a bare minimum because  
19 there's also a settlement conference in there that will  
20 pull away time and resources from preparing rebuttal  
21 testimony.  
22 So those are our two major concerns, is the  
23 time between response and rebuttal testimony, and the  
24 hearing date being pushed back late by Staff so that  
25 there is not reply brief opportunity. Thank you.

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1 JUDGE HOWARD: Thanks. So --  
2 MS. CAMERON-RULKOWSKI: Your Honor, I'll  
3 reserve argument until after the break.  
4 JUDGE HOWARD: Okay. We're about to take a  
5 break, but I do want to get both of your thoughts.  
6 Are you sort of at an impasse right now? Or  
7 would it be helpful to take a longer break so the  
8 parties can discuss this with me off of the call? Or  
9 are we just at the point where we have two competing  
10 schedules and we need to just resolve it?  
11 Staff, you may go first.  
12 MS. CAMERON-RULKOWSKI: Sorry, Your Honor.  
13 I was having trouble with clicking. There we go.  
14 I think we're at an impasse. I think we need a  
15 decision on what the Commission would like to do.  
16 JUDGE HOWARD: Okay.  
17 Ms. Carson, would you agree with that?  
18 MS. CARSON: I think that's probably true.  
19 We have tried. There's been a lot of back-and-forth on  
20 this, and I think those two issues are very critical to  
21 PSE. So I think we're at an impasse.  
22 With the exception -- you know, if there's a  
23 way to have the later hearing date with the reply brief,  
24 you know, we could do that. But that, you know, starts  
25 impinging on the Commission's time for deliberation.

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1 JUDGE HOWARD: Well, is Staff unable to work  
2 with the -- let me see.  
3 So Staff is going with the later of the two  
4 hearing dates I suggested? Is Staff unable to make  
5 September 27th and 28th work? Or is it because of other  
6 factors in your schedule?  
7 Ms. Cameron-Rulkowski?  
8 MS. CAMERON-RULKOWSKI: Sorry, Your Honor.  
9 I was trying to send the schedule. I haven't done it  
10 yet.  
11 So there are a number of things in play here.  
12 So I guess we're having the discussion now. So what is  
13 going on right now is we have something that I have  
14 never experienced at the Commission, and I've been  
15 here -- I've been with the UTC division for many years  
16 at this point.  
17 We have filings from two major utilities that  
18 are ten days apart. And we have cases that are  
19 basically two major general rate cases that are running  
20 in parallel track. And we also have to work around some  
21 times when Staff is going to be out, and that means --  
22 and since the dates around July 4th are very difficult  
23 for us, and we need a little more space moving forward.  
24 And so Ms. Carson has talked about the  
25 compression of the time between the response testimony

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1 and the rebuttal, but that's what's going on there. We  
2 have people out, and we have major decision-makers on  
3 the case out. And we can't simply turn around and then  
4 file testimony right after that. So that's one issue.  
5 But back to the main issue. We have these two  
6 cases in parallel. And this is -- this means that it's  
7 all of the same attorneys who are working on both cases,  
8 and in many cases, it's some of the same decision-makers  
9 or regulatory services staff. And then also there's  
10 other stakeholders, and I don't want to leave out the  
11 policy staff and the decision-makers as well. This is a  
12 real challenge.  
13 And the way that the Company's schedule has  
14 arranged things at the end is that we would have -- and  
15 I have some of the Avista dates courtesy of Public  
16 Counsel in the staff draft schedule. The way that this  
17 would work is that we have a hearing in the Avista  
18 general rate case. Then, we have, the following week, a  
19 hearing in the PSE general rate case. This is PSE's  
20 schedule. And then we're briefing both at once. We  
21 need a little bit of time in between those.  
22 I will note that PSE's schedule -- I don't  
23 think it has the full six weeks that you asked for in  
24 your e-mail between rebuttal and the hearing. We've got  
25 that in there. We've gone with the later hearing date

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1 that you suggested in October.  
2 And the question that we have is -- this is for  
3 the Commission, too. I think the Commission -- the  
4 decision-makers are going to get quite compressed at the  
5 end. And I do want the Commission to consider -- I hope  
6 they're thinking about making these two big decisions at  
7 the same time. And if they're considering asking the  
8 Company to extend the schedule at all, I would encourage  
9 the Commission to do it now so that it benefits the  
10 stakeholders.  
11 Extending the effective date, the  
12 rate-effective date, would be a way to easily work in a  
13 reply brief. And that's what PSE wants, is they want a  
14 reply brief. I'll point out that the Commission's  
15 procedural rules do not guarantee a reply brief. Reply  
16 briefs aren't in there. So in the Avista general rate  
17 case, there is no reply brief. I know that PSE  
18 typically has a reply brief, and it has not been an  
19 issue in the past.  
20 Like I said, I have not experienced this, that  
21 we have major rate cases so close together. And this is  
22 within the control of the utilities. And we, as the  
23 stakeholders, are simply -- we have to simply react.  
24 But it is within the Company's ability to extend out the  
25 rate-effective date if they really want that reply

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1 brief.  
2 And so I would ask the Commission to consider  
3 asking the Company to extend out that date. Otherwise,  
4 we can do without a reply brief, and PSE can do without  
5 a reply brief as well.  
6 JUDGE HOWARD: Ms. Carson, would you like  
7 to --  
8 MS. CARSON: Yes.  
9 Your Honor, there's a statutory deadline  
10 suspension. PSE is not willing to waive that. And it's  
11 not something that the Commission can require the  
12 Company to do. So we are not willing to waive that.  
13 For the past two decades in its general rate  
14 cases, PSE has had reply briefs. Also, in looking at  
15 every industrial utility except Avista in their recent  
16 general rate cases, they all have reply briefs:  
17 Cascade, Northwest Natural, PacifiCorp, and of course  
18 PSE.  
19 I also went back and looked at the 2019 GRC  
20 order, and the Commission reply briefs are critical to  
21 the Commission sorting through these complex issues and  
22 sorting through the initial briefs and reaching fair,  
23 just, reasonable, and sufficient rates.  
24 And the Commission cited reply briefs over 20  
25 times on important issues like prudence of Get to Zero,

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1 on prudence of the Data Center, and in the period rate  
2 base, and Colstrip decommissioning and remediation, and  
3 on and on and on. So this is obviously something that  
4 is not just important to PSE, but it's important to all  
5 parties. And it was not just PSE's reply brief, it's  
6 citing to all different parties' reply briefs on those  
7 important issues.  
8 So we think it's critical -- if there's a way  
9 that it can be done with the hearing date pushed back,  
10 that's fine. But we do not want to forego the right for  
11 a reply brief. And we do feel that at least six weeks  
12 is needed between response and rebuttal.  
13 I would say that I e-mailed back and forth with  
14 Ms. Cameron-Rulkowski, and she expressed what her  
15 concerns were with PSE's original schedule and where it  
16 was too tight, and we stretched it out on each of those  
17 areas that she identified as being too tight and too  
18 constrained. So we have made efforts to deal with the  
19 real pressure points for Staff and other parties.  
20 JUDGE HOWARD: All right. Thank you.  
21 Let's hear briefly from Ms. Gafken. I see your  
22 hand is raised. And then we'll take a brief recess.  
23 MS. GAFKEN: Thank you, Judge. I didn't get  
24 my hand up quick enough. We may have been better to do  
25 this before Puget's response, so my apologies there.

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1 Public Counsel does agree with Staff's proposed  
2 schedule. In terms of the dates that you'll see when  
3 they're e-mailed to both of you, we can make all of them  
4 work except for the June 14th settlement date in PSE's  
5 schedule. We do have a conflict on that date, and so we  
6 would need to work with the parties to find an  
7 acceptable date for that particular event.  
8 But we do strongly support holding the hearing  
9 in this case on October 3rd and 4th instead of September  
10 27th and 28th. There is a real issue with two major  
11 rate cases being sandwiched on top of each other.  
12 Avista and PSE have both presented substantial  
13 major cases that are pending before the Commission on  
14 virtually the same timeline. Public Counsel has  
15 witnesses who will appear in both proceedings. I am  
16 sure that other parties may face that issue, too.  
17 Although I have not specifically confirmed that with  
18 Counsel, but I imagine that to be the case.  
19 Staff schedule provides the space between the  
20 events that is necessary to do a good job in both cases,  
21 and ultimately, the goal -- I think we have a shared  
22 goal among the parties -- of providing the Commission  
23 with the best record possible on which to make its  
24 decision.  
25 Unfortunately, as we've been discussing,

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1 Staff's schedule eliminates the time for a reply brief.  
2 And the issue for Public Counsel is not opposition to  
3 the idea of a reply brief. It's certainly been used,  
4 and I am very aware of Puget's preference for a reply  
5 brief.  
6 But the issue truly is time. With the final  
7 briefing needed by the Commission by October 31st, there  
8 simply is not time to include reply briefs without a  
9 slight extension to the suspension date, and of course  
10 only Puget has the power to extend that suspension date.  
11 I will note that reply briefs have not been  
12 uniformly used in rate cases before the Commission, and  
13 that the pending -- you know, as I said before -- the  
14 pending Avista rate case does not have reply briefs.  
15 While Puget would like reply briefs, they are not  
16 necessary or required under the Commission's rules.  
17 Thank you for the opportunity to address this.  
18 JUDGE HOWARD: Thank you.  
19 So let's take a 15-minute recess and come back  
20 at 11 -- let's just say 11:25.  
21 I think our plan is going to be basically to  
22 just finish some of the formalities at the end of the  
23 prehearing conference, and then I want to -- because the  
24 parties are at an impasse, I want to really consider  
25 this issue carefully over this afternoon and issue a

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1 decision on the schedule and the prehearing conference  
2 order and look at everything very carefully because I  
3 think that there are a lot of competing interests and  
4 valid concerns and interests on both sides of this.  
5 So let's take a recess and go off the record  
6 and return at 11:25.  
7 (A break was taken from 11:13 a.m. to  
8 11:25 a.m.)  
9 JUDGE HOWARD: It is 11:25. We're coming  
10 back after a brief recess here.  
11 I've received Staff's proposed procedural  
12 schedule in an e-mail, and I've also received the  
13 Company's proposed schedule. I'm going to carefully  
14 evaluate both of them after our prehearing conference  
15 today and issue a decision in the prehearing conference  
16 order as I was indicating.  
17 One question I had after looking at them just  
18 briefly was -- it did look like the Company's proposal  
19 for updating its power costs was about a month later  
20 than Staff's. I was wondering if that was -- was that a  
21 material disagreement? Or is that an incidental issue?  
22 Ms. Carson, would you care to comment?  
23 MS. CARSON: Well, in PSE's schedule, there  
24 is an update of power costs at the time of rebuttal.  
25 And then there's also the potential for a power cost

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1 update 60 days before the rate-effective date, which I  
2 believe that parties are willing to agree to provided  
3 that -- as I understand it, there's a PacifiCorp,  
4 P-Corp, that has this issue before it now. And so I  
5 think the parties are willing to see how the Commission  
6 deals with that in the PacifiCorp, P-Corp.  
7 That 60-day update to power costs was actually  
8 something that staff had originally put in its schedule.  
9 PSE has updated power costs oftentimes at the compliance  
10 filing, which we're happy to do that as well. But  
11 that's something that Staff originally had in, and I  
12 know there was some concerns, and I believe the parties  
13 decided to see how it was treated in the PacifiCorp  
14 case.  
15 JUDGE HOWARD: Okay.  
16 Ms. Cameron-Rulkowski?  
17 MS. CAMERON-RULKOWSKI: Thank you, Your  
18 Honor.  
19 Yes, I concur with what Ms. Carson said. I  
20 took out the 60-day update -- I took that out of my  
21 schedule because there was not agreement among the  
22 parties to that. But there was agreement to put it back  
23 in, as I understand it, depending on the decision in the  
24 P-Corp case.  
25 The other thing that I wanted to bring to

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1 everyone's attention is that in the schedule that I sent  
 2 you, I included language on the content of the power  
 3 cost update, and this is something that the parties are  
 4 discussing. And I had circulated that language on  
 5 Friday and hadn't had an opportunity to hear back from  
 6 everyone. I believe it's acceptable to PSE. We had had  
 7 some preliminary conversation on it, but I did want to  
 8 bring that to your attention.  
 9 So everyone -- well, everyone with the  
 10 exception of Front and Centered, I believe, and  
 11 Ms. Milinovich -- has seen that language.  
 12 JUDGE HOWARD: Okay. It did appear that the  
 13 scope of the update was the same between the two  
 14 proposed schedules; is that right?  
 15 MS. CARSON: That's correct.  
 16 MS. CAMERON-RULKOWSKI: Yes it is.  
 17 And it's supposed to be at the rebuttal stage,  
 18 and then as Ms. Carson represented, potentially at  
 19 the -- well, the 60 days before the rate-effective day.  
 20 JUDGE HOWARD: Okay. All right.  
 21 Well, like I indicated, I'll take those both  
 22 under consideration. And I may respond to each of your  
 23 e-mails cc-ing all of the attorneys of record just to  
 24 err on the safe side of disclosing all communications  
 25 I've received to all the parties of record.

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1 Mr. ffitich?  
 2 MR. FFITCH: Thank you, Your Honor. I just  
 3 wanted to make a couple of points.  
 4 First of all, I wanted to say for the record on  
 5 behalf of The Energy Project, that we do support the  
 6 Staff recommended schedule for the reasons that were, I  
 7 think, well articulated by both Staff and Public Counsel  
 8 and tied to the schedule congestion with the Avista  
 9 case. We are a party also to the Avista case.  
 10 The second thing I wanted to just bring up for  
 11 consideration -- and I don't think this necessarily  
 12 requires a change to the hearing dates -- but just to  
 13 ask the Commission to keep in mind that the first  
 14 recommended hearing date in September falls close to the  
 15 Rosh Hashanah holiday, and that the hearing date in  
 16 October is very close -- I think just immediately  
 17 before -- Yom Kippur.  
 18 So there may need to be some consideration  
 19 about -- you know, as the Commission is getting closer  
 20 to those certain dates -- about accommodating those two  
 21 holidays if that's necessary for counsel or witnesses.  
 22 JUDGE HOWARD: Okay. I definitely want to  
 23 be accommodating of people's freedom to exercise their  
 24 religion.  
 25 Would there be a specific accommodation that we

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1 should keep in mind?  
 2 MR. FFITCH: I'm not --  
 3 JUDGE HOWARD: Is there a time of day that  
 4 would be problematic? I'm not familiar with it.  
 5 MR. FFITCH: As I understand it, Your Honor,  
 6 the most important concern is the Yom Kippur holiday,  
 7 and others may be able to speak to this.  
 8 But I believe if the hearing ends -- the  
 9 October dates proposed are October 3rd and 4th, I  
 10 believe. I believe if the hearing ends at 5:00 on the  
 11 4th, there's not an issue. But if it continues on into  
 12 the evening, that could be an issue. So it would have  
 13 to be -- as I'm informed -- that beginning again the  
 14 next day might be all right, but there might have to be  
 15 a hard stop at 5:00 at the end of the October dates.  
 16 The first day of the hearing in September -- I  
 17 think is Monday, September 26th if I'm not mistaken --  
 18 is the second day of Rosh Hashanah. And, Your Honor, I  
 19 can't speak to the observance issues there.  
 20 I just wanted to bring this to the Commission's  
 21 attention without recommending a change, but other  
 22 parties or witnesses may, you know, want to raise that  
 23 at some point. So I want to put it on your radar.  
 24 JUDGE HOWARD: No, I appreciate that. And I  
 25 was not aware of those issues, so I always like to hear

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1 them.  
 2 MR. FFITCH: Thank you.  
 3 JUDGE HOWARD: I should ask -- Mr. ffitich,  
 4 do you have something else?  
 5 Okay. I'm sorry. I wasn't sure if I was  
 6 cutting you off.  
 7 Does any other party wish to give any comments  
 8 before we move onto the remaining issues today?  
 9 MR. MAYER: Yes, Your Honor. This is Ben  
 10 Mayer for King County.  
 11 I just wanted to thank PSE and Staff for  
 12 putting those together. And I think you'll notice in  
 13 both, there's a Green Direct settlement conference, an  
 14 early one, and I just wanted to say that the County has  
 15 specific dates in that window that -- if possible, it  
 16 would like to see a specific date in the order, and it  
 17 has available April 11th to the 15th, April 18th, and  
 18 April 20th.  
 19 And I just wanted to put that out there for  
 20 other parties to respond if there's anything now. If  
 21 not, those are the dates that the County has available  
 22 for that particular settlement conference.  
 23 JUDGE HOWARD: Could you run those dates by  
 24 me, again? April 11th through the 15th?  
 25 MR. MAYER: Correct.

<p style="text-align: right;">Page 85</p> <p>1 JUDGE HOWARD: And what were the other ones? 2 MR. MAYER: Yes, April 18th and April 20th. 3 JUDGE HOWARD: Okay. Okay. 4 Any other party wish to comment before we move 5 on? 6 All right. Hearing none. 7 So I will just touch on a few more issues, and 8 I believe we are through the main substance of the 9 prehearing conference already. 10 So I do want to touch on the new issue of 11 intervenor funding. As you may be aware, the Commission 12 recently improved the interim agreement for intervenor 13 funding in Docket U-210595 with certain amendments. 14 I e-mailed the parties before our conference to 15 let them know that any request for case certification 16 and notices of intent to seek funding do not need to be 17 filed by the time of today's prehearing conference. 18 These documents should instead be filed with the 19 Commission on or before March 14th, 2022, so this would 20 be in 14 days from today. And this will be a deadline 21 for written submissions only. 22 And then following -- the terms of the interim 23 agreement with the deadline for proposed budgets would 24 then be 30 days later on April 13th, 2022, and I saw 25 that both of the proposed schedules incorporated that.</p>	<p style="text-align: right;">Page 87</p> <p>1 their use of discovery. As we've observed, this is a 2 large case with a large number of parties on a 3 constrained timeframe. Discovery may not be used as a 4 fishing expedition. If parties have discovery disputes, 5 they should attempt to work those out in good faith. 6 But if they cannot, they should bring any motions to the 7 Commission for resolution. 8 When I'm considering the proposed procedural 9 schedules this afternoon, I may include a discovery 10 conference in the schedule that I adopt, as it may 11 reflect a specific date, or I may just have it as a 12 to-be-determined date because that could be helpful if 13 we need that later on. 14 I also want to address a few specific issues 15 regarding discovery. One point would be having a 16 requirement in the prehearing conference order that the 17 parties identify each data request by subject in the 18 cover letter in the distribution e-mail and in the data 19 request itself, and then data requests would then be 20 grouped by subject when they are propounded. 21 Does anyone have any concerns or objections to 22 my including such a requirement? 23 All right. Hearing none, I will continue. 24 I did not see if the proposed schedules 25 shortened the time for discovery responses. Oh, it</p>
<p style="text-align: right;">Page 86</p> <p>1 Do any of the parties or intervenors or -- I 2 know Front and Centered hasn't moved to intervene yet, 3 but does anyone have any questions or concerns that they 4 would like to raise now about intervenor funding? 5 MR. FFITCH: Your Honor, this is Simon 6 ffitich. 7 JUDGE HOWARD: Yes, go ahead. 8 MR. FFITCH: I just wanted to provide 9 information to the Bench and to the parties about the 10 status of the final modified agreement. 11 My office has in hand signatures to the 12 agreement that's been modified according to the 13 Commission's order that was issued last week. And we 14 expect to file that within the next hour or so with the 15 Commission in the docket established for consideration 16 of intervenor funding. So that's just information for 17 Your Honor and for the other parties. 18 JUDGE HOWARD: Thank you. I will be sure to 19 check that. 20 Does anyone else have any questions or comments 21 or concerns at this time for this issue? 22 All right. Hearing none. 23 I'll next move on to the issue of discovery and 24 data requests. So on the issue of discovery generally, 25 I want to caution the parties to speak judicious in</p>	<p style="text-align: right;">Page 88</p> <p>1 looks like this is addressed in Staff's -- just give me 2 one moment here -- I see -- and the Company's schedules. 3 Okay. So I will move on from that. I see that the 4 parties have addressed that. 5 And, finally, I'm aware that the parties author 6 a request that any data request and responses are shared 7 with every other party. It will make this easier on the 8 parties by including such a requirement in the 9 prehearing conference order. This would be subject to a 10 limitation that we have a couple of intervenors now who 11 have conditions placed on their participation in the 12 case. 13 So is there any objection to my including such 14 a requirement for sharing requests and responses with 15 the other parties in the prehearing conference order? 16 Mr. ffitich, do you have a concern? 17 MR. FFITCH: I do not have a concern. I 18 have a belatedly raised hand with a question about an 19 earlier matter, Your Honor. 20 JUDGE HOWARD: Go ahead. 21 MR. FFITCH: But no objection to your last 22 statement about exchanging information. 23 JUDGE HOWARD: Okay. 24 MR. FFITCH: I just wanted to understand 25 what the Bench was contemplating for the discovery</p>

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1 conferences. Would that be a time to bring disputes to  
2 the Bench? Or would it be a time for parties to discuss  
3 discovery matters informally, which we, you know, often  
4 do in any event?  
5 But I just wondered what your thinking there  
6 was on the function of the discovery conferences.  
7 JUDGE HOWARD: It would be -- it's not  
8 something that we do in every case as you know, but it  
9 would be an opportunity for the parties to meet with me.  
10 And if there are disputes about discovery that has been  
11 propounded already, those could be addressed in the  
12 conference and then possibly solutions worked out. And  
13 this is, you know, recognizing the number of intervenors  
14 in the case and that there have been concerns raised by  
15 PSE regarding past discovery.  
16 I'm not saying that I'm agreeing with those on  
17 the merits I haven't evaluated that. That hasn't come  
18 up yet in this case. But I think it could be helpful to  
19 have such a meeting on the calendar to resolve disputes  
20 and to look for a path forward if there is a  
21 disagreement.  
22 But if it's not needed by the time we come to  
23 that point in my calendar, then we don't have to have  
24 it.  
25 MR. FFITCH: Thank you, Your Honor. I

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1 appreciate the clarification.  
2 JUDGE HOWARD: Ms. Carson?  
3 MS. CARSON: Yes, Your Honor. I don't  
4 believe we have any objection to having that kind of  
5 discovery conference on the calendar. I guess we are  
6 concerned about the amount of discovery. We sometimes  
7 in the past have seen parties, you know, just kind of  
8 blanketly send out discovery from their experts that --  
9 maybe before they've read the case -- and so they're  
10 asking questions that are already there.  
11 So I guess I would just, you know -- ask  
12 everybody to please, you know, read first and then send  
13 your discovery so that we're not repeating things that  
14 are easy to find.  
15 The other thing is sometimes parties don't look  
16 at what the other parties have sent, and so we get these  
17 same repetitive questions from three or four different  
18 parties.  
19 So I guess, you know -- I know the Commission  
20 has the ability to limit discovery requests, and, you  
21 know, we're not asking for that at this time. But I  
22 guess if there's a discovery conference and we're just  
23 inundated with discovery that's repetitive, you know, we  
24 would want to reserve our right to ask for discovery to  
25 be limited at some point in time.

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1 JUDGE HOWARD: And I would say that that  
2 could be an option on the table in the future if it's  
3 required.  
4 It looks like CENSE's attorney might want to  
5 respond.  
6 MR. ARAMBURU: I'd like to understand the  
7 nature of the discovery conference. If discovery is  
8 submitted and then there becomes an issue, we don't wait  
9 until a date, a specific date, to discuss that with  
10 counsel. It would be my understanding that if there's a  
11 dispute that comes up, it should be attempted to be  
12 resolved as in CR-37 between the parties, and I don't  
13 think we would have to wait.  
14 I guess the question would be, if counsel got  
15 together to discuss this, would we need your  
16 participation in the conference?  
17 JUDGE HOWARD: No, that's a good question.  
18 And the parties should follow the normal rules  
19 of attempting to work out disputes between each other  
20 without the Commission's intervention. So the discovery  
21 conference is the fallback of if there are disputes  
22 remaining that the parties cannot work out, and they're  
23 still there, and they haven't already been addressed by  
24 ruling on a motion to compel or something of that  
25 nature, then that could be an opportunity to sit down

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1 and have a brief discussion to find a solution and move  
2 forward.  
3 It's not something the Commission does in every  
4 case. I think it could be helpful in this particular  
5 one. Hopefully that answers your question.  
6 MR. ARAMBURU: Thank you for the  
7 clarification.  
8 MS. CARSON: I would just make one other  
9 point, is that PSE has worked very closely with other  
10 parties in these proceedings. We very, very rarely get  
11 to the point where there's a motion to compel or we're  
12 at a complete impasse. So our hope would be that we can  
13 continue to work with the parties on discovery issues.  
14 JUDGE HOWARD: Great.  
15 Did any other party have any questions about  
16 discovery before we continue on to a few more  
17 housekeeping matters?  
18 MS. CAMERON-RULKOWSKI: I do, Your Honor.  
19 This is Jennifer Cameron-Rulkowski. Thank you.  
20 I concur with Ms. Carson. We are generally  
21 able to resolve discovery issues among the parties. And  
22 we do have a lot of dates in the schedule already, so  
23 I'm not sure it would be helpful to set a date. These  
24 issues tend to arise organically, and if there's an  
25 issue we can't resolve, I certainly wouldn't wait around



<p style="text-align: right;">Page 93</p> <p>1 until a discovery conference. I would be taking some 2 sort of action. 3 So they can be incredibly helpful, these 4 informal gatherings, but we've managed thus far to 5 organize them on our own among the parties. And so I 6 know we have a lot of parties and it's hard to get 7 dates, but because we don't really know when an issue 8 might arise, I'm not sure how useful it is to have a 9 date that we then have to notify the judge that we're 10 changing or skipping. 11 So I guess I appreciate the concept because it 12 can be so helpful, but I'm not sure when it would be. 13 JUDGE HOWARD: All right. Maybe that will 14 just be something to keep in mind -- for me to keep in 15 mind, really. And if we need it, we need it. And if we 16 don't, then we won't include a specific day. 17 MS. CAMERON-RULKOWSKI: And can I bring up 18 one other issue, Your Honor? 19 JUDGE HOWARD: Sure. 20 MS. CAMERON-RULKOWSKI: Regarding discovery, 21 we've had this come up a couple of cases now, and I want 22 to get on top of it. 23 Under the Commission's procedural rules at 24 WAC 480-07-405, parties are required to serve copies of 25 data requests on other parties. So we're required to</p>	<p style="text-align: right;">Page 95</p> <p>1 signature page using that form page that's included with 2 order two? 3 MR. ARAMBURU: We'll do so today, yes. 4 JUDGE HOWARD: Thank you. Thank you. It's 5 a little, you know, detail-focused of me to bring that 6 up, but that's my job. 7 So a couple more housekeeping matters. On 8 electronic filing and electronic service, the Commission 9 requires electronic filing of documents for formal 10 filing. We are continuing to suspend the requirements 11 for paper copies of filed documents in lieu of the 12 COVID-19 pandemic, which will be memorialized in the 13 prehearing conference order. 14 Also, the Commission's rules provide for 15 electronic service of documents. The Commission will 16 serve the parties electronically, and the parties will 17 serve each other electronically. 18 If any party has not yet designated a lead 19 representative for service, please do so via e-mail to 20 me as soon as possible. My e-mail is 21 michael.howard@utc.law.gov. 22 Also, if anyone would like to add names and 23 e-mail addresses of other representatives or support 24 staff, we should receive electronic courtesy copies of 25 all documents filed in this proceeding. Please e-mail</p>
<p style="text-align: right;">Page 94</p> <p>1 provide all of the parties a copy of what -- the data 2 requests that we've served on the Company or anybody 3 else. 4 So I think that what we would need in the 5 prehearing conference would be a statement that all of 6 the parties want to receive copies of the response to 7 the discovery. 8 JUDGE HOWARD: No, I believe you're correct 9 on that. And that's what that language would be getting 10 at. I mean, it's more concerned with the response. 11 MS. CAMERON-RULKOWSKI: Thank you, Your 12 Honor. 13 JUDGE HOWARD: Any other questions or 14 concerns on discovery before we move on? 15 All right. Hearing none. 16 I wanted to touch on the issue of the 17 protective order. I will remind the parties that the 18 Commission has already entered a protective order in 19 this docket with provisions for the protection of highly 20 confidential information. 21 I did see that on February 22nd, last week, 22 CENSE had filed a signed page for the confidentiality 23 agreement, but it did not use the normal signature page 24 which is attached as an exhibit to the protective order. 25 Mr. Aramburu, would you mind refileing that</p>	<p style="text-align: right;">Page 96</p> <p>1 that to us as well. I saw that AWEC sent such an e-mail 2 this morning, and so we will take a look at that. 3 Let me check on the issue of errata sheets. 4 Okay. It does appear that both schedules are addressing 5 the issue of errata sheets. It is approximately one 6 week before the hearing. 7 Does anyone have any concerns with either of 8 the schedules' way of addressing errata sheets? 9 MS. CARSON: PSE has no objection. 10 I did have a question about the electronic 11 filing only. We were required to file five copies, 12 paper copies, of testimony and exhibits. Is that only 13 for testimony and exhibits? Is that for any filing with 14 the Commission in this case? 15 JUDGE HOWARD: No, the paper copy 16 requirement you're referring to -- I haven't looked this 17 up recently, but I believe it pertains to the Company's 18 filing of its initial testimony. And that requirement 19 for paper copies is something that is in statute, and we 20 don't believe that we can waive that. But we can waive 21 the requirement for paper copies as the case goes on. 22 That's what I'm recalling right now. 23 MS. CARSON: So for rebuttal testimony and 24 response testimony, will paper copies be needed? 25 JUDGE HOWARD: No, no .</p>

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1 MS. CARSON: Okay. Thank you.  
 2 JUDGE HOWARD: All right.  
 3 Is there anything else that we should address  
 4 today before we go off the record?  
 5 MS. GAFKEN: Judge Howard, I have one  
 6 additional thing that I believe is a housekeeping item.  
 7 It's about timely service, and I want to clarify when  
 8 timely service is made so parties can establish a shared  
 9 understanding and expectations.  
 10 Under WAC 480-07-365, Subsection 2C, that  
 11 requires, quote, all electronic documents submitted to  
 12 the Commission through the web portal or by e-mail on a  
 13 filing date deadline must be delivered to all parties  
 14 and the presiding administrative law judge by e-mail at  
 15 the same time the documents are submitted to the  
 16 Commission or immediately thereafter, end quote.  
 17 The reason I raise this is that we often see  
 18 materials near the end of the day. And I understand  
 19 that receipt prior to 5:00 p.m. is technically on time,  
 20 however, we have also received materials after 5:00 p.m.  
 21 For example, Puget served this rate case on  
 22 Public Counsel after 5:00 p.m. on January 31st, 2022,  
 23 even though the Record Center received the filing at  
 24 1:28 p.m. We received Puget's cover letter at  
 25 5:06 p.m., nonconfidential materials at 5:20 p.m., and

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1 confidential materials at 5:26 p.m.  
 2 I do have other examples of filing provided  
 3 after 5:00 p.m. if that detail is helpful. But the  
 4 reason I'm raising this issue here is that this is not  
 5 an isolated event. Service after 5:00 p.m. is not  
 6 consistent with the requirements of simultaneously serve  
 7 or serve immediately after filing.  
 8 And to that end, I would like affirmation that  
 9 service after 5:00 p.m. is not timely. Thank you.  
 10 JUDGE HOWARD: Thank you, Ms. Gafken. I  
 11 think that is a valid concern.  
 12 I haven't reviewed, you know, the dates and  
 13 timestamps of exactly what you're referring to, but I  
 14 take your general point that it should be  
 15 contemporaneous, and it shouldn't be after the filing  
 16 deadline at issue.  
 17 And I was going to address this in the  
 18 prehearing conference order, but I would mention it now.  
 19 Two, is that the courtesy copy to the ALJ on the case is  
 20 extremely helpful and important, and that should be  
 21 contemporaneous as well.  
 22 There are times where it takes the Commission  
 23 Record Center staff a few hours to several hours  
 24 sometimes to process something, and there are even times  
 25 where things slip through the cracks. So it's very

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1 important to include those courtesy copies to the ALJ to  
 2 make sure that your motion or your filing isn't lost to  
 3 the ether or something like that.  
 4 Is there anything else -- any other concerns or  
 5 questions we should address before we adjourn?  
 6 MR. COLEMAN: Your Honor, this is Brent  
 7 Coleman on the telephone for AWEC. I apologize, my  
 8 computer died.  
 9 I do have just one point of clarification if  
 10 that's okay.  
 11 JUDGE HOWARD: Sure.  
 12 MR. COLEMAN: The reason -- the basis for my  
 13 clarification is, in the simultaneous matter ongoing,  
 14 Judge O'Connell has asked for an electronic copy -- or  
 15 excuse me, a paper copy -- of unredacted testimony,  
 16 which I think was a little bit -- was not consistent  
 17 with what you just mentioned with respect to  
 18 electronics.  
 19 So I want to make sure I understand -- if  
 20 there's a differences in the two cases, I can manage  
 21 that. I just wanted to make sure I understood what you  
 22 were asking or identifying.  
 23 So is electronic submission acceptable? Or do  
 24 we still need to provide -- or does the Commission want  
 25 three paper copies for internal distribution of

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1 unredacted testimony?  
 2 JUDGE HOWARD: You know, it's been my  
 3 understanding that we have been waiving paper copies for  
 4 filings after the Company's initial testimony. But I am  
 5 going to take a look at the Avista docket and just make  
 6 sure that I am understanding this issue correctly and  
 7 that I'm not overlooking the point.  
 8 So I'm going to -- that's a good question, and  
 9 I will have to just double-check myself and address that  
 10 in the prehearing conference order.  
 11 MR. COLEMAN: Okay. Again, I'll do what you  
 12 want, obviously. I just wanted to make sure that if  
 13 they're different, that I put my team on notice.  
 14 JUDGE HOWARD: Yeah, it's a fair question.  
 15 Any other concerns or questions?  
 16 All right. I will issue an order in the near  
 17 future containing the procedural schedule and other  
 18 guidelines for the disposition of this case.  
 19 We are adjourned. Thank you all for attending.  
 20 (Hearing adjourned at 11:56 a.m.)  
 21  
 22  
 23  
 24  
 25

CERTIFICATE

STATE OF WASHINGTON  
COUNTY OF KING

I, Rose Detloff, a Certified Court Reporter in  
and for the State of Washington, do hereby certify that  
the foregoing transcript is true and accurate to the  
best of my knowledge, skill and ability.

*Rose Detloff*



ROSE DETLOFF, RPR, CCR #21036100

My commission expires:  
DECEMBER 6, 2022

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