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1                   BEFORE THE WASHINGTON UTILITIES AND  
2                   TRANSPORTATION COMMISSION

3 THE WASHINGTON UTILITIES            )  
4 AND TRANSPORTATION COMMISSION,    )  
5                                    Complainant,            )  
6                                    vs.                            ) DOCKET NO. UW-000404  
7 AMERICAN WATER RESOURCES, INC.,    ) VOLUME 1  
8                                    Respondent.                ) Pages 1-25

8 -----  
9 THE WASHINGTON UTILITIES            )  
10 AND TRANSPORTATION COMMISSION,    )  
11                                   Complainant,            )  
12                                   vs.                            ) DOCKET NO. UW-000405  
13 AMERICAN WATER RESOURCES, INC.,    ) VOLUME 1  
14                                   Respondent.                ) Pages 1-25  
15 -----

16                   A prehearing conference in the above matter  
17 was held on September 12, 2000, at 9:45 a.m., at 1300  
18 South Evergreen Park Drive Southwest, Olympia,  
19 Washington, before Administrative Law Judge LAWRENCE  
20 BERG.

21                   The parties were present as follows:

22                   THE WASHINGTON UTILITIES AND TRANSPORTATION  
23 COMMISSION, by MARY M. TENNYSON, Assistant Attorney  
24 General, 1400 South Evergreen Park Drive Southwest, Post  
Office Box 40128, Olympia, Washington 98504.

25 Joan E. Kinn, CCR, RPR  
Court Reporter

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1                    AMERICAN WATER RESOURCES, INC., by RICHARD A.  
2                    FINNIGAN, Attorney at Law, 2405 Evergreen Park Drive  
3                    Southwest, Suite B-3, Olympia, Washington 98501.

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

2 JUDGE BERG: Let's be on the record, please.

3 My name is Lawrence Berg, and I am the Presiding  
4 Administrative Law Judge in two cases which have been  
5 consolidated by order of the Commission dated August  
6 14th, 2000. A notice of prehearing conference was  
7 entered and served along with the order of  
8 consolidation.

9 The two cases both involve the Washington  
10 Utilities and Transportation Commission as Complainant  
11 versus American Water Resources, Inc, Docket Number  
12 UW-000404 and Docket Number UW-000405. In both of these  
13 cases, American Water Resources filed tariffs, in the  
14 first instance for a rate increase, and in the second  
15 instance for an extension of the period within which it  
16 would be entitled to collect a surcharge.

17 Today's date is September the 12th, year  
18 2000, and we are convened in a hearing room at the  
19 Commission's offices in Olympia, Washington.

20 The first order of business is to take  
21 appearances, and when you enter your appearance, I will  
22 ask that you state your name, who you represent,  
23 business address, telephone, facsimile number, and if  
24 you have one, an E-mail address.

25 And we will start with you, Mr. Finnigan.

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1 MR. FINNIGAN: Thank you. Richard A.  
2 Finnigan on behalf of American Water Resources, Inc. My  
3 address is 2405 Evergreen Park Drive Southwest, Suite  
4 B-3, Olympia, Washington 98502. Telephone number is  
5 (360)956-7001. Fax is (360)753-6862. E-mail address is  
6 rickfinn, R-I-C-K-F-I-N-N, @ywave.com.

7 JUDGE BERG: All right, and for Commission  
8 staff?

9 MS. TENNYSON: Thank you. My name is Mary M.  
10 Tennyson. I'm a senior assistant attorney general  
11 representing Commission staff. My address is 1400 South  
12 Evergreen Park Drive Southwest, P.O. Box 40128, Olympia,  
13 Washington 98504-0128. My telephone number is  
14 (360)664-1220. Facsimile is (360)586-5522. E-mail is  
15 mtennyso, that's M-T-E-N-N-Y-S-O, @wutc.wa.gov.

16 JUDGE BERG: All right. And at this time, I  
17 will just ask whether there are any persons present or  
18 on the bridge who have already been granted status as a  
19 party to this proceeding?

20 Let the record show that there is no  
21 response.

22 Before I proceed to inquire whether there are  
23 any motions to intervene, Mr. Finnigan, on the record I  
24 would like to take up the matter of the status of Docket  
25 Number UW-000404.

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1 MR. FINNIGAN: Yes, Your Honor, by letter  
2 dated August 24th, 2000, I filed on behalf of the  
3 company a withdrawal of the tariff made under that  
4 docket number, and I guess I will just leave it at that.

5 JUDGE BERG: All right.

6 And, Ms. Tennyson, you have seen that letter  
7 filed with the Commission?

8 MS. TENNYSON: Yes, I have, and Commission  
9 staff has no objection to the withdrawal of the filing  
10 in that docket.

11 JUDGE BERG: All right. Then at this time,  
12 the Commission finds good cause for granting the request  
13 to withdraw tariff, and Docket Number UW-000404 will be  
14 closed. There will be a specific order issued in either  
15 the consolidated docket or possibly within Docket Number  
16 UW-000404 itself documenting that order.

17 MR. FINNIGAN: Thank you, Your Honor.

18 JUDGE BERG: You're welcome.

19 All right, that leaves the Docket Number  
20 UW-000405 before the Commission, and just as a  
21 formality, Mr. Finnigan, it's my understanding that your  
22 client wishes to proceed in that docket?

23 MR. FINNIGAN: Yes, we do. Just as a small  
24 matter, in the order of consolidation and notice of  
25 prehearing conference, in the description of the docket,

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1 the next to last sentence in that paragraph says that  
2 extension of the surcharge would recover an additional  
3 amount of \$102,106 annually, and that's not correct.  
4 The annually can be deleted.

5 JUDGE BERG: Thank you for picking that up,  
6 Mr. Finnigan. In the prehearing conference order to  
7 follow, I will be sure that we take note of that  
8 correction.

9 MR. FINNIGAN: Thank you.

10 JUDGE BERG: At this time, I will inquire  
11 whether there are any parties who would seek to  
12 intervene in Docket Number UW-000405.

13 All right. Let's be off the record  
14 momentarily.

15 (Discussion off the record.)

16 JUDGE BERG: I understand that there is an  
17 oral motion to intervene. Mr. Pound, would you please  
18 state your name and contact, full name and contact  
19 information.

20 MR. POUND: Yes, my name is Jerry Pound,  
21 P-O-U-N-D. My address is 19411 Aurora Drive East,  
22 that's Spanaway, 98387. Telephone number is area code  
23 (253)847-8778. E-mail address is  
24 jcpound@foxinternet.net.

25 I'm speaking for myself and an informal group

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1 we have of Crescent Park Water District. There's  
2 approximately 168 families live in that home, and we are  
3 concerned about the rate and also the surcharge that  
4 we're being charged.

5 I'm going to have to modify what I planned on  
6 saying quite a bit here, but the main thing I want to  
7 get across is even with the lack of -- even with the  
8 drop of surcharge would knock our monthly rate down to  
9 \$34 a month. Even if we had no surcharge at all, the  
10 rate is \$34 a month.

11 After taking a survey of numerous, I'm  
12 talking over ten water companies around the area, the  
13 average rate is \$19.53 a month. That's 49% above what  
14 everybody in Tacoma that I can find is spending on  
15 water.

16 And we're a concerned group of people. I do  
17 have 80 some people that are all -- I have contacted  
18 personally, but I'm a working person, so I have to do it  
19 on my time off. And I haven't talked to all 168 people,  
20 but I'm up to like 80 people, and we all concur that \$34  
21 a month is double what we should be paying. Even with  
22 the lack of surcharge would not help us a bit, and we're  
23 going to proceed on and do what we can do to make our  
24 voices heard.

25 And I don't know what more I can say without

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1 stepping across the bounds.

2 JUDGE BERG: I'm going to try and make you  
3 feel as comfortable as possible here, Mr. Pound. I  
4 understand that for citizens like yourself getting  
5 involved in a formal process like this, it's an  
6 uncomfortable feeling.

7 I will take your comments as a summary of the  
8 statement of interest of this individual and the group  
9 that he purports to represent.

10 Part of what we're focused on here today,  
11 Mr. Pound, will be in its essence procedural details.  
12 And while I think you have stated your concern clearly,  
13 I just want to make sure you understand that one of the  
14 things that we're not trying to do today is to actually  
15 take evidence or to let the parties present arguments.

16 It is important that we understand what the  
17 issues are and identify the issues that will need to be  
18 addressed relevant to the matter of the requested  
19 extension of surcharge in this case, so that we will  
20 want to stay focused on that extension of surcharge.  
21 And I understand that your primary concern is the  
22 reasonableness of rates overall and including the  
23 surcharge itself. Is that fair?

24 MR. POUND: That's fair. Thank you for  
25 letting me express my concerns, and we will be



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1 proceeding to find out more information on what we can  
2 do to get our rates down to a normal rate. Thank you.

3 JUDGE BERG: Why don't you stay seated there,  
4 Mr. Pound. I have just a question or two regarding the  
5 Crescent Park Water District of which you are a member.

6 MR. POUND: Yes.

7 JUDGE BERG: That I would like to ask just  
8 for further clarification.

9 MR. POUND: Okay.

10 JUDGE BERG: Tell me again how many customers  
11 of American Water Resources comprise the Crescent Park  
12 Water District.

13 MR. POUND: Okay, the way I did it is counted  
14 homes.

15 JUDGE BERG: Yes, sir.

16 MR. POUND: I didn't have any official way of  
17 finding out, so I counted homes. I counted about 168  
18 homes that I know of that are being serviced by Crescent  
19 Park.

20 JUDGE BERG: All right, and my understanding  
21 is that you circulated a petition asking parties whether  
22 they wanted to be represented in this hearing. Can you  
23 clarify what the context of your communication with  
24 those other home owners was?

25 MR. POUND: We're organizing a neighborhood

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1 watch and a safe street type of situation. And during  
2 safe street meetings, we started communicating, and we  
3 started collecting water bills from other areas and  
4 started to figure out if we were paying too much, and  
5 that's how it all came to be. It came from the  
6 neighborhood watch meetings. It expanded from there.  
7 And the signatures on the petition has been door to door  
8 on my behalf and some other parties.

9 JUDGE BERG: Does the petition have one or  
10 two paragraphs of introduction?

11 MR. POUND: Yes, it does.

12 JUDGE BERG: Would you just read that,  
13 please.

14 MR. POUND: I think it would be stepping out  
15 of bounds of what you're looking for here. I really do.

16 JUDGE BERG: All right.

17 MR. POUND: But I could read it if you would  
18 like.

19 JUDGE BERG: Here's my concern, that is to  
20 the extent that you may be holding yourself out as a  
21 representative of other individuals comprising a group  
22 or a subgroup of the Crescent Park Water District. What  
23 I'm looking for is, if not a literal reading, then a  
24 statement from you that individuals signing that  
25 petition expressly understood that you would be seeking

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1 to appear and represent them as a group in this  
2 proceeding.

3 MR. POUND: Okay. The petition states that I  
4 would like the UTC to conduct an investigation of the  
5 American Water Resources, Incorporated, due to we  
6 believe that AWR is conducting and buying nonsolvent  
7 water companies, contributing to the exorbitant  
8 increases in their books, which is why they can apply to  
9 the trades commission and get higher rates. You show  
10 bad books, you get higher rates. We're trying to figure  
11 out how one water company can charge 49% more than any  
12 other water company.

13 JUDGE BERG: I understand.

14 MR. POUND: Okay, and that's what the  
15 petition -- that's what -- we have had a 121% increase  
16 in our water bill, and we just don't believe that this  
17 shows a willingness to meet the communities and the  
18 families that they serve. That's what the petition is  
19 saying.

20 That's why I say it's probably slightly out  
21 of bounds of what we're looking for on just the  
22 surcharge. I know we're here for the surcharge. the  
23 surcharge is not going to help us. That's \$3 a month,  
24 you know, a surcharge is kind of irrelevant. What we're  
25 questioning is 49% above the average bill that everybody

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1 else in the state of Washington is paying for water.

2 JUDGE BERG: I understand, sir.

3 MR. FINNIGAN: Your Honor, let me interject.

4 At this stage, it seems to me that Mr. Pound has some  
5 concerns, and he would like a forum to express those  
6 concerns, and I'm sympathetic to that. This is not the  
7 appropriate forum for the concerns that he has  
8 identified. He has identified that they're seeking to  
9 open an investigation. That would be a separate item  
10 from -- a separate proceeding from this proceeding.  
11 He's concerned about the overall level of the rates.  
12 That's a separate -- that's not a question that's  
13 involved in this proceeding.

14 So, you know, there are forums that are  
15 available to him, you know, as you identified. If the  
16 company comes forward with rate proposals, the customers  
17 can come to the Commission and express their viewpoints.  
18 He's got a petition, he's free to file that petition  
19 with the Commission. But to talk about rate levels and  
20 these statements about the company buying other  
21 companies and things that are not involved in the issues  
22 that are in this proceeding I think are just going a  
23 little too far for what we're here to do today.

24 JUDGE BERG: Ms. Tennyson, does Commission  
25 staff have any comments or response to the oral petition

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1 to intervene?

2 MS. TENNYSON: Well, I think it would be  
3 helpful to clarify for Mr. Pound's benefit and that of  
4 the others in the room that what we are here for is  
5 we're talking about an extension of the surcharge, which  
6 I believe is \$4.54 per month, and not raising that  
7 amount, but extending the time line on that for how long  
8 it can be collected. And we are not at this point  
9 talking about an increase in rates or a decrease in  
10 rates as a general matter, and that is something that  
11 you could present to the Commission and ask the  
12 Commission to address in another forum.

13 The other thing that I do think we should  
14 consider in this proceeding is whether we need to  
15 schedule a time for hearing of public testimony in the  
16 case to allow people to express their views on it.

17 JUDGE BERG: That was one of the items on my  
18 agenda. I appreciate you bringing it up at this time.

19 I'm going to take Mr. Pound's comments and  
20 statements of concern to include statements of concern  
21 regarding the extension of the surcharge for an  
22 additional year. I will find that there's insufficient  
23 support to conclude that Mr. Pound has been authorized  
24 by any other group to represent them as a group however,  
25 and on that basis, I do not find any basis for allowing

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1 intervention by either the Crescent Park Water District  
2 or any informal subgroup comprised of home owners in the  
3 Crescent Park Water District. However, that does leave  
4 Mr. Pound's interest in intervening on his own behalf.  
5 I'm going to take the motion to intervene under  
6 advisement.

7           And, Mr. Pound, I just want to emphasize  
8 Mr. Finnigan's comments that, in fact, what we are  
9 focused on here is not general rates, but whether or not  
10 there is a legitimate basis for the extension of the  
11 surcharge which has already been granted that would  
12 result in an additional year of monthly surcharges to  
13 the customers of American Water Resources.

14           But that in and of itself is a much more  
15 narrow subject than the concerns that you have also  
16 expressed regarding the overall rates, in particular  
17 comparative rates. That would not be the criteria that  
18 the Commission would consider as to whether or not  
19 American Water Resources has prudently incurred costs  
20 and whether or not the proposed extension of surcharge  
21 is just and reasonable. Do you understand that?

22           MR. POUND: Yes, I understand.

23           JUDGE BERG: All right. And by taking the  
24 matter under advisement, that means that there will be a  
25 supplemental order that will follow at the conclusion of

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1 this proceeding. It will probably be sent to parties by  
2 the end of this week, early next week at the latest.  
3 That will mainly present the decisions that are made  
4 here today, but in this instance, it will also include a  
5 decision about whether or not your petition to intervene  
6 will be granted.

7 MR. POUND: Thank you.

8 JUDGE BERG: You're welcome. You're free to  
9 remain at the desk or return to the audience, whichever  
10 you're more comfortable.

11 Are there any other preliminary matters that  
12 either party wants to raise before we get into some of  
13 the nuts and bolts regarding needs for discovery and  
14 protective orders?

15 All right. Let's go ahead then and turn to  
16 that subject on the record. Is there a need for  
17 discovery in this matter, Ms. Tennyson?

18 MS. TENNYSON: If I might have a moment.

19 JUDGE BERG: Yes.

20 MS. TENNYSON: I think I would like to ask  
21 for the discovery rule to be invoked just so we can --  
22 we have exchanged a lot of information, but to do it on  
23 a formal basis.

24 JUDGE BERG: All right.

25 Mr. Finnigan.

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1 MR. FINNIGAN: I have no objection as long as  
2 I'm not going to be asked to produce copies of what I  
3 have already produced. But just -- no, I'm sorry, no  
4 objection.

5 JUDGE BERG: I understand by your comment,  
6 Mr. Finnigan, that, in fact, there has been some  
7 relevant information that has already been exchanged  
8 with Commission staff; is that correct?

9 MR. FINNIGAN: That's correct, on an informal  
10 basis.

11 JUDGE BERG: All right. Then the  
12 Commission's Discovery Rule WAC 480-09-480 is invoked.  
13 Discovery may commence immediately. I will just find  
14 that any information that American Water Resources has  
15 already produced to Commission staff need not be  
16 produced in response to any subsequent data requests.  
17 And if there is any question about what has or hasn't  
18 been produced, then I would urge the parties to make  
19 sure that they're both familiar with the information  
20 that's already been exchanged.

21 MS. TENNYSON: Yes, I believe Mr. Finnigan  
22 and I can work cooperatively on that.

23 JUDGE BERG: All right. Is there any need  
24 for a protective order? Do the parties anticipate that  
25 certain confidential information will be required?



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1 MR. FINNIGAN: I'm not certain that there  
2 will, but we might. Just to be safe, I guess I would  
3 request a protective order be issued.

4 JUDGE BERG: All right. On that basis, a  
5 protective order will issue.

6 In general terms, I would like to talk to the  
7 parties about a discovery cutoff before hearings to be  
8 scheduled here this morning. Would a finding that final  
9 data requests must be served no later than ten days  
10 before the evidentiary hearing proceeding to which the  
11 discovery pertains be reasonable?

12 MR. FINNIGAN: That would be fine, Your  
13 Honor.

14 MS. TENNYSON: Certainly.

15 JUDGE BERG: All right.

16 Let's go off the record to talk about timing  
17 in this proceeding.

18 (Discussion off the record.)

19 JUDGE BERG: While off the record, there have  
20 been discussions between counsel and the Bench regarding  
21 the procedural schedule to follow. The parties agree  
22 that they will develop their cases on the basis of  
23 discovery and depositions under the Commission's  
24 Discovery Rule and that it will not be necessary to  
25 pre-file evidence in this case.

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1                   On that basis, the Commission will indicate  
2 that evidentiary hearings will be conducted on --

3                   MR. FINNIGAN: Your Honor, if I may.

4                   JUDGE BERG: Oh, yes, Mr. Finnigan.

5                   MR. FINNIGAN: I think we would need to  
6 schedule for the week of December 18th.

7                   JUDGE BERG: All right. We would conduct  
8 hearings the week of December 18th, and I think what we  
9 would look to do that week would be to conduct hearings  
10 on December 21 and 22 if necessary. Alternatively,  
11 counsel for American Water Resources indicates that he  
12 will consult with his client regarding the possibility  
13 of an extension, a waiver of the suspension period for  
14 30 days, in which case evidentiary hearings will be held  
15 on January the 3rd and January the 4th. And based upon  
16 representations by Mr. Finnigan, I am sure we will have  
17 that confirmed one way or the other before I am able to  
18 prepare and enter a prehearing conference order.

19                   Let's be off the record.

20                   (Discussion off the record.)

21                   JUDGE BERG: I have been discussing with the  
22 parties the issue of public hearings to take statements  
23 from customers, and in particular where and how many of  
24 those public hearings may be necessary in order to  
25 provide a fair opportunity for all customers to make

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1 their voices heard.

2           It is readily apparent that at least one  
3 public meeting should be in the vicinity of the Crescent  
4 Park Water District. And I believe in the prior  
5 proceeding that was accomplished through a site in the  
6 Spanaway community. And the parties have discussed the  
7 general location of other systems owned and managed by  
8 American Water Resources.

9           Counsel agree that they will consult with  
10 each other and further discuss the need for additional  
11 public hearings and where those public hearings would  
12 most suitably be sited. And at that later time, I will  
13 also consult with the parties regarding dates for those  
14 public hearings.

15           So, counsel, if you would include that. Keep  
16 in mind that we do want to avoid the holidays to the  
17 extent that customers may be traveling or otherwise  
18 experiencing the same inconvenience that we would by  
19 meeting too close to Thanksgiving break or to Christmas,  
20 or I should say during the Holidays.

21           MR. FINNIGAN: Your Honor, taking that  
22 scheduling into account, given your three weeks of  
23 hearing, should we assume that we shouldn't schedule  
24 during those three weeks?

25           JUDGE BERG: No, let's make those three weeks

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1 available, and it may be that the Commission has to ask  
2 another judge to preside over the public hearings. I  
3 think our time is too valuable to rule that three week  
4 period out.

5 MR. FINNIGAN: Okay.

6 JUDGE BERG: And then it would just be a  
7 matter, Mr. Finnigan, to the extent that you may be  
8 representing clients in both proceedings, so the extent  
9 that you might be unduly burdened.

10 MR. FINNIGAN: Your Honor, my clients in that  
11 proceeding have seen fit to tell me I don't need to  
12 attend those hearings, so I'm greatly relieved.

13 JUDGE BERG: All right, good, thank you for  
14 that.

15 I will just indicate to the parties that it's  
16 not unusual that some disagreements may arise over the  
17 discovery or the scheduling of depositions. I would  
18 just ask that you do make a good faith effort to work  
19 those problems out among yourselves, but then to present  
20 any disagreements to the Bench as soon as possible. And  
21 if it's necessary to present any discovery motions,  
22 please state what efforts were made to resolve the  
23 dispute, and I will make every effort to produce a  
24 speedy resolution.

25 I would also propose simultaneous briefs in

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1 this matter. And at this point in time, if, in fact, we  
2 go forward with the 12-21 and 12-22 hearings, would the  
3 parties be able to file briefs on Monday, January the  
4 15th?

5 MR. FINNIGAN: Certainly.

6 MS. TENNYSON: Certainly.

7 JUDGE BERG: Then we will just do a quick  
8 double check on that.

9 MR. FINNIGAN: On the alternative scheduling,  
10 Your Honor, I simply suggest that Friday, the 19th.

11 MS. TENNYSON: That's true.

12 MR. FINNIGAN: Because that would give us two  
13 weeks to submit briefs.

14 JUDGE BERG: Let's do this, while it may not  
15 seem a lot on the early schedule, the 12-21, 12-22  
16 hearing dates, for now let's actually set January the  
17 10th as the briefing date. And if for some reason the  
18 parties need additional time, they can ask. That is  
19 going to require some expedited treatment to stay on  
20 track for a 2-28 final order.

21 And if we go to the January 3rd, January 4th  
22 hearing dates, what was that alternative?

23 MR. FINNIGAN: January 19th.

24 JUDGE BERG: January 19th would be the  
25 alternative date upon which briefs will be due. And in

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1 my prehearing conference order, I will address some of  
2 the details. I would expect that, in fact, briefs would  
3 be exchanged on those dates, minimally electronically or  
4 faxed to each other with a hard copy to be filed the  
5 next business day.

6 MS. TENNYSON: I'm a bit concerned about a  
7 January 10th date with the Holidays. If we're having  
8 the hearings the last two days before the Christmas  
9 Holiday with New Year's day in there, I'm not sure I  
10 will have staff available for producing the brief in  
11 that kind of time frame. I mean I would want at least  
12 another weekend in there.

13 JUDGE BERG: All right, we'll fall back then  
14 and go back to the 15th. But that may mean that there  
15 will be a shortened time period when it comes to  
16 petitions for review in order to stay on track.

17 I will remind the parties that fax  
18 stipulations are encouraged and that the Commission does  
19 urge parties to consider alternative dispute resolutions  
20 and settlement discussions to resolve differences. And  
21 Commission will just ask that parties keep the  
22 Commission advised of any progress that may be made  
23 along those lines.

24 MS. TENNYSON: Your honor, will you be asking  
25 for pre-filing of exhibits?

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1                   JUDGE BERG: Yes, the prehearing conference  
2 order will set out some conditions, requirements and  
3 dates for the exchange of witness and exhibit lists.  
4 And that will happen, probably anticipate that there  
5 will be an exchange of witness and exhibit lists at  
6 least five days before the hearing, and that list will  
7 establish the order of presentation.

8                   MR. FINNIGAN: Your honor, in order to  
9 expedite things because we aren't pre-filing, we might  
10 want to at least exchange preliminary witness  
11 identification significantly earlier than five days in  
12 advance of the hearing.

13                   MS. TENNYSON: Yes.

14                   MR. FINNIGAN: Just a suggestion.

15                   MS. TENNYSON: If we didn't, that would be  
16 probably my first data request, to identify witnesses so  
17 we can decide who to depose.

18                   MR. FINNIGAN: Right. But one of the  
19 problems, of course, is that if you ask a data request,  
20 you identify many more people than you really need. If  
21 there's a date we can agree on -- and maybe we can just  
22 do it among counsel as a date we agree on and where we  
23 will identify who our witnesses will be a month or so in  
24 advance of the hearing.

25                   MS. TENNYSON: I would agree to that, yes.

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1 JUDGE BERG: All right, that's fine, you can  
2 advise me of what that date will be.

3 And I will just let parties know at the  
4 outset of the hearing I will expect estimates from the  
5 parties regarding cross-examination time.

6 Further, the prehearing order will remind you  
7 to have your exhibits, including those that you plan to  
8 use in cross-examination, ready to be marked at the  
9 beginning of the first day, and that you must have  
10 sufficient copies to provide me with the original and a  
11 copy for each party, one for the witness, and one for  
12 yourself on exhibits, including cross exhibits.

13 Anything else that we need to take up today?

14 MR. FINNIGAN: The number just struck me.  
15 Your Honor, instead of the normal rule is original and  
16 19 copies, given the fairly reduced number of parties in  
17 this proceeding, can we reduce that to original and  
18 eight?

19 JUDGE BERG: Let me take a look at the  
20 Commission's distribution list that is set up.  
21 Certainly with regards to cross-examination, exhibits,  
22 and exhibits there will be a reduced number, but this is  
23 actually the first proceeding I have been in where there  
24 has not been pre-filed evidence, so let me see what I  
25 need to do to meet the expectations of those parties on



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1 the Commission's distribution list, which I don't think  
2 is lengthy, but I haven't really studied it.

3 MR. FINNIGAN: I think the primary document  
4 will be the brief.

5 JUDGE BERG: All right.

6 Anything else?

7 MR. FINNIGAN: I can't think of anything.

8 MS. TENNYSON: No, Your Honor.

9 JUDGE BERG: Thank you everyone, and we will  
10 be adjourned.

11 (Hearing adjourned at 11:00 a.m.)

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