

WUTC v. Puget Sound Energy

Docket No. UG-240004 and UG-240005 - Vol. I

April 2, 2024



1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101
Bellingham | Everett | Tacoma | Olympia | Yakima | Spokane
Seattle 206.287.9066 Tacoma 253.235.0111 Eastern Washington 509.624.3261

www.buellrealtime.com

email: audio@buellrealtime.com

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	
)	DOCKETS UE-240004 and
v.)	UG-240005 (Consolidated)
)	
PUGET SOUND ENERGY,)	
)	PAGES 1-37
Respondent.)	

PREHEARING CONFERENCE - VOL. I

April 2, 2024

Administrative Law Judges Michael Howard and
Bijan Hughes Presiding

Transcribed by: Shanna Barr, CET

A P P E A R A N C E S

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On Behalf of Public Counsel:

TAD ROBINSON O'NEILL
Attorney General's Office of Washington
800 Fifth Avenue, Suite 2000
Seattle, Washington 98104

On Behalf of Staff:

LISA W. GAFKEN
NASH I. CALLAGHAN
CASSANDRA JONES
LIAM D. WEILAND
COLIN E. W. O'BRIEN
Attorney General's Office of Washington
800 Fifth Avenue, Suite 2000
Seattle, Washington 98104

On Behalf of Respondent:

SHEREE STROM CARSON
Perkins Coie LLP
10885 Northeast Fourth Street, Suite 700
Bellevue, Washington 98004

On Behalf of the Alliance of Western Energy Consumers:

SOMMER J. MOSER
CORINNE O. OLSON
Davison Van Cleve
107 Southeast Washington Street, Suite 430
Portland, Oregon 97214

On Behalf of The Energy Project:

YOCHANAN ZAKAI
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, California 94102

1 A P P E A R A N C E S, Cont.

2

3 On Behalf of the Federal Executive Agencies:

4 RITA M. LIOTTA
5 United States Navy
6 1 Avenue Of The Palms Avenue, Suite 161
7 San Francisco, California 94130

6

7 On Behalf of Nucor Steel:

8 DAMON E. XENOPOULOS
9 LAURA BAKER
10 Stone Mattheis Xenopoulos & Brew, PC
11 1025 Thomas Jefferson Street, Northwest
12 8th Floor, West Tower
13 Washington, DC 20007

11

12 On Behalf of Walmart:

13 JUSTINA CAVIGLIA
14 Parsons Behle & Latimer
15 50 West Liberty Street, Suite 750
16 Reno, Nevada 89501

15

16 On Behalf of The Kroger Company:

17 KURT J. BOEHM
18 Boehm, Kurtz & Lowry
19 36 East Seventh Street, Suite 1510
20 Cincinnati Ohio 45202

19

20 On Behalf of Microsoft:

21 TYLER C. PEPPLER
22 Davison Van Cleve PC
23 107 Southeast Washington Street, Suite 430
24 Portland, Oregon 97214

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A P P E A R A N C E S, Cont.

On Behalf of the Joint Environmental Advocates Front and
Centered, Northwest Energy Colation and Sierra Club:

JAN E. HASSELMAN
Earthjustice
810 Third Avenue, Suite 610
Seattle, Washington 98104

On Behalf of Sierra Club:

JIM DENNISON
1650 38th Street, Suite 102W
Boulder, Colorado 80301

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2 April 2, 2024

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4 THE COURT: All right. Good morning, everyone. Let's be
5 on the record. We're here today for a pre-hearing
6 conference and consolidated dockets, UE-240004, UG-240005,
7 and UE-230810. This case is captioned, respectively,
8 Washington Utilities and Transportation Commission v. Puget
9 Sound Energy and In the Matter of the Petition of Puget
10 Sound Energy for an Accounting Order. This is a general
11 writ case filed by Puget Sound Energy or PSE.

12 My name is Michael Howard. I'm an administrative law
13 judge with the Commission, and I'll be co-presiding in this
14 matter along with Administrative Law Judge Bijan Hughes,
15 who's on our call today, and with the commissioners. The
16 commissioners will not be joining us at this particular
17 pre-hearing conference though.

18 Let's start by taking appearances from the parties,
19 beginning with PSE.

20 MS. CARSON: Good morning, Judge Howard, Judge Hughes.
21 This is Sheree Strom Carson with Perkins Coie representing
22 Puget Sound Energy.

23 THE COURT: Thank you.

24 Could we hear from Staff.

25 MS. GAFKEN: Good morning, Judges. My name is Lisa

1 Gafken. I'm an Assistant Attorney General appearing on
2 behalf of Staff. Also appearing with me on this case are
3 Assistant Attorneys General Nash Callaghan, Cassandra Jones,
4 Liam Weiland, and Colin O'Brien. Thank you.

5 THE COURT: Thank you.

6 Could we hear from Public Counsel?

7 MR. O'NEILL: Good morning, Your Honor. This is Tad
8 Robinson O'Neill, an Assistant Attorney General, appearing
9 on behalf of Public Counsel.

10 THE COURT: Thank you.

11 And could we hear from Alliance of Western Energy
12 Consumers or AWEC.

13 MS. MOSER: Good morning, Your Honor. Sommer Moser on
14 behalf of the Alliance of Western Energy Consumers. And
15 with me, presiding with me in this proceeding, is Corinne
16 Olson, also from Davison Van Cleve.

17 THE COURT: Thank you.

18 And could we hear from The Energy Project?

19 MR. ZAKAI: Excuse me. Good morning, Your Honors. This
20 is Yochanan Zakai with Shute, Mihaly & Weinberger, appearing
21 today on behalf of The Energy Project.

22 THE COURT: Thank you.

23 And Federal Executive Agencies.

24 MS. LIOTTA: Good morning, Your Honor. This is Rita
25 Liotta with the United States Navy, appearing on behalf of

1 the Federal Executive Agencies.

2 THE COURT: Thank you.

3 Could we hear from Nucor Steel Seattle?

4 MR. XENOPOULOS: Good morning, Your Honor. This is Damon
5 Xenopoulos of Stone Mattheis Xenopoulos & Brew, presenting
6 Nucor Steel Kankakee. And I'm joined by Laura Baker of
7 Stone Mattheis Xenopoulos & Brew. Thank you.

8 THE COURT: Thank you.

9 Could we hear from Walmart.

10 MS. CAVIGLIA: Good morning, Your Honors. Justina
11 Caviglia with Parsons Behle & Latimer on behalf of Walmart.

12 THE COURT: All right. Thank you.

13 And Kroger.

14 MR. BOEHM: Good morning, Your Honors. Kurt Boehm
15 appearing on behalf of The Kroger Company.

16 THE COURT: Thank you.

17 And Microsoft.

18 MR. PEPPLER: Good morning. This is Tyler Pepple on behalf
19 of Microsoft.

20 THE COURT: All right. Thank you.

21 And --

22 MR. HASSELMAN: You're on mute too, Your Honor.

23 THE COURT: Oh. I apologize. I'm not sure how I went on
24 mute.

25 Could we hear from the representative for three parties,

1 which are Front and Centered; Northwest Energy Coalition, or
2 NWECC; and Sierra Club.

3 MR. HASSELMAN: Yeah. Hi. Good morning. Jan Hasselman
4 with Earthjustice on behalf of the Joint Environmental
5 Advocates. Also with me is Jim Dennison on behalf of the
6 Sierra Club.

7 THE COURT: All right. Thank you.

8 Are there any other organizations on the call that wish to
9 give a verbal notice of appearance?

10 All right. Hearing none, let's turn to the petitions to
11 intervene. Are there any petitions to intervene today other
12 than those that have been filed in writing in this docket
13 already? All right. Hearing none, we have received 10
14 petitions to intervene from the following organizations:
15 The Energy Project, AWECC, Federal Executive Agencies, Nucor
16 Steel, Walmart, Kroger, Microsoft, Front and Centered, NWECC,
17 and Sierra Club.

18 Have I overlooked any written petition to intervene? Are
19 there any objections from any of the parties to any of these
20 petitions?

21 MS. CARSON: PSE has no objection.

22 MS. GAFKEN: Commission Staff has no objection.

23 MR. O'NEILL: Public Counsel has no objection.

24 THE COURT: All right. Thank you.

25 And I'll just give another moment. Any objections?

1 All right. Hearing none, each of the 10 petitions to
2 intervene are granted.

3 Let's turn next to the procedural schedule for the case.
4 Before our call today, I emailed the parties suggesting
5 possible dates for the hearing. I indicated that the
6 Commission could hold the hearing over two days, either on
7 October 14th through the 15th of this year, or on
8 November 4th through the 5th. And the commissioners have
9 fairly limited availability and other proceedings outside of
10 those dates. And the parties were able to confer, and they
11 emailed myself, as well as the other parties, proposing two
12 different schedules. I have a proposed schedule from the
13 Company, and I have a proposed schedule from Commission
14 Staff, and I appreciate the parties' efforts on that.

15 I'm just going to kind -- I'm just going to briefly note
16 some of the differences between the schedules. The
17 Company's proposed schedule provides for response testimony
18 being due on July 26th, rebuttal testimony due -- and
19 rebuttal and cross-answering due on September 6th, the
20 evidentiary hearing on October 14th through the 15th. And
21 Staff's proposed schedule has response testimony due
22 August 6th, rebuttal and cross-answering testimony due
23 September 23rd, and the evidentiary hearing on November 4th
24 through the 5th, although Staff would prefer October 29th
25 through the 30th. And I will allow comments from the

1 parties here in a minute.

2 I do want to note that it does appear that October 29th
3 and 30th would not work for the Commission. It does appear
4 that Commissioner Rendahl is at a CAISO meeting
5 on that date. I will -- I can look into that further,
6 though.

7 So I do plan to take both of these schedules, these
8 proposed schedules, under advisement. I don't necessarily
9 plan on deciding this at this moment, but I did want to
10 allow for the parties to raise any considerations that we
11 should be aware of and for the other parties, besides the
12 Company and Staff, to indicate their support for one
13 schedule versus the other or any other concerns they want to
14 raise. So I will simply go down our list of parties here.

15 Let's start with the Company. Is there anything further
16 that we should be aware of for considering the schedule?

17 MS. CARSON: Yes. Thank you, Your Honor.

18 Well, first of all, Mr. Zakai emailed me just a few
19 minutes ago and reminded me that there were a few dates that
20 didn't work -- in the Company's schedule that did not work
21 for The Energy Project, which would involve just slight
22 adjustments to the date of the response testimony, Staff,
23 Public Counsel, intervenor response testimony, the
24 non-Company parties meeting to discuss settlement in August,
25 and the second settlement conference. So, you know, PSE is

1 fine with that. Mr. Zakai can address that more as well. I
2 think we can work around those dates. It's just adjusting
3 slightly by a few days.

4 In addition, I just want to reiterate, you know, from our
5 perspective, there's really two primary differences between
6 the Company's proposed schedule and Staff's proposed
7 schedule, and they're related. Staff's schedule has an
8 evidentiary hearing very late in the proceeding, and it does
9 not provide the opportunity for reply briefs. And both of
10 these are problematic from our perspective.

11 First, just in terms of the late date for the evidentiary
12 hearing in November, this really just gives the Commission a
13 couple of months to issue an order after the evidentiary
14 hearing, and that's not even including the time needed for
15 the briefs, which is a really tight schedule. And this year
16 in particular we're concerned about that. You know, we have
17 Chair Danner retiring at the end of the year, and it seems
18 like it makes sense. We would like to have Chair Danner to
19 be involved throughout the course of the proceeding and the
20 order, and it makes sense to try to get this completed by
21 the end of the year to the extent possible, just -- a
22 two-month time period between evidentiary hearing and the
23 order is just unusual from our perspective, and so we're
24 just not sure how feasible that is.

25 And then the second issue, relatedly, is that we think

1 reply briefs are very important. Staff's schedule does not
2 provide the opportunity for a reply brief. Staff has
3 indicated that reply briefs aren't important to them, but
4 PSE as the party with the burden of proof believes that they
5 are very important. We think that, you know, there are
6 often legal issues that can get muddled in initial briefs,
7 and a short reply brief gives parties the opportunity to
8 clarify those issues for the Commission and to avoid, you
9 know, motions for clarification, petitions for
10 reconsideration, judicial review. So I think it's worth it
11 to schedule that in there. And PSE is the party with the
12 burden of proof, you know, and from an evidentiary
13 perspective, we have the opportunity for rebuttal testimony,
14 and likewise, we think it's important to have the
15 opportunity to respond to legal issues raised by other
16 parties.

17 And not to mention, you know, that there are 10-plus
18 parties that PSE must respond to in briefs, which is
19 different from the other parties who are primarily
20 responding to PSE and to certain issues. So it's important
21 to PSE to have that opportunity. It doesn't need to be a
22 lot of pages, doesn't need to be much time from the initial
23 briefs but to have the opportunity for a reply brief.

24 The other issues I guess I would point out is that PSE is
25 willing to have a settlement hearing scheduled in August or

1 September in the event that early settlement is reached.
2 That was a suggestion, Judge Howard, that you made
3 yesterday, and we're in favor of that.

4 And the final issue is that it's very important for PSE to
5 have a date certain for the public comment hearing. PSE --
6 it can save everyone -- it can save a lot of money if this
7 is done through bill inserts, and that takes time. So I
8 think our schedule reflects that we need 135 days' notice to
9 get all the notices in the bill inserts. So we request that
10 we have a date certain. We've picked a date, but if a
11 different date works, that's fine. Just a date certain is
12 important. Thank you.

13 THE COURT: All right. Thank you. And I'll certainly
14 take all this under consideration. I think some of the
15 difficulties in this case are, of course, the other
16 proceedings going on around this time for the Commission.

17 One question I did have for the Company was that the
18 proposed schedule had Company compliance filing as a "to be
19 determined" date listed before the suspension deadline date.
20 I did want to ask for the Company's position on that. It's
21 been the Commission's longstanding interpretation, going
22 back to Director Judge Kopta, that the Commission has the
23 authority to suspend -- to enter the order, final order, in
24 a rate case filing up to the date before the suspension
25 deadline and that the compliance filing and Staff's five-day

1 business day review of that compliance filing is a process
2 that necessarily needs to occur but can occur after the
3 statutory suspension deadline.

4 Does the Company -- is the Company neutral on that view?
5 Is the Company disagreeing with that view? What's the
6 position on that?

7 MS. CARSON: Well, I haven't briefed that. I think in
8 most cases the order does come out before the suspension
9 date, allowing for a compliance filing to be made by or near
10 to the suspension date. I guess my gut reaction is that,
11 you know, the rates are suspended, and then they are to go
12 into effect 10 months after they would otherwise go into
13 effect, and so that would mean that they should go into
14 effect by the suspension date. But I haven't briefed that.
15 I don't know that there was a lot of thought put into the
16 TBD being before the suspension date, but that is, you know,
17 the usual practice is that we get the order before the
18 suspension date and we have a compliance filing that's filed
19 before the suspension date.

20 THE COURT: All right. Thank you. I just wanted to ask
21 about that.

22 I will turn next to Staff. Is there anything that we
23 should be aware of for Staff's schedule or any further
24 comments Staff wants to give about the schedules proposed?

25 MS. GAFKEN: Yes, I do. I would like to make some

1 comments about the scheduling issues.

2 As you noted, Judge Howard, the two proposed schedules do
3 coincide up through the first settlement conference, and
4 then they diverge beginning with the response testimony
5 deadline. I also want to point out that both schedules
6 agree on the timing of discovery, that response times
7 decrease from 10 business days to seven business days to
8 five business days which with each round of testimony.
9 Staff's proposed schedule balances the deadlines of this
10 case and those of the Avista TRC.

11 I'll also note that Cascade also just filed its general
12 rate case last week, which will add to the deadline pressure
13 of several of the parties in this case, including Commission
14 Staff. PSE's proposed schedule only provides about two to
15 two and a half weeks in between the same deadlines in the
16 Avista case, which places too much strain on Staff and other
17 parties involved in both cases, and this would be unduly
18 prejudicial. PSE filed its case about four weeks after
19 Avista filed its case. Staff's proposed schedule allows for
20 a similar length of time between the deadlines of each case,
21 providing three to five weeks between deadlines set for the
22 Avista case and similar deadlines set for this general rate
23 case. This timing is essential to adequately address each
24 filing and to present well-thought-out positions in each
25 case.

1 Staff's proposed schedule originally had hearing dates of
2 October 29th to 30th, and I do hear that those dates will
3 not work. AWEC can speak more to this, but I understand
4 that there's conflicts with the November 4th to 5th dates as
5 well. And so if we can find dates at the end of October, or
6 perhaps the beginning of November that do work for
7 everybody, that would be our preference.

8 With respect to reply briefs, Staff does not favor them or
9 find them particularly necessary. And in the interest of
10 not unduly compressing the Avista and PSE case schedules
11 together, we do propose a schedule that does not include
12 reply briefs. We do completely understand that PSE
13 generally favors reply briefs, but we'll also note that the
14 Commission does not require reply briefs in all proceedings.
15 Indeed, Puget's last multi-year rate plan rate case in 2022
16 only had one round of briefing for similar scheduling
17 considerations.

18 Additionally, PacifiCorp's last general rate case that
19 just wrapped up also had one round of briefing, and
20 PacifiCorp was able to file a reply brief when the need
21 arose by seeking leave to do so. So Puget would not be
22 unduly prejudiced if we don't include a reply brief in the
23 procedural schedule. They do have mechanisms available to
24 them to address any issues that might come up.

25 With respect to scheduling an earlier settlement hearing,

1 Staff isn't necessarily in favor of putting another thing on
2 the schedule, just given the time conflicts that are already
3 arising throughout the year. You know, if we are able to
4 settle early, that's great. But I'll also note that the
5 last two major Puget settlements came pretty close to the
6 time of hearing anyway. I just feel like the benefits don't
7 outweigh the burdens of trying to schedule an additional
8 settlement hearing into the procedural schedule.

9 I will stop there. Thank you.

10 THE COURT: All right. Thank you.

11 And for Staff's schedule, I don't believe it specifically
12 referred to a deadline for errata, but I would imagine if
13 the Commission adopts Staff's schedule we would add that to
14 the final pre-hearing submissions deadline that's already
15 included.

16 Any concerns with that?

17 MS. GAFKEN: No concerns with that.

18 THE COURT: All right. Thank you.

19 Could I hear from Public Counsel?

20 MR. O'NEILL: Morning again, Your Honor. Public Counsel
21 supports Staff's submission, largely for the same reasons
22 that Staff has about the compression of the Avista and PSE
23 rate cases. And I don't have anything in addition to add,
24 so I will step back.

25 THE COURT: All right. Thank you. It is helpful to hear

1 the positions of the other parties even if we don't have
2 detailed concerns.

3 I'm going to hear from AWEC.

4 MS. MOSER: Thank you, Your Honor. I guess just generally
5 just the number of dockets that are going on both in
6 Washington and other jurisdictions has kind of put
7 scheduling in this case in an interesting light in that we
8 are simply trying to avoid conflicts where we physically
9 cannot be present. And so that's kind of put us in a little
10 bit of a unique position to be generally agreeable to either
11 schedule submitted by PSE or Staff. We do have a preference
12 for Staff schedules. We appreciate Staff working with us on
13 trying to avoid the conflict that we have on November 4th
14 through 5th. If that's a conflict that can be resolved with
15 a hearing date that is earlier, I think that would be our
16 preference for a schedule. But unfortunately, November 4th
17 and 5th are a problem for us.

18 Regarding PSE's schedule, the dates submitted by PSE do
19 work for AWEC. We understand that The Energy Project has
20 some conflicts with that. We do have some issues with the
21 dates that The Energy Project submitted. So I would just
22 propose maybe, after going through the positions of all the
23 parties, if we could just go offline quickly -- I don't
24 think it will take very long -- but to address that, just so
25 the schedule that you would be considering for -- the PSE

1 proposed schedule you'd be considering would have at least
2 dates that don't present a conflict for any of the parties.
3 Yeah. And I think that will do it for AWEC.

4 THE COURT: All right. Thank you.

5 As I noted, the commissioners do have limited availability
6 around the October to November time period. If the
7 Commission had to set the hearing on November 4th and 5th,
8 could AWEC find a way to make that work?

9 MS. MOSER: I'm supposed to be out of the country. I
10 think it would be a challenge. I don't want to represent
11 that it's a complete impossibility, but it's pretty close to
12 impossible.

13 THE COURT: All right. Thank you. We will take that
14 under advisement.

15 Could I hear from Mr. Zakai.

16 MR. ZAKAI: Yes. Thank you.

17 The Energy Project supports Staff's schedule. We
18 generally agree with all the reasoning provided by Lisa
19 Gafken. We are particularly concerned about the amount of
20 time between the Avista deadlines and the PSE deadlines.
21 PSE's case here was filed about four weeks afterwards, so in
22 most cases, you know, it would make sense for the
23 commensurate deadlines or event to occur about four weeks
24 later than they do in the Avista case.

25 I would also like to note in response to PSE's concern

1 about, you know, the timing of the completion of the case,
2 that, you know, the Company chooses when to file its case,
3 and if they had a preference to complete the case at a
4 different time, then they had the ability to file at a
5 different time, and therefore the statutory deadline would
6 occur at a different time. I also, you know, don't -- yeah.
7 I'll leave that there.

8 Then with the particular dates of concern, yeah, I'm
9 hoping we could work those out. I was surprised. I think
10 some folks might have missed my email that went out earlier
11 in March, you know, noting conflicts with three of the dates
12 in PSE'S schedule, and I suggested moving them by half a
13 week or a week so in the event the Commission decides to go
14 with The Energy Project's non-preferred schedule, at least
15 we didn't have some conflicts there. It sounds like we
16 might need to have some discussion about those specific
17 dates, so I don't think it makes sense for me to address
18 those on the record now unless you'd like me to. We could
19 probably just -- I agree with AWEC -- have a short recess
20 and come to an agreement there if necessary. Thanks.

21 THE COURT: All right. Thank you.

22 I think I'm inclined to take that short recess after we
23 hear from the other parties.

24 And could we hear from Federal Executive Agencies.

25 MS. LIOTTA: Yes, Your Honor. Rita Liotta with the

1 Federal Executive Agencies. Actually, FEA has no
2 preference of -- with either schedule. We are flexible and
3 able to accommodate either schedule. Thank you.

4 THE COURT: All right. Thank you.

5 Could we hear from Nucor Steel.

6 MR. XENOPOULOS: Yes, Your Honor. This is Damon
7 Xenopolous if I can get off of mute. We have no particular
8 preference. Probably a slight preference for Staff's
9 proposal, but we can make either of them work. Thank you.

10 THE COURT: All right. Thank you.

11 Walmart.

12 MS. CAVIGLIA: We also have a slight preference for
13 Staff's schedule, but we could make either schedule work at
14 this time.

15 THE COURT: All right.

16 Kroger.

17 MR. BOEHM: Thank you, Your Honor. Kroger does not take a
18 position on the scheduling. We can make either work.

19 THE COURT: Thank you.

20 Microsoft.

21 MR. PEPPLER: Microsoft also does not have a position and
22 is fine with either.

23 THE COURT: All right.

24 So we'll hear from the attorney for Front and Centered,
25 Northwest Energy Coalition, and Sierra Club.

1 MR. HASSELMAN: Yeah. Hi. Jan Hasselman for the joint
2 environmental advocates. We support the Staff schedule.
3 Two of the three JEA parties are in the Avista proceeding as
4 well. If Your Honor is inclined to be splitting the baby, I
5 think the date that is of concern to us is the later date
6 for the testimony that we would submit. There's like a
7 two-week difference. And that's probably the one that's
8 most urgent to us. But, of course, we'll meet any deadline
9 the Commission sets. Thank you.

10 THE COURT: All right. Thank you. So the deadline that
11 concerned you would be -- are you referring to PSE's
12 proposed deadline for response testimony?

13 MR. HASSELMAN: No. This would be -- yes. Yeah, that's
14 right. I think they proposed July 26th. The Staff proposed
15 August 9th, if I recall correctly.

16 THE COURT: All right. Thank you.

17 Let's take a short recess so that the parties,
18 particularly The Energy Project and AWEC, can discuss with
19 PSE and work out the conflicts to the proposed schedule, if
20 that sounds amenable to everyone. So I will leave the call,
21 and we'll stop recording the call. And I would ask that
22 Lisa Gafken or another attorney for either Public Counsel or
23 Staff emails me or sends me a Teams message to let me know
24 when to rejoin.

25 Does that work for everyone? Any concerns?

1 MS. GAFKEN: Yes, that works.

2 THE COURT: All right. All right.

3 All right. We will go off the record, and I'll leave the
4 call.

5 (Recess)

6 MS. CARSON: So, you know, the -- both the revised dates
7 that AWEC had provided, which I guess is what we
8 incorporated into our schedule and what The Energy Project
9 provided, both of those work for PSE, so it's just a matter
10 of, you know, finding something that works for both of you.

11 MS. MOSER: Yeah. Thanks. I am just going back through
12 the calendar.

13 MR. ZAKAI: Yeah. Let me start with the first one just so
14 that we're all on the same page. So we're talking about the
15 deadline for intervenor response testimony and exhibits,
16 which in PSE'S schedule was set at July 26th, and I had
17 recommended that that be moved to July 31st.

18 MS. CARSON: Does that work, Sommer?

19 MR. PEPPLER: That one does not work for me. I think we
20 landed on the 26th because that next week is going to be
21 problematic from my end. I mean, I think like -- you know,
22 if that's a need for The Energy Project, we can -- I mean,
23 hopefully Microsoft's testimony will be somewhat limited,
24 and so we might be able to get it done, you know, that
25 Friday before anyway. But, you know, if there's

1 flexibility, it would be better to keep it at the 26th.

2 MS. MOSER: Yeah. And just for AWEC, even the 29th would
3 be a little better. I guess the problem with the 30th and
4 the 31st are that I'll be out of the office at all-day BPA
5 meetings, and so having that be a filing day is a little
6 tricky as well, just giving some other staffing changes that
7 we're dealing with. So, you know, if we could -- yeah.
8 Even the 29th would be more ideal than the 31st.

9 MR. ZAKAI: Yeah. I think the 29th would be good. As I
10 mentioned, my main concern was just not having that the same
11 week as a lot of other stuff going on. So if you're open to
12 the 29th and other parties are amenable, I think that sounds
13 good.

14 (Back on the record)

15 THE COURT: Recording? All right. Thank you.

16 Good morning, everyone. Let's be back on the record. As
17 I understand, the parties have finished their discussion.

18 So would counsel for the Company like to relay the outcome
19 of that?

20 MS. CARSON: Certainly. So, yeah, we did talk about three
21 different dates that are on PSE's proposed schedule, and we
22 came to agreement on slightly revised dates. So the first
23 is the response testimony date for Staff, Public Counsel,
24 and intervenors. It's currently scheduled for July 26th,
25 and it would be changed to July 29th.

1 THE COURT: Okay.

2 MS. CARSON: And then the second date is the one right
3 after that on the schedule. The non-Company parties meet to
4 discuss their respective positions in advance of the second
5 settlement conference. PSE had that scheduled for August 1
6 to 2. The parties agree to change it to August 7th.

7 THE COURT: Okay.

8 MS. CARSON: And then the third and last is the second
9 settlement conference. PSE had scheduled for August 8 to 9,
10 and the parties agree to August 13 to 14.

11 THE COURT: All right. Thank you.

12 Anything from AWEC or The Energy Project?

13 MR. ZAKAI: No. I just wanted to thank the parties that
14 we were able to come to agreement that if that's the
15 schedule the Commission picks that there aren't any urgent
16 conflicts. So thank you.

17 MS. MOSER: Nothing more for AWEC on PSE's proposed
18 schedule. Also appreciative of parties working together to
19 avoid conflict.

20 THE COURT: All right. Thank you all. And again, I will
21 be taking the two schedules under advisement.

22 I did have one more question on Staff's proposed schedule.
23 It does look like there are a total of seven weeks between
24 response testimony and rebuttal, cross-answering in Staff's
25 proposed schedule. Would Staff have an objection to moving

1 the deadline for rebuttal testimony in its schedule --
2 rebuttal and cross-answering testimony up from
3 September 23rd to September 16th?

4 MS. GAFKEN: Let me just consult really quickly with the
5 team availability. I'm wondering if maybe there were some
6 availability issues that caused the original dates. I mean,
7 on a theoretical level, no. I mean, that is a longer period
8 of time between those two deadlines, but let me just
9 double-check really quickly.

10 MS. MOSER: Your Honor, if I may, I just note that that's
11 also the date that exhibit lists, cross-exam exhibits, and
12 witness lists are due in the Avista rate case, and that is a
13 lot of filing to do testimony in those on one day. So I'm
14 just curious if the 16th was maybe a hard-and-fast date or
15 if you were just looking for something generally earlier.

16 THE COURT: Approximately one week earlier, I think, would
17 be ideal if we're considering this. It doesn't -- I think
18 that's a good point to raise, though. It could be the
19 following day. It could be a business day beforehand.

20 MS. GAFKEN: I think we were trying to avoid the Avista
21 deadline in the earlier week. I didn't find any specific
22 conflicts in terms of Staff being out, but I do think that
23 we were trying to avoid compressing schedules.

24 THE COURT: All right. Thank you.

25 MS. CARSON: And --

1 THE COURT: Oh.

2 MS. CARSON: And PSE's -- would want to have at least six
3 weeks for rebuttal testimony, between response and rebuttal
4 testimony. Particularly when we have settlement conferences
5 scheduled during that time period, it's important to have at
6 least six weeks.

7 THE COURT: All right. Thank you.

8 Anything further on this point? I'll take this all into
9 consideration. All right. Oh.

10 MS. MOSER: Oh. I'm sorry, Your Honor. This is Sommer
11 Moser was on behalf of AWEC.

12 I just -- I guess I'm just flagging that I haven't had the
13 opportunity to check in with our witnesses on availability.
14 I'm not seeing anything on the calendar that is making me
15 think that there's a direct issue, but I don't have access
16 to all of the other deadlines that they have. So I am just
17 noting that that's kind of an untested date for AWEC.

18 THE COURT: All right. Thank you.

19 MS. GAFKEN: I have a related topic that I wanted to
20 address, and we could either do it now, or I know at some
21 point we'll also talk about service and paper copies and
22 that sort of thing. It does relate a little bit to the
23 scheduling issues that we've been talking about though, so
24 if now is a decent time to do that, I'd like to address --

25 THE COURT: Please go ahead.

1 MS. GAFKEN: Okay. Paper copies are administratively
2 burdensome. It does shorten the timeline that parties have
3 to produce testimony and exhibits, which is why I say that
4 it's related to the discussions that we've been having,
5 because, you know, we've been talking about trying to manage
6 all of the things that are before the parties and the
7 Commission.

8 I am cognizant that the Commission has ordered paper
9 copies in recent dockets, but I also want to note that we've
10 operated for several years working with only electronic
11 copies. It really does shorten the amount of time that
12 witnesses have to develop their testimony and exhibits, and
13 it also shortens the time available to our administrative
14 staff to proofread and process the filing. There's a lot of
15 coordination that goes into preparing paper docket -- paper
16 copies. And I have to say that I'm old enough to remember
17 the days when we had to provide 25 copies, and so I'm very
18 thankful that we're not in those days anymore. But even at
19 five copies, it does impose a significant administrative
20 burden on our staff, especially with cases as large as this
21 one. So we would request that the Commission not require
22 parties to file paper copies in these dockets. Thank you.

23 THE COURT: Thank you. And is that true even with the
24 requirement that the paper copies are submitted, I believe,
25 two business days after the electronic filing?

1 MS. GAFKEN: That does help. It's just -- I mean, we do
2 live in a different world now. We've really started to rely
3 on electronic ways of operating, and so putting together the
4 paper copies does pose an administrative burden that we
5 would like to avoid. Certainly, not having to file it on
6 the day that we submit the electronic copies is helpful, but
7 I would still ask for no paper copies.

8 MS. CARSON: Your Honor, if I might chime in. PSE agrees
9 with that, that paper copies are burdensome and make the
10 deadlines harder to meet. It's our understanding that paper
11 copies are due by 5:00 p.m. the day after you file, so if
12 it's two days after, I'd be interested in knowing that. I
13 mean, I do think the extra time helps. If paper copies are
14 required, it's helpful to have a little bit extra time.

15 THE COURT: All right. Thank you.

16 You know, talking about the issue of paper copies, I can
17 understand that it is extra work for the parties. I -- oh,
18 I see we've touched a nerve.

19 Public Counsel, go ahead.

20 MR. O'NEILL: So Public Counsel would support Staff's
21 request here on the paper copies. We filed a motion on this
22 in the Avista case. And even if the -- it depends, I guess,
23 on the use that the Commission has for the paper copies. If
24 the issue is that it's easier for the commissioners to
25 review, I think the timing could be stretched out on when

1 those paper copies need to be filed. That would ease the
2 administrative burden and kind of -- and provide the most
3 utility to the Commission, particularly because the
4 settlement is likely to change the issues for hearing, and
5 then we have printed off a whole bunch of papers that aren't
6 really going to be all that useful.

7 So, I mean, we do support the Public Counsel's -- I mean
8 Staff's position here. And I think that it would be useful
9 for us to hear from the Commission what they find most
10 useful about those paper copies and when they come in to
11 facilitate whatever use that the Commission has for the
12 paper copies.

13 THE COURT: Could I hear next from The Energy Project.

14 MR. ZAKAI: Thank you. I think Tad did a good job of
15 saying what I was going to say. Just that, you know, if we
16 can -- you know, if it is going to be a required,
17 understanding why, and if it just needs to be in before
18 hearing, if the hearing covers that topic, or if it, you
19 know, is used, you know, more immediately after filing, if
20 we could give our staff, you know, two or three days to get
21 that in the mail and out, then I think the compression that
22 Lisa was discussing in terms of not giving, you know, the
23 witnesses less time to prepare the testimony could be
24 alleviated. Thank you.

25 THE COURT: All right. Thank you.

1 And AWEC.

2 MS. MOSER: Thank you, Your Honor. I just also wanted to
3 express support for Staff's proposal not to file paper
4 copies. It's also administratively burdensome for our
5 office. But any additional flexibility that could be had
6 along the lines discussed by Mr. Robinson or Mr. Zakai would
7 be appreciated if paper copies will still be required.
8 Thanks.

9 THE COURT: All right. Certainly.

10 I will consider extending the business days between when
11 an electronic filing is required and when the paper copies
12 subsequently need to be filed, but I can definitely tell the
13 parties that the commissioners themselves greatly appreciate
14 reviewing the testimony in using paper copies. That's their
15 preferred way of reading the evidence and testimony and
16 understanding the case. And some of our policy advisors and
17 ALJs also strongly prefer to have a paper copy. So it may
18 seem burdensome or it may seem unnecessary to some of us who
19 are happy to rely on screens for all of our reading, but
20 certainly some of the individuals at the Commission strongly
21 prefer those paper copies. But I will consider the timeline
22 for those.

23 And I think I have noted Public Counsel's motion in the
24 Avista case and the modifications that we granted and not
25 requiring lengthy spreadsheets and models to be submitted in

1 paper. I don't think that that's necessary. So it would
2 just be testimony, exhibits, and briefs. Anything further
3 on that issue?

4 All right. Hearing none, I'll touch on the issue of
5 intervenor funding. The Commission has approved the
6 extended agreement for intervenor funding. Following the
7 terms of that extended agreement, any notices of intent to
8 seek funding and request for case certification were due
9 today by the time of this pre-hearing conference. And I
10 note that we have received those filings from AWEC, The
11 Energy Project, Front and Centered, and NWECC.

12 The deadline under -- the default deadline for proposed
13 budgets under the extended agreement would be 30 days from
14 today. So I do plan to rule orally on the record today that
15 the four requests for case certification are granted and
16 that any proposed budgets must be submitted within 30 days.

17 Do the parties have any concerns, questions, or objections
18 that they wish to raise right now?

19 MR. ZAKAI: No, Your Honor. For the purposes of
20 transparency, we included that proposed budget date of
21 May 2nd in the schedules we distributed.

22 THE COURT: All right. Thank you.

23 All right. Hearing no specific -- any further
24 clarifications, questions, and no objections, the request
25 for case certification from AWEC, The Energy Project, Front

1 and Centered, and Northwest Energy Coalition are all
2 granted, and the pre-hearing conference order will set forth
3 that deadline for proposed budgets, which would be 30 days.
4 I anticipate it would be 30 days from today, but the order
5 will contain the final ruling on the schedule.

6 Moving next to the issue of data requests and discovery,
7 if the parties have discovery disputes, they should
8 certainly attempt to work those out in good faith, but if
9 they cannot, they should bring any motions to the Commission
10 for resolution. I would encourage the party with concerns
11 on a discovery response, or lack of response, to pick up the
12 phone or set up a Zoom call with opposing counsel before
13 filing a motion to compel or motion to strike testimony for
14 a discovery violation.

15 I also wanted to briefly address some issues regarding
16 discovery. I know that in the Avista rate case pre-hearing
17 conference there was a discussion about these similar
18 points. I intend to adopt the same requirements for
19 identifying data requests that we have in the Avista rate
20 case, which would involve identifying each data request by
21 subject and grouping them in the cover letter and
22 distribution email and developing a list of subjects to
23 facilitate discovery tracking.

24 Any objections at this point?

25 Lisa Gafken.

1 MS. GAFKEN: Thank you. And I was also cognizant of the
2 discussion in the Avista pre-hearing conference on the
3 topic, and we assumed that -- and Staff was the one that
4 raised the issue last time around. And we assumed that we
5 would probably be asked to do the same thing here in this
6 case, and so we have circulated a list of proposed topics to
7 the parties. And I don't think that list has to be in the
8 pre-hearing conference order, but we are talking about it
9 and will have a list for us all to use. Thank you.

10 THE COURT: Thank you. And that list can be circulated
11 among the parties. It's not necessarily provided to the
12 Commission.

13 Any further comments? All right. Hearing none, I would
14 also plan on including a requirement, a pre-hearing
15 conference order, any data requests or responses are shared
16 with every other party to the case. And that's customary on
17 our orders.

18 Is there any objection to including such a requirement?

19 MS. GAFKEN: No objection from Staff. We find that very
20 helpful.

21 MS. CARSON: No objection from the Company.

22 MR. O'NEILL: No objection from Public Counsel.

23 THE COURT: All right. Thank you.

24 Hearing no objections, I'll just touch briefly on the
25 issue of the protective order. I believe we already have a

1 protective order entered in this docket.

2 And we just have a couple brief matters here with
3 electronic filing and electronic service. We generally
4 require electronic filing of documents for formal filing.

5 And we have already discussed the issue of paper copies,
6 and I will consider the timeline for submitting those.

7 If any party has not yet designated a lead representative
8 for service, please do so via an email to me as soon as
9 possible. My email is Michael.Howard@utc.wa.gov. I believe
10 all the parties have done so in their notices of appearance
11 or their petitions to intervene. And if any party would
12 like to add additional names for courtesy service, please
13 email that to us as well.

14 And I would just note for this case going forward, if a
15 party has -- is concerned about the timing of a ruling on a
16 motion that they have filed or anything during the
17 proceedings of the case, I would definitely encourage that
18 party to reach out to Judge Hughes and I, ideally cc'ing the
19 other parties. I think it's always safest to err on the
20 side of caution and cc the other parties to the case. And I
21 do not mind if the parties are asking for a status update on
22 a ruling if they need that ruling to move their discussions
23 along or to know how the case is developing, so I would
24 definitely encourage that.

25 And I can take phone calls or direct emails just to me for

1 procedural questions, but I usually find that the same
2 question can frequently be posed in an email cc'ing all the
3 parties, and it avoids any difficulties that arise if the
4 conversation goes a little bit beyond where it should and
5 then we needed a subsequent notice of ex parte contact,
6 which I will try to avoid in this docket. Any questions
7 about that?

8 All right. Is there anything further that we should
9 address today before we adjourn?

10 All right. Hearing none, we will issue an order shortly
11 containing the procedural schedule and other guidelines for
12 the disposition of this case, and we are adjourned.

13 Thank you.

14 MS. GAFKEN: Thank you.

15 MS. CARSON: Thank you.

16 MS. MOSER: Thank you.

17 MR. O'NEILL: Thank you.

18 (Conclusion of hearing)

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C E R T I F I C A T E

STATE OF WASHINGTON)

COUNTY OF KING)

I, the undersigned, do hereby certify under penalty of perjury that the foregoing court proceedings or legal recordings were transcribed under my direction as a certified transcriptionist; and that the transcript is true and accurate to the best of my knowledge and ability, including changes, if any, made by the trial judge reviewing the transcript; that I received the electronic recording directly from the court; that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th of April, 2024.

Shanna Barr



s/ Shanna Barr, CET