

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
4 Complainant,)
5 vs.) Hearing No. UR-930711
(Volume 1)
6 US ECOLOGY, INC.,) (Pages 1 - 25)
Respondent.)
7 -----)

8 A prehearing conferince in the above matter
9 was held on July 23, 1993 at 9:30 a.m., at Olympia,
10 Washington, before Administrative Law Judge CHRISTINE
11 CLISHE.

12 The parties were present as follows:

13 WASHINGTON UTILITIES AND TRANSPORTATION
14 COMMISSION STAFF, by ANNE EGELER, Assistant Attorney
General, 1400 South Evergreen Park Drive Southwest,
15 Olympia, Washington 98504.

16 RESPONDENT US ECOLOGY, INC., by WENDI J.
DELMENDO, Attorney at Law, 1201 Third Avenue, Seattle,
17 Washington 98101.

18 INTERVENOR PORTLAND GENERAL ELECTRIC COMPANY,
by J. JEFFREY DUDLEY, Attorney at Law, 121 Southwest
19 Salmon Street, 1W7C13, Portland, Oregon 97204.

20 INTERVENOR WASHINGTON PUBLIC POWER SUPPLY
SYSTEM, by MELVIN N. HATCHER, Attorney at Law, MD 396,
21 PO Box 968, Richland, Washington 99352-0968.

22 INTERVENOR PUBLIC SERVICE COMPANY OF
COLORADO, by MICHAEL W. MAYBERRY, Attorney at Law,
23 926 - 24th Way Southwest, Olympia, Washington 98502.

24 Melanie, Corey, CSR
25 Court Reporter

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P R O C E E D I N G S

JUDGE CLISHE: Let's be on the record. This prehearing conference will please come to order. The Washington Utilities and Transportation Commission has set a prehearing conference at this time and place for docket number UR-930711 which is captioned the Washington Utilities and Transportation Commission, complainant, versus US Ecology, Incorporated, respondent. Today's date is July 23, 1993. The prehearing conference is being held in the Commission hearing room in Olympia, Washington before Administrative Law Judge Christine Clishe of the Office of Administrative Hearings. The purpose of today's prehearing conference is to consider and announce a hearing schedule and discovery schedule, to hear any motions, and to take care of other preliminary matters the parties may wish to present.

At this time I'll ask the parties to make their appearances beginning with the respondent US Ecology.

MS. DELMENDO: My name is Wendi Delmendo, appearing for Mr. James Van Nostrand today for the company.

JUDGE CLISHE: Can you state your business

25 address, please?

(COLLOQUY)

3

1 MS. DELMENDO: fLet me give you Mr. Van
2 Nostrand's address. It's One Bellevue Center,
3 Suite 1800, Bellevue, Washington 98804.

4 JUDGE CLISHE: Thank you. And the
5 Commission?

6 MS. EGELER: Anne Egeler, appearing for the
7 Commission, 1400 South Evergreen Park Drive Southeast,
8 Olympia, Washington 98054.

9 JUDGE CLISHE: All right. I might note
10 before we went on the record that Ms. Egeler indicated
11 that the public office of public counsel would not be
12 participating in this hearing this morning. All right.
13 And I think now we're ready to take appearances from
14 those parties wishing to intervene in this matter. We
15 can start here if you like.

16 MR. DUDLEY: Yes. I'm J. Dudley. I'm
17 representing Portland General Electric Company, 121
18 Southwest Salmon Street, 1WTC13, and that's Portland,
19 Oregon 97204.

20 MR. HATCHER: My name is Melvin Hatcher.
21 I'm representing the Washington Public Power Supply
22 System. We prefer Supply System.

23 JUDGE CLISHE: All right.

24 MR. HATCHER: My mail drop is 396, Post

25 Office Box 968, Richland, Washington 99352.

(COLLOQUY)

4

1 JUDGE CLISHE: All right. Is this a change,
2 Mr. Hatcher, from this 3000 George Washington Way?

3 MR. HATCHER: The 3000 George Washington Way
4 is a street address.

5 JUDGE CLISHE: Okay. All right.

6 MR. MAYBERRY: I'm Mike Mayberry. I'm
7 appearing on behalf of Public Service Company of
8 Colorado. My street address is 9296 - 24th Way
9 Southwest, Olympia, Washington 98052. And I'm
10 associated with Mark Davidson of the Kelly, Stansfield
11 & O'Donnell firm in Denver, Colorado whose address is
12 1225 - 17th Street, Suite 2600 in Denver, Colorado
13 80202.

14 JUDGE CLISHE: All right, thank you. I
15 might note that I received a telephone call yesterday
16 from Richard Williams who is representing Teledyne Wa
17 Chang Albany, and Mr. Williams indicated that he does
18 intend to participate in this program or this hearing
19 and he likely would not appear today. I asked him if
20 anyone else might, any of the other counsel might be
21 able to answer any questions if, in fact, there was
22 somebody here intervening that might have some, and I'm
23 not sure that he has anyone here to do that, but I
24 might indicate he did file a written petition to

25 intervene.

(COLLOQUY)

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1 I also have a written petition to intervene
2 from Precision Cast Parts Corporation which will be
3 represented by James C. Paine. I also have written
4 petitions to intervene from Portland General Electric
5 Company, from the Washington Public Power Supply
6 System, and from the Public Service Company of
7 Colorado.

8 MR. MAYBERRY: Your Honor, I should mention
9 that the petition to intervene on behalf of Public
10 Service of Colorado had an error, and we inadvertently
11 left off the last one on the docket number. We'd ask
12 that that be amended.

13 JUDGE CLISHE: All right. If you have your
14 petitions, the docket number is UR-930711 which
15 hopefully will be a very easy way to remember it. All
16 right. Is there anyone else this morning that needs to
17 enter an appearance? Are there any objections to the
18 petition to intervene of Precision Cast Parts?

19 MS. DELMENDO: No.

20 JUDGE CLISHE: None? All right. I will
21 grant that motion to intervene. Are there any
22 objections to the petition to intervene on behalf of
23 Teledyne Wa Chang Albany?

24 MS. DELMENDO: No.

25 JUDGE CLISHE: All right. There being no
(COLLOQUY) 6

1 objection, I will grant that petition to intervene. Is
2 there any objection to the petition of Public Service
3 Company of Colorado to intervene in this proceeding?

4 MS. DELMENDO: No.

5 JUDGE CLISHE: All right. Hearing no
6 objection, I'll grant that petition to intervene. Is
7 there any objection to the petition to intervene of
8 Washington Public Power Supply System?

9 MS. DELMENDO: No.

10 JUDGE CLISHE: Hearing no objection, I'll
11 grant that petition to intervene. Is there any
12 objection to the petition of Portland General Electric
13 Company to intervene in this matter?

14 MS. DELMENDO: No.

15 JUDGE CLISHE: All right. I'll grant that
16 petition to intervene. Before we went on the record we
17 talked about some procedural things, and one of those
18 was whether the parties saw any need for a protective
19 order, and I think there was some comment, and then at
20 least in my mind there was an agreement that we would
21 have a protective order issued by the Commission. If
22 it was necessary to be used, that was fine. And
23 certainly if it wasn't required, that would be fine
24 also.

25 Any comment on the motion for protective

(COLLOQUY)

7

1 order or my intention to have the Commission issue one?

2 MS. DELMENDO: Your Honor, I would like an
3 opportunity to talk to Mr. Van Nostrand about it. I
4 don't think he would object, but I would like to check
5 with him before we go ahead and make a decision.

6 JUDGE CLISHE: I expect that in this matter
7 I will be issuing a preconference order or a letter
8 summarizing what we have done here. Is it possible
9 that you will speak to him sometime today?

10 MS. DELMENDO: Yes, I'll try to speak with
11 him during his break.

12 JUDGE CLISHE: If you can let me know
13 sometime today, we will get it in place to be prepared
14 by the Commission for next week if there aren't any
15 problems with doing that. Anybody else see any
16 problems with doing that?

17 MR. DUDLEY: No. Portland General would
18 support a protective order in this case.

19 MS. EGELER: Mr. Van Nostrand is upstairs in
20 the Puget hearing, so I think Counsel was referring to
21 just running up if we have a short break.

22 JUDGE CLISHE: That's fine. In these
23 proceedings, it is usually helpful to invoke the
24 discovery rule which is WAC 480-09-480. Does any party

25 wish to have that discovery rule invoked?

(COLLOQUY)

8

1 MS. EGELER: Yes, your Honor, I'd like to
2 request a modification of a five business day turn
3 around time on requests.

4 JUDGE CLISHE: Any objection to the
5 modification with the five business day turn around.

6 MS. DELMENDO: Yes, your Honor. We would
7 ask for the usual ten-day turn around. The company's
8 office, main office where we'll have to get many of the
9 records requested is in Houston, and there will be
10 logistical difficulties in getting that information
11 with a compressed turn around time of five days.

12 MS. EGELER: I think it's particularly
13 important since we only have two weeks between filing
14 dates. I think it's a detriment to the company as well
15 as to the intervenors and the staff to have a ten-day
16 turn around time. It just doesn't work out. I would
17 suggest that the company, to the extent it has
18 logistical problems, employ a fax machine and get the
19 information back and forth quicker.

20 MR. DUDLEY: I would support the request of
21 the Commission staff. We only have two weeks between
22 the filing of the respondent's testimony and our
23 obligation to file response testimony. Ten days, we
24 won't know what to ask on many points until we see that

25 testimony, and ten days puts us past the point of the

(COLLOQUY)

9

1 time when we file a response. I would say five days is
2 appropriate, five calendar days and not business days.

3 JUDGE CLISHE: Any response.

4 MS. DELMENDO: Yes, your honor. First, I
5 would object to the five calendar days. I think that
6 gives the company very little time to turn around any
7 sort of data requests and that if you do decrease the
8 time that it be five working days. I would also just
9 repeat the objection that we think that the usual rule
10 should apply here, and to the extent that things can be
11 faxed back and forth, we don't know what the extent of
12 these requests are going to be and whether they are
13 going to be able to be just handled by a facsimile
14 machine. It could be quite onerous and paperwork
15 intensive, and I'm not sure that that's something that
16 can be handled just by a fax.

17 JUDGE CLISHE: Any other comments on this?

18 MR. HATCHER: The Supply System supports a
19 shorter turn around. All parties, both in the prior
20 Commission proceeding as well as in the court
21 proceeding, have made extensive use of the fax, and I
22 have received extremely voluminous faxes from the
23 company. And I just echo again Mr. Dudley's comments
24 that it ought to be as quick as possible in terms of

25 turn around time.

(COLLOQUY)

10

1 JUDGE CLISHE: Any other comments?

2 MR. MAYBERRY: Public Service would support
3 quick turn around.

4 JUDGE CLISHE: I think that it makes sense
5 here because the schedule is more compressed than the
6 usual amount of time that we have for the parties to do
7 discovery and prepare testimony that the shorter
8 Turn around time makes sense. And I'll invoke the
9 discovery rule with the modification that the five
10 calendar day turn around is effective rather than the
11 usual ten days.

12 I think that if there is some particular
13 difficulty for the company in getting some particular
14 type of materials, I wouldn't expect this would be with
15 all, but I think if there were some particular
16 difficulty with good reason that I would certainly be
17 available or expect to have someone available when I'm
18 out of the office in early August to consider any
19 requests for an exception to that. I think that
20 probably is the prudent way to go with this. I
21 wouldn't think this would be anything other than
22 something that is really difficult to produce within
23 the five days.

24 The Commission has given the schedule which

25 was in the notice of hearing, and the schedule is as

(COLLOQUY)

11

1 follows. I think you're all probably aware of this,
2 but I'll go through it. The prefiling for company
3 testimony is August 6, 1993, and these are receipt
4 dates, I might indicate, in the Commission. The
5 prefiling of the staff testimony is August 20, 1993.
6 The prefiling of rebuttal testimony is September 3,
7 1993. The cross of the company testimony and the cross
8 of staff intervenor testimony and the cross of the
9 rebuttal testimony will all take place in the
10 Commission offices beginning at 9:30 on September 16
11 with the possibility that 17 is available, although
12 from what Ms. Egeler it didn't appear that we were
13 anticipating needing that extra day.

14 MR. DUDLEY: Your honor, while we're on the
15 subject of discovery, Portland General would request
16 another modification to the discovery rule, and that is
17 the availability of respondent witnesses for
18 depositions immediately after the testimony, their
19 testimony is served. The difficulty is the way the
20 discovery rule now works, one has to give five days
21 notice before depositions. We won't even know who the
22 witnesses are until the testimony is filed. Five days
23 notice would put us unconscionably close to the time we
24 would have to present our own responsive testimony. So

25 I would ask for a ruling that the, that the company's

(COLLOQUY)

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1 testimony is to be filed on Friday, I would ask that
2 their witnesses be available to have depositions on
3 Monday or Tuesday of the next week.

4 JUDGE CLISHE: All right. Does that seem
5 like it might be possible? I realize that this is
6 really compressing the schedule, but with the schedule
7 as set by the Commission I think we'll have to make do,
8 and hopefully everybody can do discovery as soon as
9 possible. Does that look possible?

10 MS. DELMENDO: Your Honor, I'd have to check
11 with Mr. Van Nostrand. I don't think he anticipated
12 that there would be any depositions in this matter.

13 JUDGE CLISHE: Okay. Why don't you check
14 with him. I think after we recess and before we come
15 back to go over the items you've covered regarding
16 discovery and so forth, perhaps you can have an answer
17 by then.

18 MS. DELMENDO: Sure.

19 JUDGE CLISHE: All right. Is there anything
20 else that we need to cover? I might indicate, are
21 there any other appearances, which I forgot in the
22 information about the intervenors. Is there anyone
23 else who needs to enter an appearance in this matter?
24 All right. Let the record show there was no response.

25

Anything else that we need to cover at this

(COLLOQUY)

13

1 point before we recess for the parties to discuss the
2 discovery arrangements? I would expect that you would
3 work these out among yourself. If it looks like
4 discovery is breaking down you can contact me, although
5 I will be away from the office the first two weeks of
6 August which is a difficulty. However, I'm sure that
7 someone from my office would be able to assist if it
8 looks like there's any difficulty. Anything else
9 before we recess? All right. Let's be in recess for a
10 prehearing conference for the parties to discuss
11 discovery and any other matters which they want to have
12 considered in the prehearing conference.

13 (Brief recess.)

14 JUDGE CLISHE: Let's be back on the record
15 after a recess for the parties to discuss discovery
16 matters and any other things that they wished to
17 discuss. Ms. Delmendo, would you like to tell me what
18 you had determined after speaking with Mr. Van Nostrand
19 regarding the discovery dates of the depositions?

20 MS. DELMENDO: Sure. Mr. Van Nostrand had
21 no problem with waiving the five day notice period for
22 the depositions. His understanding now is that the
23 intervenors will depose company witnesses on Monday or
24 Tuesday, August 9th or 10th, and also his agreement was

25 with the understanding that the waiver of that

(COLLOQUY)

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1 requirement would apply to all the parties.

2 JUDGE CLISHE: Is there any objection to
3 that as stated? All right. Then I expect you all will
4 be able to waive that notice regarding depositions for
5 the parties because of the short time period. And did
6 -- apparently the motion for protective order is
7 acceptable in that generic manner?

8 MS. DELMENDO: Yes.

9 JUDGE CLISHE: Any objections? Okay. And I
10 expect that you all will work out discovery as we had
11 mentioned. If there are any particular points, then
12 you can check with me. There anything else that the
13 parties wish to add? I assume you did a little
14 discussion of the issues and how to formulate those.
15 Does anyone wish to --

16 MR. DUDLEY: We did, your Honor --

17 JUDGE CLISHE: Mr. Dudley.

18 MR. DUDLEY: -- but before we got on to that
19 I would like to suggest one clarification to the data
20 request schedule, your Honor, as it's set forth. I
21 would just like to clarify the day the request is
22 received doesn't count as a day, but the request should
23 be responded to on the fifth day after that, counting
24 the day after the request as the first day. I just

25 want to be sure.

(COLLOQUY)

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1 JUDGE CLISHE: I think that would be
2 acceptable. Anybody have any problem with that? I
3 think that's usually how we count these. All right.
4 Is there anyone who wishes to just forge ahead and just
5 indicate what you discussed regarding the issues?

6 MS. DELMENDO: I don't know if Mr. Dudley
7 wants to start since that issue was never put on the
8 record formally.

9 JUDGE CLISHE: Okay.

10 MR. DUDLEY: Yes, and Portland General would
11 request that an issue in this case be whether or not
12 the company has violated RCW 72.04.380, and this is the
13 statutory provision applicable to the company that
14 addresses violations by public service companies and
15 penalties therefor. Specifically, that statute
16 provides penalties for any public service company that
17 fails to comply with the Washington state law or fails
18 to comply with Commission order. The penalty is in the
19 sum not to exceed a thousand dollars for each and every
20 offense, and each day's violation is considered to be a
21 continuing and separate offense.

22 Just briefly, your Honor, in the proceedings
23 before, there was extensive discussion about what
24 should constitute the six-month volume adjustment for

25 US Ecology under the statutory framework it operates

(COLLOQUY)

16

1 under for setting rates for low level radioactive
2 waste. The company, in that case, made a proposal that
3 the six-month adjustment be based on a rolling 12-month
4 average for the material to be received, in the, in the
5 case of the June adjustment, the material received for
6 the 12 months ending the previous April. There are
7 exhibits presented in the case about that. There was
8 examination on that point. I specifically asked
9 company witnesses on the stand and under oath how that
10 would work.

11 And my reference is to transcript 10/27
12 through 10/29 in the previous case, and I would just
13 like to quote briefly from that. And the question by
14 Dudley, "Q, Let's just kind of work our way through
15 that again. On June 1 you would be making a filing for
16 a new maximum rate to become effective every July one,
17 and every, likewise with December 1, you will be making
18 a filing to become effective January 1; is that
19 correct?"

20 Answer by company witness, "answer, "that's
21 correct." Question, by Dudley, "And each of these
22 filings would use a 12-month period beginning
23 approximately three months before so, for example, for
24 your June 1 filing you were using the 12 months ending

25 the previous March; is that correct?

(COLLOQUY)

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1 "Answer, no. It's says preceding April." Some
2 colloquy. Finally, question by Dudley. "Let's get
3 concrete. Suppose rates go into effect on January 1,
4 1993. You would make your first filing on June 1,
5 1993, and you would use the 12 months data ending at
6 the end of April 1993." Answer by Mr. Ash, "That is my
7 understanding. Question, so you would pick up in May
8 of 1993; is that correct? That would be the beginning
9 of the period? Answer, correct."

10 Now, this was testimony that was given under
11 oath by company witnesses with respect to how the
12 adjustments would be operated under the company filing.
13 The Commission order in the case ordered the
14 adjustments to proceed on the mechanism as proposed by
15 the company. The filing made by the company falls far,
16 far below that mark. It is the PGE's position that
17 this states a prima facie case for a direct violation
18 by this company of a Commission order which brings it
19 into the penalty provision just earlier mentioned.
20 I would furthermore urge that the filing by the company
21 not only violates the Commission order, but it violates
22 the statute of the State of Washington with respect to
23 the automatic adjustments.

24 Now, the statutory scheme for this company

25 was a matter of extensive consideration, and it was

(COLLOQUY)

18

1 made effective by the Washington State legislature
2 approximately the year before the previous rate case
3 occurred. In that statute, there is a provision for
4 making the six-month volume adjustments.

5 As a precursor to that legislation being
6 passed, there was a Washington Utilities and
7 Transportation Commission study committee which
8 submitted a report to the legislature about how the
9 legislation should work, and this becomes the best and
10 closest we have to legislative history for the
11 Washington statute. This was Exhibit 88 in the case
12 presented below.

13 As part of that study committee report,
14 there's an explicit discussion about the volume
15 adjustment, and in there is also an explicit example of
16 how the volume adjustment works. And it says here, and
17 I quote, "The volume adjustment is based on differences
18 in actual deliveries between periods and applies only
19 if material changes occur. The volume adjustment is
20 triggered if the actual volumes of waste delivered to
21 the site during the preceding 12 months differ by five
22 percent or more from the volume delivered during the
23 12-month period which ended six months earlier.
24 Although the volume adjustment will occur every six

25 months, it will be based on a rolling 12-month period.

(COLLOQUY)

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1 The volumes used for the purpose of calculating the
2 volume adjustment would be those reported periodically
3 by US Ecology to the Department of Ecology."

4 This becomes the basis and the legislative
5 history for the statute which did set forth the volume
6 adjustment. I believe that US Ecology's filing, which
7 so painfully ignores a rolling 12-month average for the
8 volume adjustment, not only violates the clear dictates
9 of the Commission order but violates the clear dictates
10 of the Washington statute including the legislative
11 history of the intent of the operation of the statute.

12 Both of those reasons bring us back to RCW
13 81.104.380 which are sanctions for violations by a
14 public service company of Commission orders or by
15 Washington State law. I'd further just suggest for the
16 record that the very action of filing such a novel
17 pleading by US Ecology, totally ignoring those and
18 throwing us into a protracted proceeding where
19 effective rates which would be lower than the existing
20 rates can't be put into place, is an abuse of this
21 Commission's process.

22 US Ecology knows full well that if they
23 filed a schedule that raised rates it would be
24 suspended and couldn't be made effective until such

25 time as the Commission had full hearing on it. In that

(COLLOQUY)

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1 way they knew that they could enjoy the higher rates
2 that would be otherwise justified by the cross
3 examination application of the Commission order or by
4 the statute.

5 For those reasons, your Honor, I believe and
6 would ask that it be put into this hearing whether or
7 not the activities of US Ecology are such that a
8 violation of RCW 81.104.380 has occurred. Thank you.

9 JUDGE CLISHE: Thank you. Are there any
10 comments?

11 MS. DELMENDO: I'd just like to
12 briefly respond, your Honor. We believe that our
13 filing was well within the Commission's order.
14 However, if Mr. Dudley wants to make this an issue at
15 the hearing it's certainly within his rights to do so.
16 I don't think it's something we should be deciding
17 today, however.

18 JUDGE CLISHE: Any other comments? I want
19 to give this some thought, and I expect that in the
20 letter or prehearing conference order that I issue,
21 I'll be setting forth a ruling on Mr. Dudley's motion
22 and, of course, more information regarding the issues
23 which will be covered in this, in the hearings to come.
24 Are there other matters?

25

MR. HATCHER: Your Honor?

(COLLOQUY)

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JUDGE CLISHE: Yes, Mr. Hatcher.

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MR. HATCHER: There is one third point that

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Mr Dudley did not mention. Also in US Ecology's

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filing, they treat the waste received from Public

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Service of Colorado as an extraordinary volume, and the

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Commission's seventh supplemental order specifically

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identifies that that is a normal recurring waste amount

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that is excluded for the extraordinary volume

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adjustment mechanism. And following the same rationale

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offered by Mr. Dudley, that would also violate the

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Commission order and should also be considered by your

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Honor in reaching a decision on Mr. Dudley's motion.

13

JUDGE CLISHE: All right. Thank you,

14

Mr. Hatcher. Are there any other comments?

15

MS. DELMENDO: Your Honor, if you could just

16

clarify, the decision you will be issuing will be a

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decision on which issues will be considered in the

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hearing; is that correct?

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JUDGE CLISHE: I expect that that will be

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one of the things that will be covered. There will be

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also the matters that we discussed here and the

22

deviations from the general discovery rule regarding

23

the five-day turn around and so forth.

24

MS. DELMENDO: I guess what I would just

25 like to clarify is that a decision on the merits of

(COLLOQUY)

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1 these issues will not be made in your, in the decision
2 that you will be issuing from this?

3 JUDGE CLISHE: No. I will not be reaching a
4 decision on the issues. The Commission will be
5 deciding that at a later date. Anything else today on
6 that sort of thing? Mr. Dudley?

7 MR. DUDLEY: Yes. We did have a discussion
8 about otherwise the scope of the proceedings, and if I
9 can correctly state what was the understanding around
10 the table was, it was the agreement that the
11 presentation substantively wouldn't look at the filing
12 as proposed by US ecology and alternate methods of
13 making a semi-annual volume adjustments and there would
14 not be, it would not be put into issue, and in doing
15 that, the revenue requirement, the rate of return, and
16 the expense levels as set by the Commission in its
17 prior order would be accepted as a given by all parties
18 and not challenged in this proceeding. I think that
19 that was a concern I expressed earlier off the record
20 about the scope of this proceeding.

21 I think the parties fairly want to have a
22 free hand to argue that the volume mechanisms aren't
23 going to allow them to earn the Commission order
24 revenue requirement or rate of return. I think that's

25 certainly fair game, but there won't be a frontal

(COLLOQUY)

23

1 attack that what the Commission ordered was inaccurate.
2 Certainly that's going on in a parallel proceeding in
3 the Thurston County Superior Court at this time.

4 JUDGE CLISHE: All right. Thank you. Any
5 comments regarding that?

6 MS. DELMENDO: I think what Mr. Dudley said
7 is correct. We're not going to be conducting another
8 rate case here. We will comply with the Commission,
9 but we need to see within those parameters whether we
10 are earning what the Commission adopted in their
11 decision.

12 JUDGE CLISHE: Anything else that you had
13 discussions about during your conference that you would
14 like to have on the record for the prehearing
15 conference today? All right. I think that -- oh, I
16 had mentioned earlier that one of the things that might
17 be helpful to have is at least a number of, the number
18 of witnesses that the parties wish to present and
19 perhaps an indication of what order the intervenors
20 wish to be in, and I'm not sure that we need to pin
21 that down specifically, but it may help for the
22 purposes of planning to know what we're looking at as
23 far as number of witnesses.

24 MS. EGELER: I'll volunteer on behalf of the

25 Commission staff we will be presenting one witness.

(COLLOQUY)

24

1 JUDGE CLISHE: Do you know?

2 MS. DELMENDO: I'm sorry, your Honor. I
3 don't know what Mr. Van Nostrand plans.

4 JUDGE CLISHE: Mr. Dudley, do you have any
5 idea of your number?

6 MR. DUDLEY: I can give a best guess right
7 now that we would, Portland General would most likely
8 present one witness, but with the understanding that
9 even that decision hasn't been made yet until we see
10 the testimony to be submitted by the respondent. And
11 there has been some in the case, in the other case
12 there was some sharing of witnesses among the parties,
13 and we'll certainly explore to see what we can do to
14 facilitate the presentation by doing that again here.

15 JUDGE CLISHE: All right. Thank you.
16 Mr. Hatcher, do you have an idea of how many you may
17 have?

18 MR. HATCHER: I would make the same
19 statement that Mr. Dudley made.

20 JUDGE CLISHE: All right. And Mr. Mayberry?

21 MR. MAYBERRY: I don't know at this
22 particular point.

23 JUDGE CLISHE: All right. Is there anything
24 else that we need to cover at this point today?

25 Anything else the parties would like to have on the

(COLLOQUY)

25

1 record? Nothing. All right. I will be issuing, as I
2 indicated, either a prehearing conference letter or
3 order which covers the matters that we discussed. I
4 would expect hopefully that can be mailed no later than
5 Tuesday. It may be sooner if I can -- and I'm
6 certainly more than willing to fax it to parties
7 because I realize, as you all have seen and mentioned,
8 that the schedule is quite compressed, so it would be
9 helpful if we can fax it to you, then follow up with a
10 letter. Before you all leave, I might want to have you
11 put down your fax numbers as that might be helpful.
12 All right. Anything else today? All right. We will
13 be in recess until the hearing date in September.

14 (Conference adjourned at 10.55 a.m.)

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