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BEFORE THE WASHINGTON STATE

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UTILITIES AND TRANSPORTATION COMMISSION

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4 In the Matter of the Petition of ) Docket UE-121373  
5 PUGET SOUND ENERGY, INC., ) Pages 1-28  
6 For Approval of a Power Purchase )  
7 Agreement for Acquisition of Coal )  
8 Transition Power, as Defined in )  
9 RCW 80.80.010, and the Recovery )  
of Related Acquisition Costs )

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PREHEARING CONFERENCE, VOLUME I

11

Pages 1-28

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ADMINISTRATIVE LAW JUDGE DENNIS MOSS

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10:05 A.M.

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September 7, 2012

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Washington Utilities and Transportation Commission  
1300 South Evergreen Park Drive Southwest  
Olympia, Washington 98504-7250

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20 REPORTED BY: SHELBY KAY K. FUKUSHIMA, CCR #2028

21 Buell Realtime Reporting, LLC

1411 Fourth Avenue

Suite 820

Seattle, Washington 98101

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A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:

DENNIS MOSS  
Washington Utilities and  
Transportation Commission  
1300 South Evergreen Park Drive SW  
P.O. Box 47250  
Olympia, Washington 98504  
360.664.1136

FOR PUGET SOUND ENERGY:

JASON KUZMA  
Perkins Coie  
10885 Northeast Fourth Street  
Suite 700  
Bellevue, Washington 98004  
425.635.1400  
jkuzma@perkinscoie.com

FOR WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION:

SALLY BROWN  
Senior Assistant Attorney General  
1400 South Evergreen Park Drive  
Southwest  
P.O. Box 40128  
Olympia, Washington 98504  
360.664.1193  
sbrown@utc.wa.gov

PUBLIC COUNSEL:

SIMON J. FFITCH  
Public Counsel Section  
Senior Assistant Attorney General  
800 Fifth Avenue  
Suite 2000  
Seattle, Washington 98104  
206.389.2055  
simonf@atg.wa.gov

(Continued...)

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1 FOR THE INDUSTRIAL CUSTOMERS  
2 OF NORTHWEST UTILITIES:

3 MELINDA J. DAVISON, via telephone  
4 Davison Van Cleve  
5 333 Southwest Taylor  
6 Suite 400  
7 Portland, Oregon 97204  
8 503.241.7242  
9 mjd@dvclaw.com

10  
11  
12 FOR NW ENERGY COALITION:

13 NANCY HIRSH, via telephone  
14 NW Energy Coalition  
15 811 First Avenue  
16 Suite 305  
17 Seattle, Washington 98104  
18 206.621.0094  
19 nancy@nwenergy.org

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21  
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OLYMPIA, WASHINGTON, SEPTEMBER 7, 2012

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10:05 A.M.

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P R O C E E D I N G S

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JUDGE MOSS: Let's be on the record.

7

Good morning, everyone. My name is Dennis Moss. I'm  
an administrative law judge with the Washington Utilities and  
Transportation Commission. The Commissioners asked me to assist  
in presiding in this proceeding styled "In the Matter of the  
Petition of Puget Sound Energy, Inc., for Approval of a Power  
Purchase Agreement for Acquisition of Coal Transition Power as  
Defined in RCW 80.80.010, and the Recovery of Related  
Acquisition Costs." This is Docket No. UE-121373.

15

This is our first prehearing conference, the purpose  
of which is severalfold. We have several -- well, actually, we  
have two petitions to intervene pending. We'll take those up.

18

We have a motion for a protective order with highly  
confidential provisions, which is a standard form of protective  
order that the Commission sometimes uses in proceedings that  
involve the sharing of commercially sensitive information.

22

We also have pending a motion for expedited process  
by which Puget Sound Energy requests decision by an early date,  
December 15, 2012. When I say "early," that's relative to the  
date provided by statute by which we must conclude this

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1 proceeding with a final order, which I believe is February 16,  
2 2013. And that being a Saturday, I suspect our order would not  
3 actually be required until February 18, but we would probably do  
4 it on February 15 because we're just that cautious.

5 All right. So with that said, let me turn to taking  
6 appearances, and we'll start with the Company.

7 MR. KUZMA: Good morning, Your Honor. Jason Kuzma,  
8 for Puget Sound Energy.

9 JUDGE MOSS: All right. And have you provided your  
10 information to the court reporter?

11 MR. KUZMA: Yes, I have, Your Honor.

12 JUDGE MOSS: Okay. So Mr. Kuzma has followed through  
13 without any prompting from me with the short form of  
14 appearances, which are all that's necessary, as long as you  
15 provide your information to the court reporter, so she'll have  
16 it for the record.

17 So with that, let's turn to you, Mr. ffitch.

18 MR. FFITCH: Good morning, Your Honor. Simon ffitch,  
19 for the Public Counsel office, and I have provided my  
20 information to the court reporter.

21 JUDGE MOSS: Thank you so much.

22 Ms. Brown?

23 MS. BROWN: Sally Brown, Senior AG, on behalf of  
24 Commission Staff. I also have provided my information to the  
25 court reporter.

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1                   JUDGE MOSS: All right. Now, Ms. Hirsh, I know  
2 you're not an attorney, but since you are representing your  
3 organization today, I'll ask that you enter an appearance on its  
4 behalf.

5                   MS. HIRSH: Good morning. This is Nancy Hirsh, from  
6 the Northwest Energy Coalition. Our address is 811 First  
7 Avenue, Suite 305, Seattle, Washington 98104. Our phone number  
8 is 206.621.0094.

9                   JUDGE MOSS: And as I recall, you have entered -- or  
10 filed a notice of appearance, and that includes Ms. Danielle  
11 Dixon as another representative of the NWECC?

12                   MS. HIRSH: That is correct.

13                   JUDGE MOSS: All right. The same address and so  
14 forth?

15                   MS. HIRSH: Same address.

16                   JUDGE MOSS: Okay.

17                   MS. HIRSH: And her last name is Dixon, D-i-x-o-n.

18                   JUDGE MOSS: Okay. Very good.

19                   And for the NW -- I'm sorry -- for the ICNU,  
20 Industrial Customers of Northwest Utilities, Ms. Davison is on  
21 the phone.

22                   Would you enter an appearance, please.

23                   MS. DAVISON: Yes, Your Honor. This is Melinda  
24 Davison on behalf of the Industrial Customers of Northwest  
25 Utilities. Our address -- or it's Davison Van Cleve, P.C. Our

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1 address is 333 Southwest Taylor, Suite 400, Portland, Oregon  
2 97204. Phone number is: 503.241.7242. Fax number is:  
3 503.241.8160. E-mail is: mjd@dvclaw.com. Thank you.

4 JUDGE MOSS: Thank you.

5 Is there any other person present or on the  
6 conference bridge line who wishes to petition to intervene in  
7 this proceeding? Apparently not.

8 As you all know -- well, I'll just ask this:  
9 Ms. Davison, are you going to have co-counsel in this  
10 proceeding?

11 MS. DAVISON: I am. It is an associate in our office  
12 who is awaiting the results of the Bar exam. I'm confident he  
13 will pass, but that's why he was not initially put on the  
14 intervention. But I intend to add him when he get his results  
15 of the Bar exam, if that's all right.

16 JUDGE MOSS: Yeah, that will be fine. The only  
17 reason I mention this is we have lately gotten a little more  
18 strict, for lack of a better word, about insuring that there is  
19 a single person identified as the lead in each case for purposes  
20 of our obligations with respect to service. But, of course,  
21 others may be on the list for electronic distribution, and so on  
22 and so forth.

23 So Ms. Brown is the lead for Staff, clearly.

24 Mr. ffitich, I assume you are the lead for Public  
25 Counsel?

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1 MR. FFITCH: That is correct, Your Honor. We did  
2 include Ms. Gafken in the notice of appearance.

3 JUDGE MOSS: Yes, I recall that. Thank you.

4 And, Mr. Kuzma, are you flying solo on this, or will  
5 you have co-counsel as well?

6 MR. KUZMA: I'll also have co-counsel, Ms. Barnett  
7 and Ms. Carson.

8 JUDGE MOSS: Oh, okay. All right. The usual  
9 suspects --

10 MR. KUZMA: Yes.

11 JUDGE MOSS: -- as we say? All right. Very well.

12 And for the NVEC? Ms. Hirsh, is Ms. Dixon the  
13 primary or you?

14 MS. HIRSH: It will be Ms. Dixon.

15 JUDGE MOSS: Okay. Well, we'll keep her. We'll make  
16 sure that she's identified for the Record Center as the primary  
17 for service.

18 All right. Good. I don't know if you all have  
19 commenced discovery on your own, but certainly this is a  
20 proceeding that is appropriate for it, and, of course, that's  
21 governed under the rules, procedural rules, at 480-07-400  
22 through 425.

23 The motion for protective order is unopposed, as I  
24 understand it, and it is our standard form of protective order.  
25 So absent any further comment on that, the motion is granted,



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1 and we'll get that order out in due course. In fact, I've  
2 already had it drafted, so we should be able to get it out  
3 today.

4 As far as a motion for expedited process is  
5 concerned, I want to defer ruling on that and making any final  
6 determination concerning our schedule until we've had a little  
7 bit of discussion here concerning what issues are apparent to  
8 the parties in this case at this juncture.

9 I realize it's early. Nevertheless, I know people  
10 are taking a keen interest in this case. And, indeed, I noticed  
11 from -- I noticed from the Commission Staff's response to the  
12 motion for expedited process, that they made it deeply into the  
13 exhibits and discovered that procedural schedule that was  
14 presented to the Board of Directors during the course of all  
15 this consideration of this -- this deal. So I had also  
16 discovered that in my review of the record, or the prefiled  
17 materials.

18 So, again, acknowledging that it's early in the  
19 process, has Staff identified any specific issues in the case,  
20 Ms. Brown, that -- because what I'm looking for here is some  
21 sense of just how complicated this matter might be in terms of  
22 what time will be required to process it.

23 MS. BROWN: This is Sally Brown for Commission Staff.

24 Your Honor, it's premature for us to identify any  
25 specific issues, other than those outlined in the statute

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1     itself, in RCW 80.04.570(4) and (6), but some of the ones that  
2     are obvious would be, you know, the prudence question, the  
3     equity component, deferred accounting, greenhouse gas emissions,  
4     but we have not commenced discovery other than delving into that  
5     particular exhibit to land on the hearing schedule, so I really  
6     can't say with conviction what issues will be contested.

7             JUDGE MOSS: Yeah. And I wasn't expecting anything  
8     definitive today, and certainly nothing limiting. I'm just  
9     trying to get a sense of the scope of things.

10            Mr. ffitch, do you have anything that might help  
11     inform this matter?

12            MR. FFITCH: Well, first of all, I would agree with  
13     Ms. Brown's statement regarding the preliminary nature of this  
14     discussion. We have not yet retained our experts. We will be  
15     retaining experts. We obviously haven't started discovery.

16            So at this point, though, clearly, the main issues  
17     are outlined in the statute. Subsection 4 has the sort of set  
18     of tests that the Commission has to take a look at in reviewing  
19     the contract and to test what the contract has to meet to be  
20     approved. Subsection 6 of the statute has, you know, multipart  
21     detail about the equity component.

22            So within each of those, there are a lot of pretty  
23     technical subissues. We do think there's a lot of complexity  
24     here. Just for example, you know, if we're looking at sort of  
25     the big picture of least cost, least risk contract, that

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1 immediately sends you in the direction of reviewing the RFP  
2 process that was conducted by the Company. And just from a  
3 review of the exhibits, you can see that that was a -- you know,  
4 an extensive process, evaluating that, analyzing the competing  
5 proposals and so on is a pretty complicated process. And that's  
6 just sort of one -- you know, one area of inquiry.

7           There are some novel issues here as well. This is a  
8 new statute. We think that lends, I guess, difficulty or  
9 challenge to the case just in terms of sort of defining some of  
10 these concepts that are in the statute.

11           For example, the last sentence of Subsection 4  
12 requires the Commission to consider, along with all the other  
13 factors, the long-term economic risks and benefits both to the  
14 Company and ratepayers of the long-term purchase. So that seems  
15 to be perhaps a bit of an overlay on, you know, maybe an  
16 ordinary kind of contract review.

17           The concept of the hypothetical equivalent power  
18 plant that's used as the basis for the rate of return. That's  
19 brand-new. So, you know, determining what the equivalent plant  
20 is going to be as a basis for determining equity component,  
21 that's a new animal, too, so there's a lot here just looking at  
22 the statute.

23           JUDGE MOSS: All right. Thank you, Mr. ffitich. Very  
24 helpful.

25           Ms. Davison, do you have anything that you would like

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1 to add to this discussion?

2 MS. DAVISON: I would concur with what's been said  
3 before me. I would just maybe hone in on a couple of subissues.  
4 One is the appropriateness or the fairness of the competitive  
5 bidding process.

6 And as Mr. ffitch said, we have this return on  
7 component, and I think there needs to be an evaluation of  
8 exactly how that is applied in this particular factual  
9 situation. So I think the prudence review has several new  
10 components that -- (phone beeps) -- prudence review.

11 JUDGE MOSS: You were interrupted briefly after the  
12 first time you said "prudence review."

13 MS. DAVISON: Okay. Sorry, Your Honor.

14 Basically, the prudence review is going to be a  
15 complex undertaking, because I believe there are several new  
16 aspects that need to be evaluated, and I think there will  
17 certainly be a lot of equity and policy considerations in  
18 evaluating this decision in light of the new law. Those are the  
19 initial observations we have.

20 JUDGE MOSS: All right. Thank you very much.

21 And, Ms. Hirsh, do you have anything to add?

22 MS. HIRSH: I don't have anything to add. I think  
23 that the other parties have all laid out all the key elements  
24 that we will be looking at as well to determine whether this is  
25 in the public interest or not.

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1                   JUDGE MOSS: Okay. Thank you. I have left the  
2 Company until last, which seems appropriate. I know the  
3 Company's taken the position in its motion to expedite, at  
4 least, that it has presented everything we need for a decision.  
5 I think, you know, going in, that that's not the case.

6                   Certainly some of the same questions that Counsel  
7 have referred to are on the minds of the Commission. I have  
8 been through your filing, I won't say in detail, because it's a  
9 pretty long filing. Mr. Garrett is no doubt going to hold the  
10 all-time record for numbers of exhibits and pages, I should say,  
11 with his -- with his presentations on prudence matters, which I  
12 think are -- they intend to be very thorough, but they also tend  
13 to cause a lot of -- bring on a lot of questions and research  
14 and so on and so forth from the parties. So that's -- that's a  
15 good thing, but it does mean that we have a lot to air.

16                   And so the reason, again, I have this discussion was  
17 to sort of have a little bit more of a record than we might  
18 normally have concerning the, I'll say, complexity of the issues  
19 or complexity of the case.

20                   So we do have your motion to expedite process,  
21 Mr. Kuzma. And you can go ahead and address that, along with  
22 anything you might want to say about what the Company perceives  
23 to be the issues. I mean, I realize you've made your  
24 presentation. You've covered the basis you believe you need to  
25 cover.

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1                   MR. KUZMA: That's correct, Your Honor. I mean,  
2 we've made the motion to expedite. We would like to have an  
3 order by mid-December. It would help with our resource  
4 acquisition process and continue with those -- those issues by  
5 providing some certainty with respect to what will happen with  
6 Centralia.

7                   JUDGE MOSS: All right. Okay. Fine.

8                   And I have Staff's response, which I thought was well  
9 done as well. And perhaps it was thorough, but perhaps not, so,  
10 Ms. Brown, I should give you an opportunity, if there's anything  
11 you wish to add to your written.

12                   MS. BROWN: Thank you, Your Honor. We also think it  
13 was thorough.

14                   JUDGE MOSS: Thank you very much. The mark of  
15 excellent counsel, knowing when to be quiet.

16                   All right. Mr. Ffitch, did you have anything? I  
17 noticed that Public Counsel's staff asserted on your behalf.  
18 It's you're joining in the arguments, and so do you have  
19 anything to add?

20                   MR. FFITCH: No. Except to say, Your Honor -- well,  
21 first of all, it is true that we concur in the Staff's  
22 arguments. We thought they were well reasoned and well  
23 developed.

24                   I guess as we have argued in other cases, the  
25 schedule -- the fairness of the schedule really has a lot to do

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1 with the ultimate fairness of the process, and we would ask the  
2 Bench to keep in mind the disparity of resources between the  
3 parties, the fact that the Company is in possession of all the  
4 information, whereas the other parties are pretty much starting  
5 from a standing start here, trying to get into the details of  
6 the issues.

7 And so shortening up the time just tends to  
8 disadvantage not just the Intervenors, but we think also the  
9 Commission Staff may end up with the Commission not really  
10 having an adequate record for this important case.

11 JUDGE MOSS: Thank you very much, Mr. ffitch.

12 I know Ms. Dixon has communicated with me informally  
13 by e-mail that the NWECC does not take a position on this motion,  
14 Ms. Hirsh, unless that's changed in the last 30 minutes since I  
15 last heard from her. I don't suspect you have anything to add?

16 MS. HIRSH: No, we have no position.

17 JUDGE MOSS: All right. And, Ms. Davison, does ICNU  
18 have a position on this?

19 MS. DAVISON: No, Your Honor. We will make whatever  
20 schedule you issue work. I just add that, obviously, we've got  
21 a lot of other cases going on, including the Avista general rate  
22 case and the holidays intervening. I'm sure the Commission will  
23 take that all into consideration.

24 JUDGE MOSS: You know, Ms. Davison, you mentioned the  
25 holidays. And it struck me again this morning that it's -- I've

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1 been here for about 15 years now, and it seems like every  
2 Christmas I have a hearing. I don't understand it.

3 But, anyway, having said that, I will say that I have  
4 had some internal discussions with the Commissioners about the  
5 schedule, and there are factors influencing the Commission's  
6 interest in the process as well, not the least of which is to be  
7 sure that we have a full record in the matter, so we have  
8 identified the week of December 10th as a good week for us to  
9 have a hearing in this case. We would like to have the hearing  
10 before the end of the year and be in a position to have a fairly  
11 early -- have briefing fairly early in January and get on with  
12 the decision by, say, mid-January.

13 So I'm going to, as I always do, give the parties an  
14 opportunity to discuss among themselves what schedule is best in  
15 terms of specific dates for response testimony, rebuttal  
16 testimony, and so on and so forth. But, you know, I'm  
17 thinking -- I'm thinking, just based on my experience of this  
18 type of thing, although granted, this case is somewhat novel --  
19 but this is essentially a prudence review with a few extra  
20 trimmings, so I'm thinking two days is probably going to be  
21 adequate hearing time. I'm going to reserve a third day out of  
22 caution, as I always do.

23 The 12th is sort of out because we have a Commission  
24 event planned here that day, and it could be complicated to work  
25 around that. If it's absolutely essential that we use that



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1 date, I have a commitment from one of the people principally  
2 involved in that event that it can be worked around. So in any  
3 event, I wanted to have you all be mindful of those dates, the  
4 week of December 10th, and our goal, again, is to see if we can  
5 get this completed by mid-January.

6 Now, having said that, I would like for you all to  
7 come up with a schedule that meets those requirements, and you  
8 can provide for briefing dates after the hearing, and so forth  
9 as well, based on your discussions, keeping in mind our goals.

10 There's always an off-ramp if things become more  
11 complicated than anticipated by me or by you, but then I'll  
12 always, of course, entertain a motion for some sort of an  
13 extension if it's necessary so no one need to be feeling panicky  
14 about the -- so this is an expedition of, you know, basically a  
15 month out of the six months, as opposed to the much more  
16 expedited process that the Company was asking for.

17 And I did -- I want to say for the record that we did  
18 consider carefully the reasons that the Company advanced and  
19 don't find them compelling in this instance. I'm not sure what  
20 the Company's view of the memorandum of agreement is, but  
21 Commission Staff, at least, makes the argument that the  
22 requirement is simply -- and I did have a copy of it, the MOA  
23 here -- the provision concerning the December 15, 2012 date on  
24 which the Company, meaning TransAlta, can terminate the MOA  
25 appears to turn on the negotiation and execution of one or more

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1 purchase power agreements, which has occurred in this instance.  
2 And whether that agreement becomes final in the sense of your  
3 receiving the regulatory approval that's needed, I suppose, is  
4 another question. But in any event, the contract, as I read it,  
5 is for 380 megawatts, and so, you know, this provision is not  
6 fully satisfied in that sense. I don't know if the Company,  
7 meaning TransAlta again, has additional contracts or not.

8 But in any event, I would think that the -- both  
9 parties' interests are such that it would be rather unlikely  
10 that this would be terminated, the MOA would be terminated, just  
11 because we need an extra month to process the thing. So that  
12 was probably the one argument that was a point of concern.

13 And if it was more definitive, if the provision in  
14 the MOA was more definitive about termination, then that might  
15 influence us differently, but it's not. It leaves it open to  
16 the parties, and so they'll have to act as they choose. Again,  
17 in this instance, I'm meaning by "parties," TransAlta and the  
18 State of Washington.

19 The planning and -- resource planning and so on and  
20 so forth, I think the -- you know, the Company did include in  
21 its plans the idea of a schedule that would lead to a decision  
22 in mid-February. I had also come across that fact in the  
23 presentation that was made to the Board of Directors.

24 In fact, I think it's in there twice. I think  
25 Mr. Garrett has it in his exhibit, and perhaps one of the other

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1 witnesses as well. Or perhaps it's twice in Garrett. Who  
2 knows?

3 But in any event, are there any questions concerning  
4 that before I let you all go about your business of trying to  
5 come up with a schedule? Okay. Apparently not.

6 Well, I will go to my office, then, and -- so that  
7 I -- my presence doesn't interfere with your discussions. Those  
8 of you on the bridge line, of course, are free to stay on the  
9 line and participate in the conversation with the other parties.  
10 So with that in mind, you all keep in mind that they can only  
11 hear you if you're talking into a microphone.

12 So if somebody can just come get me when you're  
13 ready, or if I grow impatient, I'll come and check on you. So  
14 with that, we'll be off the record temporarily.

15 (A break was taken from 10:29 a.m.  
16 to 11:00 a.m.)

17 JUDGE MOSS: All right. Let's be back on the record.

18 Ms. Brown has informed me, on behalf of the parties,  
19 that you all have had some discussions, and that Mr. ffitch will  
20 provide us a summary.

21 MR. FFITCH: Because I drew the short straw.

22 JUDGE MOSS: Apparently so. Well, Ms. Brown had to  
23 walk downstairs, though.

24 MR. FFITCH: That's true. Your Honor, working with  
25 the hearing dates of the week of 10th, the parties have, I

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1 think, consensus on the following schedule: Testimony for  
2 Staff, Public Counsel, and Intervenors would be due November  
3 2nd; Company rebuttal would be due December -- or excuse me --  
4 November 16th; the hearing would be the week of the 10th.

5 We would defer to the Commission on the specific days  
6 during that week with the following footnotes: (1) Ms. Davison  
7 is unavailable on the 10th itself and will be traveling; as I  
8 understand it, there is an open meeting that week; and then the  
9 Commission had indicated one day it was not available, so we  
10 would leave that scheduling to the Commission.

11 We had originally thought to propose the 13th, 14th,  
12 with the 17th being an available extra day, the following  
13 Monday, but then realized the 13th is an open meeting. So it's  
14 a bit of a puzzle that week, and we thought we would leave it to  
15 the Commission.

16 JUDGE MOSS: Okay. And I'll have to discuss, too,  
17 with the people involved in this so-called employee recognition  
18 event, whether that can be conveniently rescheduled or moved to  
19 a location that would allow us to have the hearing room or what  
20 have you. Anyway, that may give us a little more flexibility.  
21 I, frankly, had not focused on the fact that it's an open  
22 meeting week. We were scrambling around yesterday trying to  
23 find some possible dates, and this came up. So okay.

24 MR. FFITCH: So that would be the hearing, and then  
25 the proposed briefing date would be January 11th. And that is

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1 because the briefs in the Avista case are due on January 4th,  
2 and so to create a bit of daylight between those two dates for  
3 the parties involved in both cases, we would recommend the 11th.

4 The discovery time lines are shortened from the  
5 outset. The parties agree to seven business days up to  
6 rebuttal, and then after the filing of rebuttal, it would go to  
7 five business days.

8 MALE SPEAKER: Wouldn't that be in testimony, not  
9 rebuttal? Our testimony?

10 JUDGE MOSS: I'm sorry? What's the question?  
11 Somebody state the question into the microphone, please.

12 MALE SPEAKER: Actually, rebuttal is a little late.  
13 Don't you mean after our testimony?

14 MS. BROWN: No. For Staff to discover -- for the  
15 parties to discover their rebuttal case.

16 MALE SPEAKER: Oh, okay.

17 MR. KUZMA: Well, I think it should go to the five  
18 business days after Staff and the Public Counsel files theirs,  
19 because the Company only has ten business days to file its --  
20 well, to the extent the Company has any discovery, we'll need to  
21 make it almost immediately.

22 MS. BROWN: Oh, you caught that. Okay. That's fine.

23 JUDGE MOSS: And I think that makes a lot of sense,  
24 Mr. Kuzma. We'll reduce it to five days after the response  
25 testimony.

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1           And, of course, you know, discovery matters, we  
2 always have people -- people can act promptly and get things out  
3 even faster than the deadlines. And, you know, I'm sure the  
4 Company and everyone else will be mindful that, you know,  
5 getting this done on this schedule, which is desirable to the  
6 Commission, does require a lot of maybe a little extra effort  
7 this time to get things turned around, so I hope you all will do  
8 that, and I'm sure if there are any problems in that regard,  
9 they will be brought promptly to my attention.

10           MR. FFITCH: And, Judge, if I may continue --

11           JUDGE MOSS: Sure.

12           MR. FFITCH: -- just for a minute?

13           JUDGE MOSS: Yeah.

14           MR. FFITCH: For the record, I would like to make a  
15 plea for mercy from the Commission on the schedule.

16           JUDGE MOSS: Okay.

17           MR. FFITCH: As we discussed earlier, it is a  
18 complicated case. The statute does allow the Commission six  
19 months to reach a decision, and we believe that's a reasonable  
20 time period, especially given the fact that there are not one,  
21 but two sets of major holidays in the middle of the schedule.

22           It's my understanding that the Commission is not  
23 inclined to grant the motion to expedite, so we would ask the  
24 Commission to at least consider using the full 180-day schedule  
25 that's available under the statute. And to that end, I would

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1 like to propose an alternative schedule, if they're inclined at  
2 all to do that, so that you have that at least available, if the  
3 plea for mercy is at all considered.

4           And that would be testimony would be due -- oh, and  
5 the other factor I forgot to mention, Your Honor. Obviously,  
6 some of the parties are involved in the Avista general rate  
7 case, and that's a key conflict for us, Public Counsel, and I  
8 believe also for ICNU. And the expert that we're in the process  
9 of retaining on power costs is quite busy in September and  
10 October, so front loading the schedule with testimony due in  
11 early November is pretty tough in that regard.

12           With that in mind, we would propose testimony be due  
13 November 7th, which is one week after the Avista hearings are  
14 over.

15           FEMALE SPEAKER: December.

16           MR. FFITCH: December 7th. Thank you. December 7th.  
17 Company rebuttal, December 21st. Hearings, January 9th and  
18 10th, again, just allowing a brief window after the Avista  
19 briefs are done, and then briefs in this case on January 25th,  
20 simultaneous briefing.

21           JUDGE MOSS: Okay. I will not foreclose the  
22 possibility of a different schedule from the one that you all  
23 suggested in response to the time lines I gave you. And I will  
24 discuss it internally, so I'm not going to rule definitively at  
25 this moment, but I will say that it is more likely than not that

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1 we will go with, at least initially, with the schedule that you  
2 all have managed to come up with for the period that I have  
3 indicated. But I will discuss it further before any final  
4 decision is made.

5           And I think, as you all can appreciate, the  
6 Commissioners are focused on this. They're not sitting here  
7 today. They usually don't participate in prehearing  
8 conferences. This is no exception. But I'm working as closely  
9 as I ever do with them on the schedule, so I will continue that  
10 practice and take your plea for mercy to them, Mr. ffitch.

11           All right. Is there -- let's see. We do have some  
12 other business -- or I have some other business for you.

13           Is there anything else with respect to the scheduling  
14 or discovery or...

15           MS. BROWN: This is Sally Brown on behalf of  
16 Commission Staff. I endorse Mr. Simon ffitch's plea for mercy.

17           I just want to point out, too, that we did not select  
18 a date for settlement conference, so we left that as to be  
19 determined, but that's something that --

20           JUDGE MOSS: Oh, okay. That's a good point.

21           MS. BROWN: -- we're hopeful will take place.

22           JUDGE MOSS: Yeah. There may be some issues that are  
23 susceptible to stipulation. I'm not sure if the entire case is  
24 susceptible to resolution by alternative means, but, certainly,  
25 I heard some issues discussed today that might be.



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1 MS. BROWN: Perhaps.

2 JUDGE MOSS: So I would certainly want you all to  
3 keep open minds to that. And please let me know if you schedule  
4 something just so that I can be mindful of what's going on in  
5 the case, but we won't -- we don't need to set a date today.

6 All right. Anything else?

7 Okay. All right. Now, these are housekeeping  
8 matters. Well, we'll follow the usual or common practice, I  
9 should say, of allowing for electronic submission on the  
10 deadline dates with official filing the next day. A paper copy  
11 has to be received the next business day.

12 If you all wish to engage in electronic service among  
13 yourselves, you're free to do so, but please do file a letter  
14 waiving service by mail with respect to each other so that we  
15 have some record of that in the event of an unseemly dispute  
16 down the line.

17 The Commission will continue the practice of  
18 electronic courtesy copies on its issuances, but we are required  
19 to provide service by mail at this time. Some day that statute  
20 will change, I hope.

21 We've talked about settlement a little bit. And, of  
22 course, the Commission always asks parties to explore that  
23 possibility with respect to either discrete issues or entire  
24 cases.

25 We're going to need an original plus ten copies for

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1 internal distribution purposes in this case for all your  
2 filings. If your filing includes information designated as  
3 confidential or highly confidential, we ask that you provide the  
4 copies in the fully unredacted form and then as to any redacted  
5 versions, just give us the original plus one. That's just for  
6 our files. Of course everyone within the Commission is allowed  
7 to see the confidential information.

8           You all are all familiar with the filing requirements  
9 through the Commission's secretary, so I won't review that in  
10 any detail.

11           I will remind you that I personally prefer to have  
12 you send me a courtesy copy of anything you file in MS Word  
13 format. You all have -- all have had cases with me before, and  
14 you know that I take advantage of your excellent writing from  
15 time to time, and I like to have things in a format that makes  
16 that easy to do.

17           I will also follow my usual practice in this case of  
18 asking you to submit a witness list with the proposed order of  
19 presentation and estimates of cross-examination time,  
20 cross-examination exhibit lists, and, of course, the  
21 cross-examination exhibits -- proposed cross-examination  
22 exhibits themselves a few days before the hearing. And I'll  
23 schedule that as I usually do closer in time to the hearing,  
24 so...

25           And, finally, from my perspective, at least, just to

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1 inform you, I will, of course, enter a prehearing conference  
2 order shortly. Is this Friday? This is Friday. Probably that  
3 won't be until next week, because I have some communications to  
4 conclude before I can finalize that.

5 Is there anything else from the parties?

6 MR. FFITCH: Your Honor, may we submit names for the  
7 electronic courtesy list? We would like to add an analyst and a  
8 legal secretary, too.

9 JUDGE MOSS: Yeah. Anybody who wants to do that,  
10 just send me an e-mail. That's the easiest thing for me. And  
11 then I'll prepare that as part of the preparing conference  
12 order, which -- it will include all persons identified for  
13 electronic service.

14 MR. FFITCH: Thank you.

15 Okay. Anything else?

16 MS. BROWN: No.

17 JUDGE MOSS: All right. There being no further  
18 business for this morning's session, I appreciate you all being  
19 here and on the conference bridge line, and I look forward to  
20 working with you to resolve this case in due course.

21 MS. BROWN: Thank you.

22 MR. FFITCH: Thank you, Judge.

23 MR. KUZMA: Thank you, Your Honor.

24 (Proceeding concluded at 11:12 a.m.)

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C E R T I F I C A T E

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3 STATE OF WASHINGTON )

) ss

4 COUNTY OF KING )

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6 I, SHELBY KAY K. FUKUSHIMA, a Certified Shorthand Reporter  
7 and Notary Public in and for the State of Washington, do hereby  
8 certify that the foregoing transcript is true and accurate to  
9 the best of my knowledge, skill and ability.

10 IN WITNESS WHEREOF, I have hereunto set my hand and seal  
11 this 17th day of September, 2012.

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SHELBY KAY K. FUKUSHIMA, CCR

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18 My commission expires:

June 29, 2013

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