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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION
3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,) DOCKET NO. UE-032065
4)
 Complainant,) Volume I
5) Pages 1 to 33
 vs.)
6)
PACIFICORP d/b/a PACIFIC)
7 POWER & LIGHT COMPANY,)
)
8) Respondent.
)
9 _____)

10 A pre-hearing conference in the above matter
11 was held on January 26, 2004, from 1:40 p.m. to 3:10
12 p.m., at 1300 South Evergreen Park Drive Southwest, Room
13 206, Olympia, Washington, before Administrative Law
14 Judge DENNIS MOSS.

15

16 The parties were present as follows:

17 PACIFICORP, by JAMES M. VAN NOSTRAND,
Attorney at Law, Stoel Rives, LLP, 600 University
18 Street, Suite 3600, Seattle, Washington, 98101-3197,
(206) 386-7665, Fax (206) 386-7500, E-Mail
19 jmvannostrand@stoel.com.

20 THE COMMISSION, by SHANNON SMITH, Assistant
Attorney General, 1400 South Evergreen Park Drive
21 Southwest, Post Office Box 40128, Olympia, Washington,
98504-0128, Telephone (360) 664-1192, Fax (360)
22 586-5522, E-Mail ssmith@wutc.wa.gov.

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Joan E. Kinn, CCR, RPR
25 Court Reporter

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1 THE PUBLIC, by ROBERT W. CROMWELL, JR.,
2 Assistant Attorney General, 900 Fourth Avenue, Suite
3 2000, Seattle, Washington, 98164-1012, Telephone (206)
4 464-6595, Fax (206) 389-2058, E-Mail
5 robertcl@atg.wa.gov.

6 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,
7 by MELINDA DAVISON, Attorney at Law, Davison Van Cleve,
8 1000 Southwest Broadway, Suite 2460, Portland, Oregon,
9 97205, Telephone (503) 241-7242, Fax (503) 241-8160,
10 E-Mail mail@dvclaw.com.

11 CITIZENS' UTILITY ALLIANCE OF WASHINGTON, via
12 bridge line by JOHN O'ROURKE, 212 West Second Avenue,
13 Suite 100, Spokane, Washington 99201, Telephone (509)
14 744-3370, Fax (509) 744-3374, E-Mail orourke@snapwa.org.

15 THE ENERGY PROJECT, OPPORTUNITY COUNCIL,
16 NORTHWEST COMMUNITY ACTION CENTER, and INDUSTRIALIZATION
17 CENTER OF WASHINGTON, via bridge line by CHARLES EBERDT,
18 1701 Ellis Street, Bellingham, Washington 98225,
19 Telephone (360) 255-2192, Fax (360) 671-2753, E-mail
20 chuck eberdt@opportunitycouncil.org.

21 NATURAL RESOURCES DEFENSE COUNCIL, by NANCY
22 HERSCH for RALPH CAVANAGH, 71 Stevenson Street, Suite
23 1825, San Francisco, California 94105, Telephone (415)
24 777-0220, Fax (415) 495-5996, E-mail rcavanagh@nrdc.org.

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1 PROCEEDINGS

2 JUDGE MOSS: Good afternoon, everyone, we are
3 convened in the matter styled Washington Utilities and
4 Transportation Commission against PacifiCorp doing
5 business as PacifiCorp Power and Light Company, Docket
6 Number UE-032065. This is our first pre-hearing
7 conference in this general rate proceeding.

8 Our first order of business will be to take
9 appearances, and we should start with the company.

10 MR. VAN NOSTRAND: Thank you, Judge Moss, on
11 behalf of the Applicant/Respondent PacifiCorp, James M.
12 Van Nostrand of Stoel Rives LLP. Full appearance?

13 JUDGE MOSS: Full appearance today, yeah.

14 MR. VAN NOSTRAND: 600 University Street,
15 Suite 3600, Seattle, Washington 98101, phone (206)
16 386-7665, fax (206) 386-7500, E-mail
17 jmvannostrand@stoel.com.

18 And, Your Honor, would you like me to enter
19 the appearance of co-counsel on this case as well, who
20 is not here today?

21 JUDGE MOSS: Mr. Hall?

22 MR. VAN NOSTRAND: Yes.

23 JUDGE MOSS: Yes, I think so, and the reason
24 we do this is so that we are certain that we have our
25 service correct, and so if you would go ahead and enter

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1 his information as well. I believe he is in your
2 Portland office?

3 MR. VAN NOSTRAND: Yes, Stephen C. Hall,
4 that's Stephen, S-T-E-P-H-E-N, C. Hall at Stoel Rives
5 LLP, 900 Southwest Fifth Avenue, Suite 2600, Portland,
6 97204, direct dial (503) 294-9625, fax (503) 220-2480,
7 E-mail schall@stoel.com.

8 JUDGE MOSS: Okay, thank you.

9 Ms. Davison.

10 MS. DAVISON: Thank you, Melinda Davison on
11 behalf of the Industrial Customers of Northwest
12 Utilities, Davison Van Cleve, 1000 Southwest Broadway,
13 Suite 2460, Portland, Oregon 97205, phone is (503)
14 241-7242, fax is (503) 241-8160, and E-mail is
15 mail@dvclaw.com. And also on this case from my office
16 with exactly the same numbers is Irion Sanger,
17 I-R-I-O-N, S-A-N-G-E-R. Thank you.

18 JUDGE MOSS: And I think your form of
19 appearance actually included Mr. Van Cleve, he won't be
20 appearing though in this one? It doesn't matter to me,
21 I just want to have the service list correct.

22 MS. DAVISON: We might as well put him on
23 there, I'm not sure.

24 JUDGE MOSS: One never knows.

25 All right, then let's go ahead and take care

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1 of our other interveners, and we have Ms. Hersch is here
2 today. I spoke with Mr. Cavanagh of the Natural
3 Resources Defense Council, the organization has filed a
4 petition to intervene, everyone should have a copy of
5 that I hope. And Ms. Hersch, I will let you speak for
6 that organization today. Do you have Mr. Cavanagh's
7 information?

8 MS. HERSCH: (Nodding head.)

9 JUDGE MOSS: Would you go ahead and enter his
10 appearance for the record, please.

11 MS. HERSCH: Yes. My name is Nancy Hersch
12 with the Northwest Energy Coalition, and I'm here today
13 representing the Natural Resources Defense Council, who
14 will be represented in this case and will be the
15 intervener. The Natural Resources Defense Council will
16 be represented by Ralph Cavanagh, C-A-V-A-N-A-G-H, at
17 the Natural Resources Defense Council, 71 Stevenson
18 Street, Suite 1825, San Francisco, California 94105.
19 Their phone number is (415) 777-0220, E-mail is
20 rcavanagh@nrdc.org. Fax number is (415) 495-5996.

21 JUDGE MOSS: And do you have an E-mail
22 address for Mr. Cavanagh?

23 MS. HERSCH: Yes, it's rcavanagh@nrdc.org.

24 JUDGE MOSS: Thank you.

25 All right and on the telephone then we have

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1 Mr. Eberdt for the Energy Project Opportunity Council,
2 go ahead.

3 MR. EBERDT: Thank you. This is Chuck Eberdt
4 for the Energy Project and Opportunity Council, 1701
5 Ellis Street, Bellingham, Washington 98225, phone number
6 (360) 255-2192, fax (360) 671-2753, E-mail
7 chuck eberdt@opportunitycouncil.org.

8 JUDGE MOSS: Okay, thank you.

9 MR. EBERDT: Thank you.

10 JUDGE MOSS: And Mr. O'Rourke for the
11 Citizens Utility Alliance of Washington.

12 MR. O'ROURKE: Yes, John O'Rourke, J-O-H-N,
13 O-'-R-O-U-R-K-E, 212 West Second Avenue, Spokane,
14 Washington 99201, phone (509) 744-3370, extension 247,
15 fax (509) 744-3374, E-mail orourke@snapwa.org.

16 JUDGE MOSS: All right, now that takes care
17 of the appearances from everyone from whom I have heard
18 either through a petition to intervene or through other
19 means. Let me ask if there are any other persons who
20 would petition orally to intervene?

21 Apparently there are not.

22 Let me turn then to Public Counsel for your
23 appearance, Mr. Cromwell.

24 MR. CROMWELL: Thank you, Your Honor, good
25 afternoon, Robert Cromwell, Assistant Attorney General

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1 for the Washington State Attorney General's Office
2 appearing on behalf of Public Counsel, my address is 900
3 Fourth Avenue, Suite 2000, Seattle, Washington
4 98164-1012. My direct line is (206) 464-6595, my fax
5 number is (206) 389-2058, and my E-mail address is
6 robertcl@atg.wa.gov.

7 JUDGE MOSS: And Ms. Smith for the Commission
8 regulatory staff.

9 MS. SMITH: Thank you, Your Honor, Shannon
10 Smith, Assistant Attorney General on behalf of
11 Commission Staff, 1400 South Evergreen Park Drive
12 Southwest, P.O. Box 40128, Olympia, Washington
13 98504-0128, telephone (360) 664-1192, fax (360) 586-5523
14 I think.

15 JUDGE MOSS: 22.

16 MS. SMITH: 22, thank you, Your Honor.
17 E-mail ssmith@wutc.wa.gov.

18 JUDGE MOSS: In my days as an advocate I
19 always had a little cheat card because I was afraid I
20 would forget.

21 MS. SMITH: Thank you, Your Honor, I used
22 mine for some other project and have to find it.

23 JUDGE MOSS: All right, I did receive three
24 written petitions to intervene, one from Industrial
25 Customers of Northwest Utilities, one from Citizens

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1 Utility Alliance of Washington, and one from Natural
2 Resources Defense Council. I also received a note from
3 Mr. Eberdt indicating the Energy Project and the
4 Opportunity Council would propose to intervene by oral
5 petition.

6 Mr. Eberdt, if we could just have your brief
7 statement of petition, then we will determine whether
8 there are any objections to any of these and move
9 forward from there. Since the others are in writing, I
10 don't know that we really need to have the petitioners
11 speak to them unless there is an objection, in which
12 case I will give an opportunity to defend the petition.

13 So Mr. Eberdt.

14 MR. EBERDT: Thank you, Your Honor. The
15 Energy Project would like to petition to intervene
16 jointly with the Northwest Community Action Center and
17 the Opportunities Industrialization Center of
18 Washington. The Energy Project advocates statewide for
19 community action agencies for programs that will provide
20 affordable access to essential home energy services for
21 low income households. The Northwest Community Action
22 Center from Toppenish, Washington and the Opportunities
23 Industrialization Center located in Yakima are two of
24 the agencies offering the energy project. Both of these
25 agencies are located in the service territory of the

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1 company and have unique knowledge and experience through
2 providing services for low income households. The
3 Energy Project, NCAC, and OIC were parties in the last
4 PacifiCorp rate case, Docket UE-991832.

5 We have a special interest in this proceeding
6 because the proposed rate increase and other matters
7 that may result from this proceeding could have
8 significant impact on the households that the OIC and
9 the Northwest Community Action Center serve. The
10 parties are particularly interested in maintaining
11 energy efficiency programs which would mitigate the
12 impact of those rate increases for low income housing.
13 For these reasons we believe that our intervention in
14 this proceeding would be in the public interest.

15 I can give you specific addresses for both of
16 those other organizations as appropriate.

17 JUDGE MOSS: We really just need the contact
18 information for the representatives, so I don't think we
19 need those additional addresses. Just to make sure I
20 got the names correct I wrote down the Northwest
21 Community Action Center.

22 MR. EBERDT: Yes.

23 JUDGE MOSS: And the other one was the
24 Opportunities plural?

25 MR. EBERDT: Yes.

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1 JUDGE MOSS: Industrial.

2 MR. EBERDT: Industrialization Center of
3 Washington.

4 JUDGE MOSS: All right, I think we have that
5 all down now.

6 All right, let me just ask if anyone has an
7 objection to any of these petitions to intervene?

8 MR. VAN NOSTRAND: The company has no
9 objection to any of the petitions to intervene, Your
10 Honor.

11 JUDGE MOSS: And no one else apparently has
12 any objection, I think that the petitions that were
13 filed and through oral petition, all these petitioners
14 have demonstrated that they have a substantial interest
15 in the proceeding, and I believe that their
16 participation would be in the public interest, therefore
17 these petitions will be granted, and that will be
18 memorialized in our pre-hearing order.

19 The next item on my agenda is to take up any
20 motions or requests, and the sort of standard ones that
21 we have are the question of whether the parties will
22 propose to conduct discovery under the Commission's
23 procedural rules now at WAC 480-07-400 through
24 480-07-425.

25 MS. SMITH: Yes, Your Honor.

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1 JUDGE MOSS: All right, then the discovery
2 rules will be in force, and the parties will conduct
3 themselves in accordance with those rules subject to any
4 special arrangements we may make based on discussion.

5 Are there any special requests at this time
6 with respect to discovery?

7 MS. SMITH: Your Honor, the Commission Staff
8 doesn't have a particular request at this time, but we
9 would just like to note for benefit of the parties that
10 there may come a time where we all may want to discuss a
11 shortened period of time for discovery responses, but I
12 believe we can cross that bridge when we come to it.

13 JUDGE MOSS: All right, we apparently are not
14 to it yet.

15 Do the parties or does any party I should say
16 anticipate the need for a protective order to facilitate
17 the discovery process?

18 MR. VAN NOSTRAND: Yes, Your Honor, I think
19 based on the informal discovery we have received thus
20 far a protective order would be warranted. I'm thinking
21 even the two tiered level of protective order would
22 probably be taking advantage of the new measures under
23 the new rules. I suspect we will have some highly
24 confidential information being requested as well.

25 JUDGE MOSS: Okay, anybody want to be heard

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1 on the question of a protective order? I would, in
2 response to that request, I would propose to enter the
3 Commission's standard form of protective order,
4 including the provisions for highly confidential. Now
5 to be blunt about it, that's a subject that needs some
6 further work in our interactions with the Bar that
7 appears regularly before us, and that's a project that
8 I'm hoping to carry forward this year, but it has not
9 been done yet. In the past there have been certain
10 provisions that have proved a little bit problematic I
11 suppose. Now we do have our new procedural rules in
12 place, which of course actually capture some of the very
13 helpful interaction we have had with the Bar over the
14 course of the past two years or so as we redid the
15 procedural rules, but there have continued to be some
16 discussions.

17 I look at Public Counsel who is grinning at
18 me a little bit, I'm wondering if the parties have any
19 special thoughts on what the provisions of I think
20 particularly the highly confidential piece has been the
21 more problematic. So, Mr. Cromwell, you have something
22 on your mind.

23 MR. CROMWELL: I have a suggestion, Your
24 Honor, if I may.

25 JUDGE MOSS: Okay, go for it.

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1 MR. CROMWELL: I have no objection to the
2 entry of the standard protective order, and I would
3 perhaps suggest that if counsel for the company believes
4 that there will be a need at some point in time for a
5 highly confidential designation of information produced
6 during discovery, perhaps it would serve us all well to
7 have an informal discussion around that topic and what
8 the conditions would be which the counsel or experts,
9 outside experts in particular, would be agreeing to as a
10 condition of access to that information. I think that
11 if we discuss that informally amongst counsel, we might
12 be able to reach a resolution and provide an agreed
13 proposed language for those documents that might
14 forestall the conflicts we have all seen in the past.

15 JUDGE MOSS: Frankly, my interest is in
16 writing one order instead of two or three and not having
17 to have you all produce a lot of paper back and forth,
18 so I think your suggestion is well taken. Now it might
19 be a good idea, I think I heard Mr. Van Nostrand
20 correctly, that based on what's been received so far,
21 you anticipate there may be some need for this type of
22 provision, and so with that in mind, it would probably
23 behoove us all if you all went ahead and had some
24 discussion perhaps even today. I will stick around a
25 little bit and see if we can actually resolve the

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1 language. If not, then you could perhaps send me a
2 unified proposal in a day or two, and I could get one
3 order out, and we would have that matter behind us. So
4 I see heads nodding in assent to that proposal, so we
5 will save that until the end and see if it's possible to
6 do it today. You may not have brought your language
7 with you, I don't have mine, but okay, that's a good way
8 to go forward and that, and then I will see to it in due
9 course as we get it resolved.

10 All right, that brings us -- well, let me,
11 I'm going to jump ahead one step in my agenda here
12 because it may inform our discussion a little bit in
13 terms of process and procedural schedule, and that is
14 one of the matters we need to consider in a general rate
15 proceeding is the question of a public hearing to
16 receive comments from members of the public, usually
17 rate payers, sometimes others may have an interest. And
18 we typically will have -- we will schedule such a
19 hearing session in the service territory. In
20 PacifiCorp's case that's a little easier than in some
21 since it's a fairly discreet geographic area.

22 Is Public Counsel of a mind that we should
23 have such a hearing in this instance?

24 MR. CROMWELL: Yes, Your Honor. I have
25 discussed the matter informally with certain members of

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1 the Commission Staff as well as bringing it up with
2 Mr. Van Nostrand here this morning, this afternoon I
3 should say, and our preference would be for public
4 hearings in Yakima and Walla Walla. I think what would
5 probably work best is if we looked at the week
6 immediately following the evidentiary hearings here at
7 the Commission.

8 JUDGE MOSS: Okay.

9 MR. CROMWELL: Those are the thoughts that
10 I --

11 JUDGE MOSS: I don't know that the Commission
12 will want to schedule more than one, and that's sort of
13 a determination we may have to make a little bit down
14 the line. I think in part that will depend on the level
15 of public interest that's expressed as we go along. I
16 do recall an instance, I don't recall maybe it was the
17 merger hearing, where we didn't have very good
18 attendance, and these are expensive, so we have to
19 balance our interest in hearing from the public with the
20 logistics and expenses involved in bringing people out
21 and so, but we will plan on having at least the one.

22 And so that would bring us then to the
23 question of notice to customers, Mr. Van Nostrand, which
24 I gather would go forward under WAC 480-100-197, which
25 is the rule governing notice to customers in the

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1 situation where we do have such a hearing, so the
2 company would be planning to do that?

3 MR. VAN NOSTRAND: Yes.

4 JUDGE MOSS: And I believe that notice is to
5 include the date for that, so we will have to get that
6 set.

7 Now this will segue nicely into our
8 discussion of process and procedural schedule. I can't
9 set firm dates from the Bench today because I do have to
10 consult with the commissioners and their support staff
11 to make sure that the dates will work in terms of their
12 availability and the resources availability, and I also
13 will need to work with some of our consumer folks so
14 that we can be sure that we can arrange a place and all
15 that. So what I would like to do is get proposed dates
16 on our evidentiary hearing and the public hearing, and
17 maybe you can even give me some flexibility. Probably
18 this is far enough out where it will be less of a
19 difficulty, but it's already becoming difficult to
20 schedule things in 2004 believe it or not, so.

21 All right, well, with that, I think the
22 parties have had some informal discussion concerning
23 what process and procedural schedule, and so are the
24 parties in agreement on this? Do they have a unified
25 proposal?

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1 MS. SMITH: Are we in agreement or no?

2 MR. VAN NOSTRAND: I guess I have a concern
3 that the time proposed for deliberations is adequate and
4 this will be a non-starter from the Commission's
5 perspective. I mean I don't know that we have a problem
6 with the schedule per se, but if, you know, it seems
7 short by traditional standards for what the Commission
8 needs to deliberate.

9 JUDGE MOSS: Thank you. What hearing dates
10 are proposed?

11 MS. SMITH: We have proposed hearing dates
12 for September 13 through the 24th. We have proposed
13 briefs October 22nd, rebuttal briefs October 29th, and
14 the suspension date is November 16th. And Staff didn't
15 just pull these dates out of thin air. Really it's kind
16 of choreographed around a lot of the other obligations
17 that Commission Staff has this summer with respect to
18 the PSE case and the Northwest Natural Gas case, and so
19 we've got some constraints that we're worried about as
20 well. And so that's sort of what we have come up with
21 that would allow Staff to meet all of its obligations in
22 this case and in the other dockets.

23 JUDGE MOSS: Well, typically we like to
24 preserve 30 days after the closing briefs for Commission
25 deliberations and the preparation of an order,

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1 particularly in a major rate case where there may be
2 numerous issues that need to be resolved, and this
3 schedule would only leave us 18 days.

4 MS. SMITH: Well, I think, I mean I would
5 imagine that we could move the first briefing date up a
6 week to add another week to that. I don't know how much
7 more Staff could really do. We can certainly discuss
8 that.

9 JUDGE MOSS: All right, let's -- it would
10 probably be useful for me to have the full proposed
11 schedule in front of me here, and I may play with
12 cutting out some of your time and see if we can make
13 both of these things work. So why don't you give me the
14 date for the, we have the company's testimony of course,
15 so the first round of testimony would be the Staff and
16 intervener response testimony?

17 MS. SMITH: Yes, Your Honor, and we're
18 proposing July 13th for that to accommodate both the
19 schedule of Staff and counsel for ICNU.

20 JUDGE MOSS: And then we would have rebuttal?

21 MS. SMITH: Yes, Your Honor, either August
22 9th or 10th, whichever date is best for the company. We
23 would propose a pre-hearing conference some day during
24 the week of September 7th for marking exhibits and
25 whatnot. Evidentiary hearings again September 13

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1 through the 24th. Simultaneous closing briefs October
2 22nd, that's the original thought. And rebuttal briefs
3 due on October 29.

4 JUDGE MOSS: Well, the places that I see some
5 potential here, and you have mentioned that there may be
6 some issues for counsel with respect to that response
7 testimony date and we'll perhaps hear a little bit more
8 about that, but there's over a month between the date
9 for the proposed rebuttal testimony and the hearing
10 date, and that seems to me a place where we could
11 probably save some time. Typically after rebuttal there
12 will be the need for some discovery to facilitate the
13 preparation of cross-examination, but that's something
14 that could be conducted on a faster turn around basis by
15 that time of the case.

16 MS. SMITH: Yes, Your Honor, and we
17 appreciate that, although as it stands right now some of
18 the Staff members who would be working on some of the
19 discovery for the rebuttal case will be tied up in
20 hearing in the Northwest Natural case July 22nd through
21 the 30th, so we wanted to give enough time for those
22 folks to switch gears either back and forth between the
23 two cases and get their work done on both dockets. And
24 that's just our mindset behind that, Your Honor.

25 JUDGE MOSS: And what are the difficulties,

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1 let's see, today is January the 26th, and so we're
2 talking about basically six months to prepare, to
3 conduct discovery and prepare response testimony, what
4 sort of constraints do we have there in the first two
5 weeks of July?

6 MR. CROMWELL: Your Honor, if I may, that
7 would primarily for my perspective be preparation for
8 the Northwest Natural case. I assumed since I see at
9 least Mr. Van Nostrand and I are, I can't remember,
10 yeah, someone else is doing that for Staff, but I know
11 that he and I will be working on that case preparing for
12 hearings that are set there.

13 The only other input I have into the
14 scheduling concept is I need to check with one witness
15 about their availability for the proposed hearing dates
16 that Staff identified in September.

17 I think Ms. Smith mentioned rolling the
18 briefing dates forward about a week, which would
19 concomitantly give the commissioners that extra week of
20 deliberation. We could get an accelerated transcript
21 out of the hearings. Two weeks of hearings I imagine
22 we're going to be seeing more than one face sitting in
23 the chair, in the well as it were, so that might allow
24 us to get sooner transcripts and generate briefs on a
25 little shorter time frame than we normally do.

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1 JUDGE MOSS: Trying to keep my cases straight
2 here, as I recall, PacifiCorp has prefiled testimony by
3 what, 16 witnesses?

4 MR. VAN NOSTRAND: Sounds about right, Your
5 Honor.

6 JUDGE MOSS: So this is a large number, and
7 of course we don't know at this juncture, but while
8 cross-examination may get waived on some of those
9 witnesses, even if we hear from 10 or 11 that's quite a
10 few days of hearing just to get them up and off.

11 Public Counsel will be putting on a witness,
12 I assume, one or more?

13 MR. CROMWELL: I presume more, but I don't
14 have an exact number at this point.

15 JUDGE MOSS: Ms. Smith, do you have any sense
16 how many witnesses Staff will have?

17 MS. SMITH: Oh, I would say maybe six, maybe
18 more.

19 JUDGE MOSS: Okay, we're up to two dozen.

20 ICNU?

21 MS. DAVISON: Two to four.

22 JUDGE MOSS: Well, I'm going to use the
23 outside figures for now, that puts us at 28.

24 How about the Energy Project?

25 MR. EBERDT: I couldn't really say at this

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1 point, sir.

2 JUDGE MOSS: All right.

3 Ms. Hersch, do you know about NRDC?

4 MS. HERSCH: I believe they will have just
5 one witness.

6 JUDGE MOSS: And how about the Alliance?

7 MR. O'ROURKE: I would say about one.

8 JUDGE MOSS: Well, that puts us up to about
9 30. That suggests that a week of hearing is not going
10 to be adequate.

11 MS. SMITH: I think we had proposed two full
12 weeks, Your Honor.

13 JUDGE MOSS: Oh, two full weeks, I see.

14 MS. SMITH: Yes, Your Honor.

15 JUDGE MOSS: All right.

16 Ms. SMITH: And still the adequacy may be in
17 question, but that's what we proposed.

18 JUDGE MOSS: Yes, I think so. That's a lot
19 of witnesses, folks. And, you know, of course I have to
20 be concerned with a hearing of that magnitude that we
21 might have some slippage in our end game. I just think
22 the proposed constraints between the end of the hearing,
23 the briefing, and the period for deliberation and
24 decision is simply too little by I would say about two
25 weeks. And so I know that's a radical enough suggestion

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1 that you all will perhaps want the opportunity to
2 rethink your proposed schedule with the idea in mind
3 that you need to preserve four weeks after the final
4 round of briefs. We face a lot of resource constraints
5 as well once we have the briefs before us involving the
6 schedules of the three commissioners as well as myself
7 and several advisory staff, so we have to allow
8 ourselves adequate time too. And I recognize there's a
9 lot of business this year, I'm involved in presiding in
10 significant amounts of it, although fortunately at this
11 juncture at least not the Northwest Natural case,
12 although that too can change.

13 And so I think the best thing for us to do at
14 this juncture will be to take a little recess and give
15 you all an opportunity perhaps to discuss this with my
16 suggestion in mind and see where the best opportunities
17 may be to trim some time out of the proposed schedule
18 and give us that extra time at the end. It will be
19 worth trying anyway. I think that it's better that I
20 allow for that opportunity than to simply go back to my
21 office and consult with the commissioners and announce a
22 procedural schedule that may end up really butting up
23 against something that's impossible for one or more of
24 you, and we don't want to create that situation.

25 MS. SMITH: Thank you, Your Honor.

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1 JUDGE MOSS: Recognizing that we all may have
2 to suffer a little pain I guess.

3 MR. CROMWELL: Your Honor.

4 JUDGE MOSS: Yes.

5 MR. CROMWELL: If I may, I would ask that you
6 print off the Northwest Natural procedural schedule so
7 you have that --

8 JUDGE MOSS: I have a copy of the hearing
9 schedule here at least, which the hearing dates are July
10 22nd through the 30th.

11 MR. CROMWELL: The briefs are scheduled for
12 August 27th and September 10th.

13 JUDGE MOSS: August 22nd is a Sunday.

14 MR. CROMWELL: I'm sorry, 27th I believe is
15 the --

16 JUDGE MOSS: Oh, you may have said 27th and I
17 misunderstood you.

18 MR. CROMWELL: I apologize.

19 JUDGE MOSS: Yeah, because I have those dates
20 here too, reply brief on the 10th of September, sure.

21 MR. CROMWELL: The only other, and this might
22 require a little bit of coordination, but the only other
23 thought I have is if we were to bring the PacifiCorp
24 hearings forward, we would start to impinge on those
25 briefs, we might be able to coordinate them a little

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1 better and perhaps move the Northwest Natural briefing
2 dates a tich.

3 JUDGE MOSS: Who is the judge in that case?

4 MR. CROMWELL: Judge Caille.

5 MS. SMITH: Is there a suspension date on
6 Northwest Natural?

7 MR. CROMWELL: There is.

8 MS. SMITH: You can't -- I guess I'm not
9 involved in the Northwest Natural case, but we also
10 don't want to create the same problem that we're trying
11 to rectify here in this docket.

12 JUDGE MOSS: Yeah, I hesitate to get into
13 disrupting another proceeding's procedural schedule
14 that's already established. If it's at all possible to
15 avoid that, that would be my preference. So why don't
16 we --

17 MS. DAVISON: Your Honor.

18 JUDGE MOSS: Yes.

19 MS. DAVISON: I'm sorry.

20 JUDGE MOSS: That's all right.

21 MS. DAVISON: Before we break, I just -- I
22 wanted to make or raise two observations. The first is
23 that there's been a lot of discussion about the other
24 cases and the schedules, and I certainly understand
25 that. From our perspective, ICNU's perspective, we are

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1 thinking that the six month time period is extremely
2 aggressive, because we are dealing with not only the
3 first major fully litigated rate case for this company
4 since 1986, which has a huge number of new resources
5 that we need to be looking at since that time, but
6 secondly, because we are essentially taking two cases
7 and dealing with them at the same time, and that's the
8 multistate process, the allocation, the
9 interjurisdictional allocation issue, which is such a
10 major issue, depending on which way you come out on how
11 the allocation methodology goes, it impacts so many
12 other adjustments or numbers in the case, and that's why
13 at the open meeting we were advocating a bifurcated
14 case. And so it seems to me as we're struggling with
15 this that the logical resolution is to have the company
16 offer to extend the suspension period. At this point it
17 looks like we're just looking at a couple of weeks to
18 stick with the schedule that we have kind of
19 reluctantly, grudgingly kind of put before you.

20 JUDGE MOSS: Well, I think that's certainly
21 something you all can discuss among yourselves, and
22 perhaps that can be worked out. It's something over
23 which only one of us has any control.

24 And so if there's nothing else that needs to
25 be put on the record at this juncture, I will let you

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1 all have that discussion, and I will be happy to stay
2 and participate in it with you if you choose, or I will
3 be happy to leave the room so long as there is at least
4 a survivor to come inform me that I should come back in.

5 All right, anything else then?

6 Fine, let's be off the record.

7 (Discussion off the record.)

8 JUDGE MOSS: All right, we have had some
9 considerable discussion off the record concerning the
10 challenges of scheduling, and I'm going to rely on the
11 parties to jump in and correct me to the extent I don't
12 get this right, but what we're going to -- what I am
13 going to take to the commissioners is a proposal that we
14 have the response cases on June 25th, the rebuttal on
15 July 23rd, begin the hearing on August 30th and continue
16 through September 17th with the evidentiary hearings if
17 necessary, initial briefs on the 8th of October, and
18 reply briefs on the 15th. And that will give us just a
19 month then for the deliberation process and decision
20 writing and so forth.

21 And I will say as I set those date I see that
22 we've got actually now a five week interval between the
23 rebuttal and the hearings, so that's a little more
24 relaxed schedule than we had planned, and I don't think
25 there's going to be an opportunity to adjust that any

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1 further, but a four week interval would probably be
2 adequate if we had to do something there.

3 MR. VAN NOSTRAND: We could always slip the
4 company's rebuttal date from July 23rd to the 30th, and
5 you could take away that.

6 JUDGE MOSS: That's an interesting suggestion
7 but probably one that doesn't have wings.

8 All right, well, we will try for that
9 schedule then, and I can certainly convey the message
10 that with everything else that's going on we would like
11 to try to capture those dates for the various events,
12 and we shall see how successful I am, and we shall see
13 that in a pre-hearing order that I will enter in a day
14 or two. And again, if things come out in such a fashion
15 that someone has a real problem, you can always let us
16 know by filing an objection to the pre-hearing order,
17 and we can take that under consideration. It is a
18 procedural opportunity that is made available to you for
19 good reason. Obviously we prefer if everything is
20 greeted with smiles, but that's not always the case.

21 As far as the scheduling the hearing out in
22 the eastern portion of the state to take customer
23 testimony, I'm going to reserve that a little bit. I
24 will see if I can go ahead and identify a date that will
25 work and put it in the pre-hearing order, and if I can,

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1 I will. If I can't, then we may have to schedule that
2 by notice a little later. And again, the same
3 opportunity is always there if we schedule it on a date
4 that causes somebody too much angst, we can consider
5 adjusting it. Although, having said that, once we
6 notice that, we don't really like to change it, because
7 it upsets the public, and that is certainly not our
8 goal.

9 On filings in this proceeding, we're going to
10 need the original plus 16. That's a larger number than
11 the default number provided in our new procedural rules,
12 but it is a smaller number than I was originally
13 informed, so I was able to cut it down a little bit.
14 But I think because the case is a large and complicated
15 one, we have more staff working on it, so the internal
16 distribution needs are a little greater. Remember to
17 make your filings through the Commission's secretary
18 either by mail or in person, and I think everybody has
19 the address, I'm not going to recite it on the record,
20 you can always all call me if you lose your address
21 book. I do want to stress that your filings,
22 particularly your significant filings, need to be
23 accompanied by an electronic form, and you're all
24 familiar with that process so I won't go into the
25 details about it.

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1 What about service, our rules still require
2 paper service, and that's because we have certain
3 constraints under the statutes. However, during
4 discussions over the past year or so, we have hit upon
5 the idea that parties can waive paper service if they
6 choose, and they have to do that in writing, but if you
7 choose to receive service by electronic means, you can
8 file a letter with the Commission stating that. You can
9 also make informal arrangements with others then for
10 paper followup if you wish, that sort of thing. Vice
11 versa, I encourage if you do everything by paper that
12 you also do courtesy copies electronically. And as time
13 passes, now we do have a full schedule here and I
14 realize it seems tight in some ways, but in other ways
15 it's not expedited, and so I don't think we need to make
16 arrangements at this juncture for electronic filing and
17 that sort of thing, but as filing dates come closer, you
18 all may request that of me, and I'm pretty liberal about
19 allowing for electronic filing with paper service to
20 follow the next day. And sometimes that's actually the
21 most efficient thing, so you all let me know as we get
22 closer to the significant filing date if that's what you
23 want to do.

24 MS. DAVISON: Your Honor, could we request
25 permission for electronic filing of the reply brief

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1 since it's only a week later?

2 JUDGE MOSS: Yes, we can certainly do that,
3 we can go ahead and say that now.

4 MS. DAVISON: Thank you.

5 JUDGE MOSS: And yeah, the way that works of
6 course is you file electronically on the stated due date
7 and put your paper in the mail that evening or whatever.

8 MS. SMITH: That would probably help the
9 commissioners out as well to have that. Well, I guess
10 it wouldn't.

11 JUDGE MOSS: Me more than them, but yes.

12 MS. SMITH: Yeah, you more than them.

13 JUDGE MOSS: No, actually them too in the
14 sense that they will go ahead and start reading about
15 the same time I do, but I have the responsibility for a
16 memo, so.

17 Okay, so that will work, and it can be a
18 little more problematic with testimony because of the
19 volume, so if we can stick to those dates for paper
20 exchange, that's best.

21 Now in terms of the Commission, the
22 Commission does not at this juncture at least conclude
23 from reading the statutes that it can waive paper
24 service, so all of our service will be by the
25 traditional means, although we have fallen into the

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1 practice of sending a courtesy copy electronically so
2 that when things are entered literally within minutes
3 they will be transmitted to you, and I think parties
4 find that helpful.

5 I will enter a pre-hearing conference order.
6 As I mentioned, it will, of course, capture the things
7 we have discussed today and probably have some
8 additional language that you typically see in those
9 orders. We may have the final pre-hearing conference a
10 few days before the hearing. Let's wait and schedule
11 that as we get closer and see if it's possible, we may
12 want to just do everything by mail and courier.

13 We have already talked about expedited
14 transcripts. Now as we get closer, we will want to be
15 mindful and I will make a note to make sure that our
16 reporter service has full information, or if you know
17 today that you want daily, we will go ahead and
18 memorialize that. The thing is the expense. It's 10%
19 per day of expedition, so it's 100% more expensive to
20 get daily than it is to get two week. Do you all want
21 to discuss that and get back to me?

22 MS. DAVISON: Well, usually the company pays
23 for the expedited cost.

24 JUDGE MOSS: That's why you might want to
25 discuss it then.

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1 MR. VAN NOSTRAND: No, I think we can assume
2 unless I find out otherwise that we will be getting
3 expedited transcripts.

4 JUDGE MOSS: All right, let's count on it, we
5 will count on daily transcripts, and I will make sure
6 that we do whatever we need to do formally to inform the
7 court reporting service, although I'm sure our reporter
8 present here today will be mindful of this.

9 All right, anything else that we need to take
10 care of today?

11 All right, well, thank you all very much for
12 being here, and I appreciate your cooperative attitude
13 in helping us work out a schedule on this.

14 MS. DAVISON: Thank you.

15 (Hearing adjourned at 3:10 p.m.)

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