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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 KIMBERLY-CLARK TISSUE)
COMPANY,)

4)
Complainant,)

5)
vs.) DOCKET NO. UG-990619

6) VOLUME I
PUGET SOUND ENERGY, INC.,) Pages 1-10

7)
Respondent.)

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10 A prehearing conference in the above matter

11 was held on July 7, 1999 at 9:30 a.m., at 1300 South

12 Evergreen Park Drive Southwest, Olympia, Washington,

13 before Administrative Law Judge KAREN M. CAILLE.

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15 The parties were present as follows:

16 KIMBERLY-CLARK TISSUE COMPANY, by ADAM WALDON
GRAVLEY, Preston Gates and Ellis, Attorney at Law, 701
17 Fifth Avenue, Suite 5000, Seattle, Washington 98104.

Also Present: MARK E. ARMSTRONG

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PUGET SOUND ENERGY, INC., by ANDREE G.
19 GAGNON, Perkins Coie, Attorney at Law, 411 108th Avenue
Northeast, Suite 1800, One Bellevue Center, Bellevue,
20 Washington 98004.

Also Present: WILLIAM F. DONAHUE

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THE WASHINGTON UTILITIES AND TRANSPORTATION
22 COMMISSION, by MARY TAYLOR, Consumer Program
Specialist, (for Robert Cedarbaum), 1400 South

23 Evergreen Park Drive Southwest, Post Office Box 40128,
Olympia, Washington 98504.

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Kathryn T. Wilson, CCR
25 Court Reporter

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

2 JUDGE CAILLE: Let's go on the record. We
3 are here today for the first prehearing conference in
4 the proceeding Kimberly-Clark Tissue Company versus
5 Puget Sound Energy Inc., Docket No. UG-990619. My name
6 is Karen Caille, and I'm the presiding administrative
7 law judge in this proceeding. Today is July the 7th,
8 1999, and we are convened in a hearing room in the
9 Commission's offices in Olympia, Washington.

10 This proceeding is being held to determine
11 whether PSE improperly charged Kimberly-Clark \$367,683
12 in penalties under Rate Schedule 57 for the rate period
13 December 25th through the 29th, 1998, as alleged by
14 Kimberly-Clark in their complaint.

15 Our basic agenda for today will be to take
16 appearances, entertain any motions to intervene, any
17 other motions you deem necessary, set up a procedural
18 schedule and discuss any other business. Does anyone
19 have anything to add to that agenda?

20 MS. GAGNON: No, Your Honor.

21 JUDGE CAILLE: Than the first order of
22 business will be to state your name, spelling your last
23 name, who you represent, your street address and
24 mailing address, telephone number, fax number, and if
25 you have an e-mail address, would you please give that

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1 to us as well. For purposes of receiving
2 distributions, we want just one person as a
3 representative from each company.

4 Let's begin with Kimberly-Clark.

5 MR. GRAVLEY: My name is Adam Gravley,
6 G-R-A-V-L-E-Y, appearing for Kimberly-Clark. I'm with
7 the law firm Preston Gates and Ellis, 701 Fifth Avenue,
8 Suite 5000, 98104. Telephone is (206) 623-7580; fax,
9 (206) 623-7022. Same address, telephone and fax number
10 for cocounsel Carol Arnold, who was the assistant
11 attorney on the claim that Kimberly-Clark filed. My
12 e-mail address is adamg@prestongates.com. Did I forget
13 anything?

14 JUDGE CAILLE: I think you've got it all.

15 MR. GRAVLEY: And with me today is Mr. Mark
16 Armstrong from the Everett mill, and I will let him
17 introduce himself.

18 MR. ARMSTRONG: My name is Mark Armstrong
19 with Kimberly-Clark. Our address is 2600 Federal
20 Avenue. That's Everett, Washington, 98201. My phone
21 number is (425)259-7396. My fax number is
22 (425) 259-7535, and my e-mail address is
23 mearmstr@kcc.com.

24 MR. GRAVLEY: If everything could go to Carol
25 Arnold and myself at Preston Gates.

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1 JUDGE CAILLE: The zip code in Seattle,
2 that's 98104?

3 MR. GRAVLEY: Correct.

4 JUDGE CAILLE: For Respondent?

5 MS. GAGNON: My name is Andree Gagnon,
6 G-A-G-N-O-N. I'm from Perkins Coie and I represent
7 Puget Sound Energy. My address is One Bellevue Center,
8 411 108th Avenue Northeast, Suite 1800. That's
9 Bellevue, Washington, 98004-5584. My telephone is
10 (425) 453-7336. The fax is (425) 453-7350. My e-mail
11 address is gagna@perkinscoie.com, and my cocounsel is
12 Jamie Van Nostrand, V-A-N-N-O-S-T-R-A-N-D, and so
13 everything can go through us. And then with me is Bill
14 Donahue from Puget Sound Energy, and I'll let him do
15 the honors.

16 MR. DONAHUE: Officially, it's William F.
17 Donahue, D-O-N-A-H-U-E. Our address at Puget Sound
18 Energy is One Bellevue Center Building, 411 108th
19 Avenue Northeast, Third Floor, Bellevue, Washington,
20 98004-5515. My phone number is (425) 456-2356. The
21 fax is (425) 462-3414, and my e-mail address is
22 bdonah@puget.com.

23 JUDGE CAILLE: Thank you. Let the record
24 reflect there are no other appearances. The next item
25 on our agenda is motions to intervene, and it looks

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1 like there are no interventions. Are there any
2 preliminary motions?

3 MR. GRAVLEY: We have none at this time, Your
4 Honor, other than to reiterate our request in the
5 Complaint that today you would set a time for the
6 adjudicative hearing on our complaint.

7 JUDGE CAILLE: There is a motion for
8 discovery?

9 MR. GRAVLEY: That's correct. We did request
10 that Your Honor include in the prehearing order that we
11 would be allowed to take discovery under the normal
12 Commission rules.

13 JUDGE CAILLE: 480-09-480?

14 MR. GRAVLEY: Correct, and I have some
15 comments in terms of witnesses we expect and timing on
16 that when you're interested in that.

17 JUDGE CAILLE: As far as scheduling goes,
18 we'll do that off the record if no one objects, and
19 then we can go back on the record and put that schedule
20 on the record.

21 Before we do that, do the parties anticipate
22 needing a protective order?

23 MS. GAGNON: Yes, Your Honor. I would make a
24 motion for a protective order.

25 JUDGE CAILLE: That motion is granted, and I

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1 will prepare one of our standard protective orders for
2 the Commissioners to sign. Just so it's clear for the
3 record too, the discovery rule 480-09-480 is invoked.

4 Before we go off the record to discuss the
5 schedule, is there any possibility of this being a
6 stipulated facts or a paper record?

7 MS. GAGNON: I think, Your Honor, that I
8 would work with Counsel to stipulate where we can. I
9 think it will depend upon discovery responses, but my
10 hope is certainly the basic facts like the amount of
11 the penalties, the day on which they occurred, that
12 those types of facts that we could stipulate to and not
13 spend hearing time on those issues.

14 MR. GRAVLEY: I would agree with that
15 approach.

16 JUDGE CAILLE: Let me back up just a minute.
17 I said no other appearances, but I have heard from
18 Staff that Mr. Cedarbaum will be representing Staff in
19 this proceeding, and he is not here today, but he will
20 work his schedule around whatever schedule the parties
21 agree to today.

22 One more item: Will the parties want to have
23 an initial order written by me, or would you rather
24 this -- you can save some time by having this go
25 directly to the Commission and the Commission would

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1 give a final Commission order, and if you aren't sure
2 about it, I'm just raising this now for you to think
3 about.

4 MS. GAGNON: If we chose that path, would
5 Your Honor want a motion? Would that be the way to go?

6 JUDGE CAILLE: Or you could state on the
7 record here, or perhaps we could even do it at the
8 hearing or a motion. We can do it several ways.

9 MR. GRAVLEY: We would prefer to defer a
10 motion on that for the time being.

11 JUDGE CAILLE: Let's go off the record now
12 and discuss the schedule.

13 (Discussion off the record.)

14 JUDGE CAILLE: We have had an off-record
15 discussion concerning scheduling of this proceeding,
16 and Kimberly-Clark has indicated that it will have two
17 to three witnesses, one witness on distribution
18 management and possibly two witnesses from the Everett
19 mill, and they anticipate about a day for -- a half day
20 for your case but then considering cross and rebuttal,
21 and Puget Sound Energy will have four to five witnesses
22 and will need a day, so we are going to block in
23 two-and-a-half days to cover the hearings.

24 Discovery will begin right away and continue
25 to August 9th, and then there is going to be another

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1 round of discovery or depositions?

2 MR. GRAVLEY: I think our depositions will
3 start after August 9, and the parties will work
4 together for subsequent data requests and responses.

5 JUDGE CAILLE: If there are any problems with
6 discovery, as I mentioned off the record, if you cannot
7 resolve them among yourselves, then please bring them
8 to the Bench and we'll have a conference call or
9 whatever and get them settled.

10 Discovery will end on September 10th, and
11 Kimberly-Clark will be filing it's initial prefile
12 testimony on September 20th. Puget Sound Energy will
13 file its initial and responsive testimony on October
14 the 4th, and Kimberly-Clark will file rebuttal
15 testimony on October 18th. The hearings will be held
16 on November 1st, 2nd and 3rd in this room, and I will
17 send out another hearing notice with the time and a
18 reminder to you.

19 If anyone plans to file a dispositive motion
20 under WAC 480-09-426, that will be due at least 30 days
21 before the hearing, and responses will be due 20 days
22 before hearing. Is there any other business that we
23 need to discuss?

24 MS. GAGNON: Your Honor, the only thing we
25 didn't address was a briefing schedule for after.

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1 JUDGE CAILLE: Let's go off the record again
2 and we'll do the briefing schedule.

3 (Discussion off the record.)

4 JUDGE CAILLE: We are back on the record and
5 have had a discussion about post-hearing briefing
6 schedule. Kimberly-Clark will file their opening brief
7 on December the 10th. Puget Sound will file a response
8 brief on December the 30th, and Kimberly-Clark will
9 file their rebuttal brief on January the 14th.

10 Again, I remind the parties that fact
11 stipulations are encouraged. The parties are also
12 encouraged to consider alternative dispute resolution
13 and settlement discussions to resolve their differences
14 prior to hearing, and the Commission should be advised
15 of any progress you make. I will issue a prehearing
16 conference order which will include our procedural
17 schedule and other matters, and I will remind you that
18 anything you file must be directed to the attention of
19 the Commission secretary, Post Office Box 47250, 1300
20 South Evergreen Park Drive Southwest, Olympia,
21 Washington, 98504-7250, and you need to use both the
22 post office box and the street address to accommodate
23 the needs of the state mailing distribution system, and
24 you should file an original plus 12 copies.

25 Is there any other business from anyone?

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1 MS. GAGNON: No, Your Honor.

2 MR. GRAVLEY: No, Your Honor.

3 JUDGE CAILLE: Thank you for coming today and
4 this meeting is adjourned.

5 (Prehearing conference concluded at 10:15 a.m.)

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