

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

**Docket UE-220066
Docket UG-220067**

**PUGET SOUND ENERGY'S
PETITION FOR INTERLOCUTORY
REVIEW**

1. Pursuant to WAC 480-07-810, Puget Sound Energy, Inc. (“PSE”) petitions the Commission to reconsider its decision in the interlocutory Order dated July 13, 2022, granting in part and denying in part, the Alliance of Western Energy Consumers’ (“AWEC”) motion to modify the procedural schedule in this case (the “Order”). PSE requests the Commission grant AWEC’s motion in full.
2. Immediate review of the Order is necessary to prevent substantial prejudice to PSE and the cross-answering parties that would not be remediable in the Commission’s final order. The Order prejudices PSE and the other parties *by shortening the time for rebuttal testimony and*

*intervenor cross-answering testimony, as compared to the original procedural schedule, which already was an extremely tight time period as compared to past cases.*¹

3. AWEC's motion to amend the procedural schedule was an equitable arrangement that was supported or not opposed by the parties wherein PSE agreed to support extending the deadline for filing response testimony by nine days with the understanding that PSE and intervenors would also have an additional six days for rebuttal and cross-answering testimony. The Commission granted the extension for response testimony but denied the extension for rebuttal and cross-answering testimony *and in fact shortened the rebuttal/cross-answering testimony time period*. Both extensions are needed because the parties are in active and productive settlement negotiations, with the next settlement conference date scheduled for August 10, during the short period of time between response testimony and rebuttal/cross-answering testimony. The extension would allow the parties to prepare testimony (both response and rebuttal/cross-answering testimony) while also leaving time to continue settlement negotiations. All parties agreed or did not oppose the adjustments to the schedule proposed in AWEC's motion.
4. The Order harms PSE and defeats the purpose of the proposed scheduling change because it shortens the time period for PSE and parties to prepare rebuttal/cross-answering

¹ In PSE's 2019 general rate case, the procedural schedule provided seven and a half weeks between response testimony and rebuttal/cross-answering testimony. *See WUTC v. PSE*, Dockets UE-190529 et al., Order 03 (July 22, 2019). The procedural schedule initially approved by the Commission in this case provided for five weeks. The revised procedural schedule that the Commission approved in the Order provides less than five weeks between response testimony and rebuttal/cross-answering testimony.

testimony, providing less time than what was provided in the original scheduling order, while expanding other parties' time for response testimony. The reduced time inequitably prejudices PSE's ability to rebut what will likely be extensive response testimony from 14 different parties and will make it unlikely that PSE can engage in settlement negotiations, ultimately harming all parties. The reduced time also impacts the ability for intervenors to prepare cross-answering testimony and simultaneously engage in settlement negotiations. Because of these harms, PSE respectfully requests that the Commission reconsider the decision in the Order and grant AWEC's motion in full.

5. Separately, PSE also requests that the Commission amend the Order to change the date for PSE to file its power cost update to match PSE's rebuttal deadline, as was the case in the original schedule. The parties had intended to propose this change in AWEC's motion, but it was inadvertently not included.
6. PSE has shared this petition with the case parties and no party opposes. Given that deadlines in the procedural schedule are only weeks away, PSE requests that the Commission make an expedited ruling on the petition.

BACKGROUND

7. On January 31, 2022, PSE filed its general rate case, which included PSE's proposed multiyear rate plan. There are 14 diverse intervening parties (including Commission Staff and Public Counsel) in the case, most of which are expected to file response testimony that PSE will need to review and address in rebuttal testimony.

8. Despite the complexities and diverse positions by the parties in the present case, on June 13-14, the parties had productive settlement discussions, followed by additional communications by email. Those discussions, however, were paused because the deadline for filing response testimony was (prior to the Order) July 19 and the intervening parties needed to shift their focus to preparing response testimony.

9. Because of the desire to continue settlement negotiations, the parties agreed to (or did not oppose) an equitable amendment to the procedural schedule that pushed back the testimony dates and allowed for additional time for settlement discussions both before and after response testimony is filed. PSE agreed to provide the intervenors nine extra days to prepare their response testimony and the intervenors agreed (or did not oppose) to provide PSE six extra days to prepare rebuttal testimony and intervenors six extra days to prepare cross-answering testimony. The revised schedule proposed by AWEC and supported by PSE still allowed 26 days between rebuttal/cross-answering testimony and the evidentiary hearing. The extended time would allow the parties to focus both on their respective testimonies while also leaving time to continue settlement negotiations. The parties' next settlement meeting is August 10, per the prehearing conference order.

DISCUSSION

A. Immediate Review Is Necessary to Prevent Substantial Prejudice to PSE that Cannot Be Remediable in the Commission's Final Order in this Case

10. Under WAC 480-07-810(2)(b), the Commission has discretion to review interlocutory orders if "[i]mmediate review is necessary to prevent substantial prejudice to a party that would not be remediable in the commission's final order." In this case, immediate review is necessary

because the Order prejudices PSE by shortening PSE's time period for rebuttal testimony. Given that the dates for the parties to file response and rebuttal/cross-answering testimony are only weeks away, the prejudice to PSE and cross answering parties cannot be remedied in the Commission's final order in this case.

B. The Order Prejudices PSE and Cross-Answering Parties Because It Shortens the Period for Rebuttal/Cross-Answering Testimony and Will Impair the Parties' Ability to Continue Settlement Negotiations

11. Pursuant to WAC 480-07-810(3), the Order should be changed because it prejudices PSE and cross answering parties by shortening the period for preparing rebuttal testimony, and it will impair the parties' ability to continue settlement negotiations, defeating the purpose of AWEC's proposed scheduling change. While the Order provides the intervening parties with *nine extra days* to file their response testimony as requested by AWEC's motion, the Order requires PSE and intervenors to file rebuttal and intervenor cross-answering testimony on August 30, which is only 33 days from when response testimony is now due on July 28, and *two less days* compared to the original schedule (July 19 to August 23). This adjustment is inequitable because the Order extends the intervenors' period for filing response testimony while reducing PSE's rebuttal period, as well as the cross-answering period.

12. Due process requires that PSE have a reasonable opportunity to review response testimony and prepare rebuttal testimony, including a reasonable opportunity to propound discovery requests to allow PSE to understand and clarify parties' response testimony. The shortened time period will prejudice PSE's ability to propound discovery requests, incorporate discovery responses into testimony, prepare rebuttal testimony, and engage in settlement

negotiations. Shortening PSE's period for preparing rebuttal period, while extending other parties' period for response testimony, at this late date, prejudices PSE and raises due process concerns.

13. Given the above, PSE would not have agreed to the unbalanced schedule in the Order. In the original schedule, the Commission allowed only five weeks between response testimony and rebuttal, which was shorter than the period PSE was allowed for rebuttal in its 2019 general rate case, which was seven and a half weeks, for a less complex case.² The Order further reduces the rebuttal/cross answering time and defeats the purpose of AWEC's motion. PSE will need to devote its attention to drafting rebuttal testimony and will likely be unable to engage in meaningful settlement negotiations.

14. PSE certainly understands the Commission's desire to have sufficient time to review testimony in advance of the hearing. However, the time period between the rebuttal/cross-answering date as proposed in AWEC's motion (September 7) and the hearing in this case (October 3-4) is 26 total days, which is more than the time period in PSE's 2019 general rate case (22 total days) and in PSE's 2017 general rate case (20 days).³

C. The Order Should Also Be Amended to Adjust the Date for PSE to File Its Power Cost Update

15. The proposed schedule in AWEC's motion inadvertently failed to adjust the date for PSE's power cost update to the same date for PSE's rebuttal testimony, as was the case in the

² See *WUTC v. PSE*, Dockets UE-190529 et al., Order 03 (July 22, 2019).

³ *Id.*; See also *WUTC v. PSE*, Dockets UE-170033 et al., Order 03 (Feb. 15, 2017).

original schedule. The parties had intended to also make this adjustment to the schedule. Accordingly, PSE requests that the Commission also amend the Order moving the date for the power cost update from August 23 to the same date as PSE's rebuttal filing deadline. No party opposes this additional adjustment.

CONCLUSION

16. For the reasons set forth above, PSE respectfully requests that the Commission grant PSE's unopposed petition for interlocutory review and grant AWEC's unopposed motion in full, restoring PSE's rebuttal and intervenor's cross-answering deadline to September 7, 2022. Further, PSE requests that the power cost update also be aligned with the rebuttal filing deadline. Due to the proximity between the filing of this petition and the date set for response testimony, PSE respectfully requests expedited review and decision.

RESPECTFULLY SUBMITTED this 15th day of July, 2022.

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