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1 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,
by MELINDA DAVISON, Attorney at Law, Davison Van Cleve,
2 333 Southwest Taylor, Suite 400, Portland, Oregon,
 97204; telephone, (503) 241-7242.

3 THE ENERGY PROJECT, by BRAD PURDY (via bridge
4 line), Attorney at Law, 2019 North 17th Street, Boise,
 Idaho, 83702; telephone, (208) 384-1299.

5 PUBLIC COUNSEL, by SARAH A. SHIFLEY and SIMON
6 J. FFITCH, Assistant Attorneys General, 800 Fifth
 Avenue, Suite 2000, Seattle, Washington 98104;
7 telephone, (206) 464-6595.

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

2 JUDGE MOSS: We'll be on the record. Good
3 afternoon, everyone. My name is Dennis Moss. I'm an
4 administrative law judge for the Washington Utilities
5 and Transportation Commission, and we are gathered
6 today for our first prehearing conference in the matter
7 styled Washington Utilities and Transportation
8 Commission against PacificCorp, Docket UE-080220. It's
9 a general rate case. Our first order of business will
10 be to take appearances, and I'll start with the
11 Company.

12 MS. EDMONDS: Good afternoon. Sarah Edmonds;
13 my business address is 825 Northeast Multnomah
14 Boulevard, Suite 1800, Portland, Oregon, 97232; phone,
15 (503) 813-6840; fax, (503) 813-7252; e-mail,
16 sarah.edmonds@pacificcorp.com. With me today is
17 co-counsel.

18 JUDGE MOSS: Ms. McDowell?

19 MS. MCDOWELL: My name is Katherine McDowell,
20 M-c-D-o-w-e-l-l, with the firm of McDowell and Rackner,
21 PC. My business address is 520 Southwest Sixth, Suite
22 830 in Portland at 97204, ZIP code. My phone is (503)
23 595-3924; fax, (503) 595-3928. My e-mail,
24 katherine@mcd-law.com.

25 JUDGE MOSS: Ms. Davison?

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1 MS. DAVISON: Melinda Davison on behalf of
2 the Industrial Customers of Northwest Utilities. My
3 firm name is Davison Van Cleve, 333 Southwest Taylor,
4 Suite 400, Portland, Oregon, 97204. (503) 241-7242 is
5 my phone. Fax is (503) 241-8160, and my e-mail is mjde
6 dvclaw.com, and appearing with me on the case; although
7 he's not here today, is Irion Sanger, who has the same
8 contact information, except his e-mail is
9 ias@dvclaw.com. Thank you.

10 JUDGE MOSS: We'll finish with those in the
11 room before turning to you, Mr. Purdy. Mr. ffitich?

12 MR. FFITCH: Good afternoon, Your Honor. For
13 Public Counsel, Simon J. ffitich, assistant attorney
14 general, 800 Fifth Avenue, Suite 2000, Seattle
15 Washington, 98104-3188. Phone number is (206)
16 389-2055. Fax is (206) 464-6451. E-mail is
17 simonf@atg.wa.gov.

18 Also appearing with me today is Sarah
19 Shifley, Public Counsel. Ms. Shifley will be acting as
20 lead attorney for Public Counsel in this matter. I
21 will also be listed on the service list.

22 JUDGE MOSS: Thank you, and Ms. Shifley, can
23 you provide your e-mail address?

24 MS. SHIFLEY: For Public Counsel, the same
25 mailing address as Mr. ffitich. My direct phone number

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1 is (206) 464-6595. My e-mail address is
2 sarahs5@atg.wa.gov.

3 MR. FFITCH: We do have a relatively new fax.
4 It's (206) 464-6451. With the advent of newer and more
5 popular technology, we no longer have a dedicated fax
6 machine in our department.

7 JUDGE MOSS: Let's go ahead with Staff.

8 MR. TROTTER: My name is Donald T. Trotter,
9 assistant attorney general. My co-counsel will be
10 Robert D. Cedarbaum and Jonathan Thompson, and our
11 address is 1400 South Evergreen Park Drive Southwest,
12 PO Box 40128, Olympia, Washington, 98504-0128. My
13 e-mail is dtrotter@wutc.wa.gov. Mr. Cedarbaum is
14 bcedarba@wutc.wa.gov, and Mr. Thompson is jthompso with
15 the same extension. All of our phone numbers are area
16 code 360. Our fax is 586-5522. My phone number is
17 664-1189. Mr. Cedarbaum is 664-1188. Mr. Thompson is
18 664-1225.

19 JUDGE MOSS: Mr. Purdy?

20 MR. PURDY: Brad Purdy on behalf of the
21 Energy Project. As always, my mailing address is 2019
22 North 17th Street, Boise, Idaho, 83702. Phone number
23 is (208) 384-1299; fax, (208) 384-8511; e-mail,
24 bpurdy@hotmail.com, and I appreciate your indulgence in
25 my absence.

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1 JUDGE MOSS: Appreciation noted. Thank you
2 for your appearance, Mr. Purdy. Is there any other
3 person on the bridge line or here in the hearing room
4 who wishes to enter an appearance today? Hearing
5 nothing, I believe that is the end of our appearances.

6 I have two petitions to intervene pending,
7 one from the Industrial Customers of Northwest
8 Utilities and one from the Energy Project. I received
9 the latter this morning. Do the parties have that?

10 MR. TROTTER: Yes.

11 MR. PURDY: They were sent, I believe,
12 yesterday.

13 JUDGE MOSS: Is there any objection to either
14 of these?

15 MR. TROTTER: No.

16 JUDGE MOSS: Hearing no objection, the two
17 petitions will be granted. We have discovery. We will
18 continue under the procedural rules governing
19 discovery, 480-07-400 through 425. I have heard some
20 rumor of the need of a protective order?

21 MS. EDMONDS: Yes. We would like to request
22 issuance of the standard form, and at this time, we do
23 not see the need for the highly protective confidential
24 provision but would request that if we do get to that
25 circumstance that we amend the standard form.

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1 JUDGE MOSS: All right. Anyone have any
2 objection to our entry of the standard form of
3 protective order that extends only the confidential
4 status?

5 MR. TROTTER: No.

6 JUDGE MOSS: This will be the first time in
7 history, I think, that the protective order in the
8 standard form will go through unscathed. We will enter
9 that in the next day or so, and do let us know if we
10 need to amend that in any way, and it's probably best
11 if you choose to do that to consult with the parties
12 first and bring me something that's agreed. Usually,
13 the parties can work this out among themselves.

14 MS. EDMONDS: Yes, Your Honor.

15 JUDGE MOSS: We also have pending
16 PacifiCorp's motion for leave to file supplemental
17 testimony. Is there any objection to the motion?
18 Hearing no objection, the motion is granted. I take it
19 this will completely replace the results of the
20 operations exhibit?

21 MS. EDMONDS: Your Honor, it's not
22 necessarily meant to replace it. If parties agree they
23 would prefer that we replace it, we indicated in our
24 motion for leave that we would be willing to do so.

25 JUDGE MOSS: I think for analytical purposes,

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1 we might consider that. I know our own accounting
2 expert will be requesting, for example, the workable
3 files, and if we are not going to be working off of
4 Exhibit 2, instead working off of 4, that would be
5 probably best to know that, so is 2 going to be used at
6 all?

7 MS. EDMONDS: It is the original results. We
8 were hearing from Staff that Exhibit 4 is easier for
9 them to follow and process, so I haven't heard from
10 other parties whether they intend to use the first
11 version before it was reformatted.

12 JUDGE MOSS: But you would intend to go
13 forward with your case on the basis of...

14 MS. EDMONDS: The results are the same. It's
15 really about the presentation of the data, so I guess
16 we are neutral to the issue but are willing to hear
17 from parties.

18 JUDGE MOSS: Does anybody else want to
19 comment on this?

20 MR. TROTTER: Your Honor, Staff's approach at
21 this point, they will be focusing on Exhibit 4.
22 However, I believe the supplemental testimony refers to
23 Exhibit 2 from time to time, so if it's not in the
24 record, that might be a problem, but I think in terms
25 of the Commission's accounting advisor wanting to --

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1 and so on, the focus from Staff's perspective will be
2 Exhibit 4.

3 JUDGE MOSS: We want to be working off the
4 same exhibits.

5 MR. FFITCH: Public Counsel would like to
6 make a statement for the record regarding the
7 supplemental filing. While we have not objected to the
8 motion, I would like the record to reflect that by not
9 objecting, Public Counsel does not waive any future
10 objection to general rate case filings in this format.
11 We believe there is an issue in this case regarding
12 whether or not this form of filing is in compliance
13 with the Commission's administrative rules.

14 JUDGE MOSS: You mean the original form?

15 MR. FFITCH: Yes, as the discussion we have
16 just been having touches on. Because of the progress
17 of the issue and the interactions between Staff and the
18 Company in this particular case, we have decided not to
19 litigate the issue, but we do not agree that in future
20 cases this would necessarily be a format of filing that
21 would be in compliance with the rule.

22 JUDGE MOSS: Thank you, Mr. ffitich. The
23 circumstances of the filing and the filing of the
24 supplemental as well suggests that there might be some
25 benefit to some off the record when out of the hearing

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1 room discussions among the familiar players to work
2 through these sorts of issues. There is nothing to say
3 we are locked into one format for all time, but the
4 parties can have that discussion outside the context of
5 this case, so just a suggestion.

6 Our next order of business is the process and
7 procedural schedule. I suppose I'll link to that the
8 question of electronic submission of documents. We'll
9 set a procedural schedule. Recently in general rate
10 cases, I would say for at least the last two years,
11 parties have uniformly requested that the deadlines on
12 the procedural schedule actually be dates for
13 submission electronically and that the following day
14 then becomes the official filing date.

15 So as you are talking about this -- perhaps
16 we could just go ahead and resolve that up front. Do
17 the parties want to follow that protocol in this case,
18 the electronic submission next day? I'm seeing a lot
19 of affirmative nods. Very good. We will do that then,
20 so I'm going to go off the record and let you discuss a
21 procedural schedule, but those dates then will
22 represent the date for electronic submission. Do you
23 all have an agreed schedule?

24 MR. TROTTER: I did circulate the hearing
25 dates to the parties --

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1 JUDGE MOSS: I should clarify. I was
2 assuming we would want one week or the other and not
3 both, but that was the time frame that was open on the
4 Commission's calendar.

5 MR. TROTTER: The parties have been working
6 with those hearing dates in mind, and I think if you
7 give us 15 or 20 minutes, we should be able to hammer
8 out any remaining issues. If we can't, we'll hone them
9 in for you.

10 JUDGE MOSS: I'll go off the record with the
11 confidence that you all work that out, and I think for
12 my convenience and yours, I'll just retire myself to
13 Mr. Byer's office which is more centrally located to
14 the hearing room than is mine. We'll be off the
15 record.

16 (Discussion off the record.)

17 JUDGE MOSS: We are back on the record.
18 Parties had an opportunity to discuss a procedural
19 schedule that's workable and have handed me a document
20 that includes dates as follows: Direct testimony
21 previously filed by the Company on February 6th, 2008,
22 as supplemented in the last day or two by revised
23 results of operations exhibit and some additional
24 narrative. The parties have scheduled a settlement
25 conference on June 30th; response testimony, August

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1 15th, 2008, and the date of response time with seven
2 business days will be in effect until then?

3 MR. TROTTER: At that time until the next
4 date.

5 JUDGE MOSS: After August 15th, the
6 seven-business-day turnaround will be responses to data
7 requests; rebuttal and cross answering testimony on
8 September 17th, and at that date, the response time
9 reduces to five business days. Another settlement
10 conference for the parties scheduled September 29th
11 through October the 1st, perhaps; evidentiary hearings
12 October 29, which is a Wednesday, I believe, through
13 November 5th and the following week. One round of
14 briefs is anticipated, November 26. The noon is for
15 electronic submission.

16 Now, there is also some proposed date for
17 public hearings. I would need to consult with the
18 commissioners prior to setting those. Two, I suppose,
19 are preferred, Yakima and Walla Walla, with only one in
20 Yakima, and the dates would be September 23rd, 24th, or
21 25th, and I would think, Mr. ffitich, if the
22 commissioners did decide to go too, would the idea be
23 to do them back-to-back since we would be out in the
24 Eastern part of the state?

25 MS. SHIFLEY: Yes, that would be fine, Your

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1 Honor.

2 JUDGE MOSS: I see the note about the start
3 time at six p.m. or later. Now, a couple of footnotes
4 down here. Do parties want to reserve the right to ask
5 for a page limit to the reply brief? Okay, but I have
6 to tell you that when I designed this schedule and
7 these hearings dates, it's pretty tight, so if you are
8 going to do that, it's really going to need to be brief
9 because that delays our ability to process the record
10 internally, and I don't know how much you all know
11 about the way this all works, but there is a team of us
12 who do quite a bit of work and the timing can be pretty
13 delicate.

14 There is a footnote here about a status
15 report to the Bench on Company notice to customers
16 filed 30 days from prehearing conference order, so
17 where is that footnote? I don't see that above.

18 MR. TROTTER: It has no source. It's an
19 additional note. You can put it at the top.

20 JUDGE MOSS: So that's going to occur when?

21 MR. TROTTER: The idea is when you issue your
22 prehearing conference order, 30 days from that day, you
23 will receive a report on how the customer notice
24 preparation is going.

25 JUDGE MOSS: Okay.

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1 MR. TROTTER: Then if there is issues, you
2 will need to resolve them.

3 JUDGE MOSS: I'm confident I won't have to
4 resolve one on this occasion.

5 MS. SHIFLEY: We just want to clarify that
6 that 30-day deadline will appear on the schedule.

7 JUDGE MOSS: I can put that in.

8 MS. EDMONDS: It's the Company's
9 understanding that the report comes from Public
10 Counsel.

11 JUDGE MOSS: Is that Public Counsel's
12 understanding as well?

13 MS. SHIFLEY: Yes. It would be a report from
14 all the parties, and hopefully, we would work on it
15 jointly, but Public Counsel can certainly submit it.

16 JUDGE MOSS: You have to e-mail it to me.

17 MS. EDMONDS: One other notation, the parties
18 discussed and acknowledged that the seven-day and
19 five-day data request turnaround would be best efforts.

20 JUDGE MOSS: I'm sure the parties will make
21 their best efforts.

22 MS. EDMONDS: Absolutely.

23 JUDGE MOSS: I'm sure everybody will try
24 their best not to bring such a controversy to me.
25 Anything else on schedule? Good.

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1 I will put that schedule into the prehearing
2 conference order, which I do anticipate getting out
3 tomorrow. Also to try to get the protective order out
4 tomorrow. Nothing else on that. I do note again that
5 you all have scheduled a couple of opportunities for a
6 settlement conference, and of course you are free to
7 hold those among yourselves according to whatever
8 procedures you adopt for that process.

9 I will mention that we do offer somewhat
10 limited, perhaps, mediator services, settlement judge,
11 whatever term you want to use. My own little division
12 of the agency is fairly small, but we can try to get
13 somebody to help you out if that will be useful to you,
14 and as you are all aware, there are a number of
15 independent mediators that can help you with that
16 process if that will be useful.

17 Is there any other business that we need to
18 conduct before I make a few closing remarks;
19 Mr. ffitch?

20 MR. FFITCH: We would like to make our
21 routine request for inclusion of additional staff on
22 the electronic service list. We are making a final
23 decision in the next day or so about who we would
24 request, and we would e-mail that to the Bench with
25 your permission.

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1 JUDGE MOSS: All parties are invited to do
2 that. It's sometimes useful to have other people
3 inside the organization, consultants receive the
4 e-mail, so if you all will submit all of that material
5 to me. I suppose everybody could do that by the middle
6 of next week, and then I will get out a revised
7 electronic service list so everybody is on the same
8 page, particularly me because I seem to have a problem
9 with getting these things right, and it's important
10 that the Commission inform everyone in a timely way as
11 well, so I will do that and you will all let me know of
12 any mistakes I make.

13 Anything else? Checking with records center
14 this morning, it seems that we will need an original
15 and 10 copies for internal distribution of any filings
16 that you make. Filings include information that is
17 designated as confidential. File the original and 10
18 copies of the fully unredacted version, the
19 confidential version. Those on the distribution list
20 here are entitled to the confidential information, and
21 it will not be circulated outside of that group. You
22 will need to send an original and one copy of any
23 redacted version for our records center files.

24 As you all know, all filings must be made
25 through the Commission's secretary either by mail to

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1 our address here, which you all know, or by other means
2 of delivery to the Commission's offices, typically
3 courier. Filings of substance, such as testimony,
4 briefs, motions and answers, must include an electronic
5 copy. That can be furnished on a CD or a DVD or
6 whatever or e-mail attachment, which is the most common
7 method these days.

8 We are using MS Word at the Commission, so if
9 you can submit that in MS Word 6 or later. We can
10 accept Word Perfect 5 or later. A lot of you file in
11 PDF format and that's fine. I will ask you, however,
12 at a minimum if you can send me a copy in MS Word
13 format, particularly when it comes to motions, briefs,
14 answers, that sort of thing, because as I'm sure some
15 of you have noticed over the years, I will crib from
16 your documents when I enter an order, and it saves me a
17 lot of trouble if I can cut and paste your words of
18 wisdom instead of type them.

19 Almost everyone here has done this with me
20 before but not everyone, so I'll remind you that toward
21 the hearing date, I will send you an e-mail providing
22 dates and procedures for me, a witness list, an order
23 of presentation, cross-examination estimates, and of
24 course we will try to exchange our cross-examination
25 exhibits a few days prior to the evidentiary hearing

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1 with the exhibit list and all that. These are familiar
2 procedures, but I will send out some detailed
3 instructions that are useful to your staff.

4 We will have a final prehearing conference,
5 if necessary. So far, I've not had to do that since
6 adopting this mail exchange procedure, but if there is
7 a motion pending or something, then we will go ahead
8 with a prehearing conference, and we can decide at that
9 time whether we want to exchange the cross-exhibits
10 that way rather than by delivery, so probably that
11 won't be necessary.

12 The Commission encourages stipulations,
13 either stipulations as to facts or stipulations as to
14 evidence that will go in the record or stipulations as
15 to the case as a whole, and you are encouraged to use
16 your best efforts in the settlement negotiation process
17 to achieve -- anything else? Thank you all very much
18 for being here today, and I look forward to working
19 with you.

20 (Prehearing adjourned at 2:38 p.m.)

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