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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION
3 In the Matter of the Petition) DOCKET NO. UE-011170
4 of) Volume I
5) Pages 1 - 37
6 PUGET SOUND ENERGY, INC.,)
7)
8 For an Order Authorizing)
9 Deferral of Certain Electric)
10 Energy Supply Costs,)
11 _____)
12)
13 WASHINGTON UTILITIES AND) DOCKET NO. UE-011163
14 TRANSPORTATION COMMISSION,) Volume I
15) Pages 1 - 37
16 Complainant,)
17)
18 v.)
19)
20 PUGET SOUND ENERGY, INC.,)
21)
22 Respondent.)
23 _____)
24 Joan E. Kinn, CCR, RPR
25 Court Reporter

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1 A hearing in the above matter was held
2 onSeptember 4, 2001, at 1:30 p.m., at 1300 South
3 Evergreen Park Drive Southwest, Room 206, Olympia,
4 Washington, before Administrative Law Judge ROBERT
5 WALLIS.

6 The parties were present as
7 follows:

8 PUGET SOUND ENERGY, by MARKHAM A.
9 QUEHRN, Attorney at Law, and WILLIAM R. BUE, Attorney
10 at Law, Perkins Coie, LLP, 411 - 108th Avenue
11 Northeast, Suite 1800, Bellevue, Washington 98004.

12 THE PUBLIC, by SIMON FFITCH,
13 Assistant Attorney General, 900 Fourth Avenue, Suite
14 2000, Seattle, Washington 98164.

15 THE COMMISSION, by SHANNON SMITH,
16 Assistant Attorney General, and by ROBERT CEDARBAUM,
17 Senior Counsel, 1400 South Evergreen Park Drive
18 Southwest, Olympia, Washington 98504-0128.

19 CITY OF BREMERTON, by ANGELA L.
20 OLSEN, Attorney at Law, McGavick Graves, P.S., 1102
21 Broadway, Suite 500, Tacoma, Washington 98402.

22 INDUSTRIAL CUSTOMERS OF NORTHWEST
23 UTILITIES, by BRADLEY VAN CLEVE, Attorney at Law,
24 Davison VanCleve, P.C., 1000 Southwest Broadway, Suite
25 2460,Portland, Oregon 97205.

26 CITY OF TUKWILA, by CAROL S. ARNOLD,
27 Attorney at Law, Preston Gates and Ellis, LLP, 701
28 Fifth Avenue, Suite 5000, Seattle, Washington
29 98104.

30 MICROCHIP TECHNOLOGY, by HARVARD P.
31 SPIGAL, Attorney at Law, Preston Gates and Ellis, LLP,
32 222 Southwest Columbia Street, Suite 1400, Portland,
33 Oregon 97201.

34 KING COUNTY, by THOMAS W. KUFFEL and
35 DONALDWOODWORTH, Deputy Prosecuting Attorneys, 516
36 ThirdAvenue, Suite Number 550, Seattle, Washington
37 98104.

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P R O C E E D I N G S

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JUDGE WALLIS: This is a prehearing conference in the matter of Commission Dockets UE-011163 and 011170 involving Puget Sound Energy. This conference is being held on September 4 of the year 2001 at Olympia, Washington, in Commission offices before Administrative Law Judge C. Robert Wallis.

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Let us begin the proceeding today by taking formal appearances for the record. As we do this, I'm going to ask that the lead counsel for each client or group of clients state your own name, state the name of any other attorney who is appearing with you on behalf of that client or those clients, and then your business address, your business telephone, and your electronic mail address.

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With that, let's begin with the company.
MR. QUEHRN: Thank you, Your Honor. My name is Markham A. Quehrn, Q-U-E-H-R-N. With me today I also have Mr. William Bue.

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JUDGE WALLIS: Spell that.
MR. QUEHRN: William Bue, B-U-E. And our business address is Perkins Coie is the firm, our business address is 411 - 108th Avenue Northeast, Suite 1800, Bellevue, 98004. And my E-mail address is quehm@perkinscoie.com, and that will suffice for both

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1 Mr. Bue and myself.

2 JUDGE WALLIS: For the Commission Staff.

3 MS. SMITH: Shannon Smith, Assistant Attorney
4 General, my address is 1400 South Evergreen Park Drive
5 Southwest, Olympia, Washington 98504-0128. My phone
6 number is area code (360) 664-1192. E-mail address is
7 ssmith@wutc.wa.gov. And also counsel for Commission
8 Staff in this case is Bob Cedarbaum, Senior Counsel. Do
9 you need information for him?

10 JUDGE WALLIS: No, if you promise to share.

11 MS. SMITH: I promise to share.

12 JUDGE WALLIS: Okay.

13 For Public Counsel.

14 MR. FFITCH: Public Counsel, Simon ffitch,
15 Assistant Attorney General, 900 Fourth Avenue, Suite
16 2000, Seattle, Washington 98164, area code (206)
17 389-2055, and the E-mail is simonf@atg.wa.gov.

18 JUDGE WALLIS: Thank you.

19 Now let's take up petitioners for
20 intervention, and just for my convenience, if we could
21 start to my right and then proceed along the line, that
22 would be helpful.

23 MS. OLSEN: My name is Angela Olsen. I'm
24 here on behalf of the City of Bremerton. I work with
25 McGavick Graves, and our mailing address is 1102

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1 Broadway, Suite 500, in Tacoma, Washington 98402.
2 E-mail address alo@mcgavick.com, and the telephone
3 number is (253) 627-1181.

4 MR. VAN CLEVE: My name is Brad Van Cleve,
5 I'm with the law firm of Davison Van Cleve, PC, and I'm
6 appearing on behalf of the Industrial Customers of
7 Northwest Utilities. And we moved about two weeks ago,
8 we have a new address which is 1000 Southwest Broadway,
9 Suite 2460, Portland, Oregon 97205. Our E-mail and
10 telephone have not changed. The E-mail address is
11 mail@dvclaw.com, and our telephone number is (503)
12 241-7242.

13 MS. ARNOLD: Carol Arnold, Preston Gates and
14 Ellis, 750 Fifth Avenue, Seattle, Washington, (206)
15 623-7580. My E-mail is carnold@prestongates.com.
16 Preston Gates is appearing here today on behalf of two
17 clients. I am going to be taking the lead on behalf of
18 the City of Tukwila which has presented a petition to
19 intervene today, and Mr. Spigal to my right will be
20 taking the lead for Microchip.

21 MR. SPIGAL: Harvard Spigal, S-P-I-G-A-L,
22 Preston Gates and Ellis, 222 Southwest Columbia, Suite
23 1400, Portland, Oregon 97201. My E-mail address is
24 hspigal@prestongates.com.

25 MR. KUFFEL: My name is Tom Kuffel,

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1 K-U-F-F-E-L. I am from the King County Prosecuting
2 Attorney's Office representing King County. Our address
3 is 516 Third Avenue, Suite Number 550, Seattle,
4 Washington 98104. My E-mail address is
5 thomas.kuffel@metrokc.gov, and my phone line is area
6 code (206) 296-9015. And also with me is my colleague
7 Don Woodworth, W-O-O-D-W-O-R-T-H, and he is also with
8 the King County Prosecutor's Office.

9 JUDGE WALLIS: Let me ask at this point if
10 there is anyone present in the hearing room who wishes
11 to appear in a representative capacity in either of
12 these dockets?

13 Let the record show that there is no
14 response.

15 Let me ask if there is anyone on the bridge
16 line today who wishes to appear in these dockets in a
17 representative capacity?

18 Let the record show that there is no
19 response.

20 Our procedural rules dictate that under
21 ordinary circumstances, requests for intervention will
22 be the first matter undertaken at a gathering such as
23 this, and I would like to follow that process today. I
24 would like to begin with petitioners who have submitted
25 written petitions for intervention, and in particular

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1 with the petition that was presented earlier on behalf
2 of Mr. Van Cleve's clients. Do persons who are here
3 have a copy of that docket, in particular the
4 respondent?

5 Was that served on the company, Mr. Van
6 Cleve; do you know?

7 MR. VAN CLEVE: I believe it was, Your Honor.

8 MR. QUEHRN: Your Honor, I have not received
9 that petition.

10 JUDGE WALLIS: Mr. Van Cleve, would you
11 identify your clients and the nature of their interest
12 in this docket, please.

13 MR. VAN CLEVE: Certainly. My client is a
14 non-profit trade association, the Industrial Customers
15 of Northwest Utilities, which represents the interest of
16 large energy consumers in the Northwest, primarily in
17 Oregon and Washington. ICNU has intervened in many
18 previous proceedings before this Commission, including
19 proceedings involving Puget Sound Energy.

20 There are a number of ICNU members who are
21 potentially impacted by this filing, and, for example,
22 there are members such as Weyerhaeuser who continue to
23 purchase energy at tariffed rates that would be subject
24 to this surcharge that's being proposed. In addition,
25 some of the Schedule 48 and 449 customers who are

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1 exempted from this surcharge continue to purchase energy
2 at some of their smaller locations under tariff rates.

3 JUDGE WALLIS: And what issues are you
4 intending to raise in this docket?

5 MR. VAN CLEVE: Well, I think one of the
6 primary issues was raised by the motion that Public
7 Counsel has filed, and that is whether this proposed
8 rate filing is consistent with the Commission's order
9 approving the merger of Puget Sound Energy and
10 Washington Natural Gas. But I think beyond that, even
11 if it did meet the requirements of that order, there are
12 issues about whether the proposed charge is just and
13 reasonable.

14 JUDGE WALLIS: Does the company have a
15 response to the petition?

16 MR. QUEHRN: Yes, Your Honor. We will not
17 oppose the intervention by Mr. Van Cleve's client in
18 this instance.

19 I would only point out for the record,
20 however, that the interim rate relief that we have
21 filed, and a reference to this is actually in proposed
22 Schedule 395, doesn't apply to a number of, to use the
23 term loosely, industrial customers, specifically
24 Schedule 48, 448, 449, or certain customers taking
25 service under Special Contracts. And consequently, I

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1 would hope that as ICNU proceeds in this that we could
2 stay focused as to those customers that would be subject
3 to this rate if it's approved by the Commission.

4 JUDGE WALLIS: Very well.

5 Commission Staff, Public Counsel wish to
6 comment?

7 MR. CEDARBAUM: No objection to the
8 intervention. I have the same concern, that I wanted to
9 make sure that Mr. Van Cleve represented some clients
10 who would be subject to the Schedule 395. And based on
11 his representation, I'm satisfied that there are.

12 MR. FFITCH: No objection, Your Honor.

13 JUDGE WALLIS: Very well, the petition will
14 be granted subject to limitation of issues to matters
15 that actually will affect your clients.

16 MR. VAN CLEVE: And one issue that I failed
17 to mention was Mr. Quehrn mentioned the exclusion of
18 Special Contracts, and there's some language around
19 which Special Contracts in their filing, and it's not
20 clear to us whether it applies to the small customer
21 Special Contracts that resulted from the Schedule 48
22 settlement, so that may be an issue that needs to be
23 addressed also.

24 JUDGE WALLIS: It may be. In the meantime, I
25 would encourage you to speak directly with Mr. Quehrn to

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1 see if you can resolve that.

2 MR. VAN CLEVE: I certainly will.

3 JUDGE WALLIS: We have a petition from the
4 County of King to intervene on behalf of King County.

5 MR. KUFFEL: That's correct, Your Honor.

6 Again, Tom Kuffel, and King County receives electric
7 service from PSE at its South wastewater treatment plant
8 in Renton, Washington, under a Special Contract that was
9 executed approximately June 1st of this year.

10 JUDGE WALLIS: I'm having difficulty hearing
11 you.

12 MR. KUFFEL: Sure.

13 JUDGE WALLIS: Bring the microphone closer to
14 your mouth, please.

15 MR. KUFFEL: King County receives electricity
16 from PSE at its south wastewater treatment plant in
17 Renton, Washington, pursuant to a Special Contract that
18 was executed between the County and the company
19 approximately June 1st of this year. The issues that we
20 have are, at least particular to King County, to what
21 extent the proposed interim relief would apply to that
22 contract. And then in addition, the interest that we
23 have of our sewage rate payers who are the ultimate
24 recipients of those electrical charges that we receive.

25 JUDGE WALLIS: Response from the company?

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1 MR. QUEHRN: Thank you, Your Honor. Once
2 again, we have no objection to King County's
3 participation in this proceeding. It is my
4 understanding, however, and I would again note this for
5 the record and maybe for further discussion with County
6 representatives, that theirs is one of the Special
7 Contracts to which the proposed rate would not apply.
8 To be quite frank, I am not intimately familiar with
9 their special contract, so we would certainly need to
10 check that and confirm it, not only to our satisfaction,
11 but obviously the County's satisfaction too.

12 JUDGE WALLIS: Very well.
13 Commission Staff, Public Counsel?

14 MR. CEDARBAUM: Your Honor, again, I have the
15 same concern that the proposed Schedule 395 would apply
16 to the party that's seeking intervention. I'm not sure
17 one way or the other at this point whether that's been
18 satisfied. I think if the schedule applies, then they
19 certainly have an interest. If the schedule doesn't
20 apply, I don't see what that interest would be. And I
21 don't know that I would object to their intervention,
22 but I think the Commission certainly has the discretion
23 not to allow them to intervene in this case if it's not
24 going to affect them.

25 JUDGE WALLIS: Mr. Kuffel, I am inclined to

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1 say that the petition will be granted to the extent that
2 the County has identified an interest in the proceeding,
3 and that interest which you have identified would be the
4 application to the Special Contract for wastewater
5 treatment purposes of the proposed surcharge or
6 increase. And if it proves subject to response from the
7 company as to the application that the proposed rates
8 would not apply, then I would be inclined to deny your
9 petition for intervention. Would that be acceptable to
10 you?

11 MR. KUFFEL: Yes, that would be acceptable.
12 If it doesn't apply, then we would be inclined to not
13 want to participate.

14 JUDGE WALLIS: Very well.

15 Mr. Quehrn. Can you respond to the County
16 and on what schedule?

17 MR. QUEHRN: Yes, Your Honor. I would like
18 to think that depending upon how long this proceeding
19 takes this afternoon that this would be something that
20 we could take up tomorrow at your convenience. And I
21 think it's a function of making sure that we look
22 closely at the Special Contract you take service under
23 in the tariff and then perhaps enter some sort of
24 stipulation or something to that effect. But let's just
25 talk about it tomorrow if we can.

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1 JUDGE WALLIS: Very well. And if you would
2 make a response in writing to the Commission no later
3 than Friday of this week and also address the question
4 of application to Mr. Van Cleve's clients as well.

5 MR. QUEHRN: I would be happy to do that.
6 Just on that last point, what I suppose I would need to
7 do there is have some discussion with Mr. Van Cleve to
8 make sure that we have a clear understanding as to what
9 395 is supposed to apply to, what it doesn't apply to.
10 I'm not sure what box each and every one of the clients
11 or interests that purport to be represented by ICNU
12 would necessarily line up, if you follow my question.
13 So I will need some help from him in order to do that.

14 JUDGE WALLIS: Yes.

15 Mr. Van Cleve, is that something in which
16 you're willing to participate?

17 MR. VAN CLEVE: Certainly. I may have to
18 seek some counsel from some of the particular customers
19 to find out what their particular situation is, but we
20 will get that information.

21 JUDGE WALLIS: Very well. As to those
22 matters, could that discussion be concluded by the end
23 of next week?

24 MR. VAN CLEVE: I would think so.

25 MR. QUEHRN: That would be fine for me.

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1 JUDGE WALLIS: Very well, if the company
2 could respond no later than the end of next week, Friday
3 of next week, I would appreciate that.

4 All right, now, Mr. Spigal, you have
5 indicated that you have filed a petition. I do not have
6 a copy of that petition in front of me. If you could
7 summarize briefly what it says, I would appreciate that.

8 MR. SPIGAL: Microchip Technology owns a
9 facility in Puyallup, and Microchip Technology will
10 commence production of semiconductors in December of
11 2002. At that time, Microchip Technology will be a
12 purchaser of Puget's Schedule 49 rate or what is
13 presently Schedule 49. And so Microchip Technology
14 certainly has an interest in the cost of power from
15 Puget. So Microchip Technology has an interest in the
16 accounting treatment proposed by Puget and whether that
17 accounting treatment will result in rates which are just
18 and reasonable, whether posed now under the page three
19 rider for Tariff 395 or whether imposed and recovered at
20 a later date.

21 JUDGE WALLIS: Mr. Quehrn.

22 MR. QUEHRN: Yes, Your Honor. Mr. Spigal
23 actually spoke with me earlier this week, and I, or last
24 week, thank you, and I have seen his petition. And as I
25 understand the interest that he is asserting or his

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1 client is asserting as a Schedule 49 customer, we would
2 have no objection to their participation in this
3 proceeding.

4 JUDGE WALLIS: Commission Staff, Public
5 Counsel?

6 MR. CEDARBAUM: No objection.

7 MR. FFITCH: No objection.

8 JUDGE WALLIS: The petition will be granted.

9 On behalf of the City of Tukwila, Ms. Arnold?

10 MS. ARNOLD: Yes, the City of Tukwila is a
11 Puget Sound Energy customer, and Tukwila, the city of
12 Tukwila, is in Puget's service territory, so the
13 residents and businesses located in Tukwila are also
14 customers. The City would raise two issues. One is
15 whether a power cost adjustment is appropriate at all,
16 and if so, whether it's appropriate at this particular
17 time. And we share the Public Counsel's concern that
18 this filing is not consistent with the merger order.
19 And secondly, the City would raise the question of
20 whether if it is appropriate at all, if the proposed
21 rate is just and reasonable.

22 The City of Tukwila expects to be joined by
23 several other cities that are also customers of Puget,
24 and we will file either an amended petition or whatever
25 form the Judge thinks is the right form to do this in,

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1 but their issues will be identical to Tukwila's. It's
2 just a matter of getting the official approval from the
3 city councils for the other cities.

4 JUDGE WALLIS: Thank you, Ms. Arnold.

5 Mr. Quehrn?

6 MR. QUEHRN: Based upon my review of the
7 petition and my understanding of the City of Tukwila's
8 status in this matter, I have no objection. I guess I
9 would only note if there are going to be other parties
10 added that would be in this I guess I will say class of
11 interveners, I would like to reserve the ability to
12 discuss any one or more of the additional parties.

13 MR. CEDARBAUM: No objection.

14 MR. FFITCH: No objection.

15 JUDGE WALLIS: The petition of the City of
16 Tukwila is granted.

17 I will request as to any additional
18 petitioners that they be individually presented so that
19 they may be individually considered and that they be
20 served on all parties to the docket and that all parties
21 will have an opportunity to respond to the petition.

22 And given the time schedule on which we're
23 on, would seven days be adequate, Mr. Quehrn?

24 MR. QUEHRN: Yes.

25 JUDGE WALLIS: Very well.

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1 MS. ARNOLD: Thank you. Did you mean that
2 they should respond within seven days?

3 JUDGE WALLIS: If you file a petition on
4 behalf of another city or entity seeking to intervene,
5 that would be served on all parties, and a response from
6 the company would be due within seven days.

7 MS. ARNOLD: Thank you.

8 JUDGE WALLIS: City of Bremerton?

9 MS. OLSEN: Your Honor, we have not filed a
10 written petition at this time, but many of our concerns
11 mirror that of the City of Tukwila. Bremerton is a
12 customer as well as the residents of Bremerton, and we
13 share the concerns that the rate increases should be --
14 if they're appropriate at all at this time, and whether
15 if they are appropriate, they're just and reasonable.

16 JUDGE WALLIS: Mr. Quehrn.

17 MR. QUEHRN: No objection.

18 JUDGE WALLIS: Very well.

19 Are there any other petitions to consider?

20 The petition of the City of Bremerton will be
21 granted.

22 And let's move on then. The procedural
23 status of this docket is a little bit unusual in the
24 sense that it was filed under one docket number
25 originally, and then it was separated into two dockets,

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1 one for consideration of an accounting petition, and one
2 for consideration of a request for rate relief. When
3 the notice was prepared in this docket, the original
4 notice, it was prepared under Docket UE-011170, which is
5 the petition for an accounting order. Subsequently, the
6 Commission did suspend the request for rate relief at
7 its open public meeting of Wednesday of last week. And
8 on Thursday, the Commission served an amended notice of
9 hearing which included the other docket.

10 The State Administrative Procedure Act
11 requires seven days notice of a proceeding, and the
12 Commission's ability to waive that is extremely limited.
13 Consequently, I want to ask whether the parties who are
14 here today waive the seven days notice and if the
15 parties believe that any additional process is required
16 in light of that anomaly.

17 Lets begin with the company, Mr. Quehrn?

18 MR. QUEHRN: We will waive notice, Your
19 Honor.

20 JUDGE WALLIS: For Commission Staff?

21 MR. CEDARBAUM: We would also waive and --
22 well, I will just leave it at that. Thank you.

23 JUDGE WALLIS: Other parties, Public Counsel?

24 MR. FFITCH: Public Counsel will waive the
25 notice, Your Honor.

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1 JUDGE WALLIS: Mr. Van Cleve?
2 MR. VAN CLEVE: ICNU will waive the notice.
3 MS. ARNOLD: City of Tukwila waives the
4 notice.
5 MR. SPIGAL: Microchip Technology waives the
6 notice.
7 MR. KUFFEL: King County waives the notice.
8 MS. OLSEN: City of Bremerton waives the
9 notice.
10 JUDGE WALLIS: Very well. Does any party
11 believe that additional process is necessary on this
12 point?
13 Let the record show that there is no
14 response.
15 Do parties wish to invoke the discovery rule
16 in this proceeding?
17 MR. QUEHRN: Yes, Your Honor.
18 JUDGE WALLIS: Is there any objection?
19 Very well, the discovery rule will be
20 invoked.
21 Do parties envision the need --
22 Mr. Cedarbaum.
23 MR. CEDARBAUM: I'm sorry to interrupt. I
24 just wanted to interject, this is kind of a discovery
25 scheduling matter, once we get -- I just didn't want to

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1 go past this point to raise the issue. But once we get
2 to scheduling, depending on the schedule, Staff may be
3 asking for acceleration of discovery for the data
4 request turn around time from the current rules of the
5 ten business day limitation. So I just wanted to put
6 the parties on notice while we were running by that
7 point.

8 JUDGE WALLIS: That is anticipated, thank
9 you, Mr. Cedarbaum.

10 Do parties see a need for a protective order?

11 MR. QUEHRN: I'm sorry, Your Honor, could you
12 repeat the question?

13 JUDGE WALLIS: Yes. Do parties see a need
14 for a protective order?

15 MR. QUEHRN: Yes, Your Honor.

16 JUDGE WALLIS: Is there any objection to
17 entry of a protective order?

18 Let the record show that there is no
19 response, and a protective order will be entered.

20 The next item on my agenda -- well, let's go
21 past that to a matter that Mr. Cedarbaum identified
22 earlier, and that is the question of consolidation.
23 Would there be any objection to an order of
24 consolidation which would weld these two dockets
25 together subject to the Commission's discretion at a

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1 later time to unweld them?

2 Let the record show that there is no
3 objection, and an order of consolidation will be
4 entered.

5 Now let's take a look at scheduling, and what
6 I would propose to do at this point would be to go off
7 the record for a discussion of scheduling and factors
8 relating to scheduling and then return to the record
9 with a statement of the results of those discussions,
10 offering each participant the opportunity to supplement
11 or correct anything that may be said. Is that
12 acceptable to the parties?

13 I see no objection, and let us be off the
14 record for that scheduling discussion.

15 (Discussion off the record.)

16 (Brief recess.)

17 (Discussion off the record.)

18 (Brief recess.)

19 JUDGE WALLIS: Let's be back on the record
20 following a somewhat extended discussion of process and
21 scheduling. I would like to begin this discussion for
22 record purposes with the matter that was last taken up
23 off the record, and that is a question as to the
24 sufficiency of customer notice. Public counsel had
25 raised that issue in its dispositive motion but has

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1 asked that the question be independently addressed. The
2 company responded to that by saying that it is committed
3 to providing a sufficient response and is willing to
4 cooperate with Public Counsel and Commission Staff in
5 determining whether the company's notice met the
6 standards of the pertinent rule, and Commission Staff
7 and Public Counsel have both indicated an agreement to
8 cooperate. Commission Staff also called attention to
9 the Commission's order suspending this docket, which did
10 invoke the rule and state that the company was required
11 to comply therewith, which is, I believe, consistent
12 with the company's representation.

13 Is my summary adequate, or do parties wish to
14 add anything at this juncture?

15 MR. FFITCH: Your Honor, I will simply add
16 that we -- that our motion still stands although we are
17 happy to work with Puget as you discussed.

18 JUDGE WALLIS: Thank you, Mr. ffitich.

19 MR. QUEHRN: Your Honor, I think your summary
20 is sufficient from Puget Sound Energy's perspective.
21 Thank you.

22 JUDGE WALLIS: Thank you.

23 Now let's move on to scheduling questions.
24 As noted, Public Counsel has filed a motion to dismiss
25 these dockets. The scheduling for dealing with that

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1 motion has been determined as follows.

2 Any party wishing to join in Public Counsel's
3 motion or to file another motion for dispositive relief
4 may do so until the close of business on Tuesday,
5 September 12th.

6 Any party wishing to answer, that is to
7 oppose and answer the motions, may do so no later than
8 Monday, September 21st.

9 And any party wishing to reply to the answer
10 may reply to any matter that is newly raised in the
11 answer by demonstrating that it is newly raised and
12 providing a response by the close of business on
13 Wednesday, September 23rd, which provides a two day
14 window for a response.

15 MR. FFITCH: Excuse me, Your Honor, as to the
16 dates, the Monday following Friday the 21st is Monday,
17 September 24th.

18 JUDGE WALLIS: September 24th, yes, thank
19 you.

20 MR. QUEHRN: And I would just add for the
21 record, I think all of the dates were correct, the 12th,
22 the 21st, and the 24th, but they were a Wednesday, a
23 Friday, and a Monday per my calendar, not a Tuesday.

24 JUDGE WALLIS: That's what I get for using a
25 calendar issued by a historical association.

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1 All right, let's move on then. We then
2 engaged in a discussion relating to scheduling of
3 potential hearings on the company's request for interim
4 or emergency relief. The company indicated that it was
5 not unduly concerned about the characterization as
6 interim or emergency, that it believes that it is
7 entitled to a speedy hearing on its request, and
8 believes that its case as presented demonstrates that it
9 is entitled to that relief.

10 In discussions with Commission Staff in
11 particular, Staff indicated that in order to respond to
12 the form of the requested relief, that is a deferral
13 mechanism, it would require approximately 90 days from
14 submission of a power supply study. The company has
15 indicated that it does not believe under the standards
16 for the pertinent relief that it is required to make
17 that presentation, and consequently as a result I have
18 requested that the parties make a statement at this time
19 on the record regarding their scheduling needs and their
20 abilities.

21 The Commission is committed to providing
22 swift response to companies who allege that they are in
23 emergency circumstances so that the health of companies
24 is adequately considered on an emergency basis when that
25 allegation is raised and is disposed to respond as

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1 quickly as feasible given the requirements of due
2 process and an adequate opportunity to respond, which is
3 guaranteed in the State's Administrative Procedure Act.

4 With that preface, I'm going to turn to the
5 parties beginning with the company and then Commission
6 Staff, Public Counsel, and others, and then allowing the
7 company to respond on the issue of scheduling a hearing
8 on the interim request. Mr. Quehrn.

9 MR. QUEHRN: Thank you, Your Honor. The
10 petition filed by Puget Sound Energy makes reference to
11 the standard that's been adopted by the Commission for
12 interim rate relief. A specific Northwest Bell decision
13 and the citation for that case is in the petition. That
14 case sets forth a very clear and articulate six part
15 test that a utility seeking interim rate relief must
16 satisfy if they are going to obtain relief. Failure to
17 satisfy that standard would indicate that the utility is
18 not entitled to that relief.

19 When we filed our petition, we also filed our
20 direct case with the petition because as you point out,
21 the case does use interim and emergency interchangeably,
22 but make no mistake, this is an emergency. The company
23 does need to proceed with this determination as quickly
24 as possible.

25 Listening to the comments that came up around

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1 scheduling, it seems to me that there are three then sub
2 issues. The first is, is this the appropriate standard,
3 is it fair, just, and reasonable, is it the standard for
4 PC, is it something else. I would submit that if there
5 is a question as to what standard should be applied to
6 this petition, that is a question of law. That question
7 should be brought with dispositive motions and addressed
8 at that time. We are asserting that we have pled the
9 correct standard and are entitled to relief pursuant to
10 that standard.

11 A second approach would be for Staff to argue
12 that we have not made a prima facie showing on the basis
13 of the evidence that has been submitted relative to the
14 agreed upon standard. That is also a mechanism that is
15 available for the Staff to pursue in the context of this
16 proceeding.

17 The third approach would be if we agree upon
18 the standard, which again I believe is a question of
19 law, for the Staff to proceed to file responsive
20 evidence directed at that standard, giving us the
21 opportunity for rebuttal to that evidence, and proceed
22 to hear that case on the merits per the standard for
23 interim rate relief. It has been suggested that somehow
24 this is trying to fit a square peg into a round hole,
25 and I would suggest that that characterization, although

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1 I understand the context within which it was raised, is
2 essentially confusing the standard for granting relief
3 with the nature of relief that is granted after that
4 standard has been satisfied.

5 We would submit that we have filed a petition
6 that is complete and sufficient, identifies the correct
7 standard, and are prepared to proceed to have that
8 petition heard and would ask that the Commission do so
9 in due course.

10 JUDGE WALLIS: Mr. Quehrn, was the U.S. West
11 rate case on which you rely for your statement of the
12 standard one in which the company asked for a deferral
13 mechanism?

14 MR. QUEHRN: No, it was not.

15 JUDGE WALLIS: And a couple of details, is it
16 the company's commitment that it will file a general
17 rate case during the month of November?

18 MR. QUEHRN: Yes, and I would only -- that's
19 the commitment in the petition. We have yet to resolve
20 the schedule on this. That may have some bearing in a
21 practical sense, but that is currently our commitment
22 before the Commission.

23 JUDGE WALLIS: Very well.

24 Mr. Cedarbaum.

25 MR. CEDARBAUM: Thank you, Your Honor. In

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1 listening to Mr. Quehrn, there were actually some points
2 of agreement. That usually happens, and it did this
3 time. Staff is in agreement that the company -- that
4 Staff and the Commission have the responsibility to make
5 sure that this company's rates are just, fair,
6 reasonable, and sufficient, both from the customer's and
7 from the shareholder's perspective. Staff also believes
8 that it and the Commission has a responsibility to make
9 sure that when a request comes before it for -- which is
10 an attempt to demonstrate that there is financial
11 distress of a company, that the Commission should take a
12 very careful look at that, and so should Staff. I think
13 we're on agreement on those two points with the company.

14 Where we part agreement is the form in which
15 that relief will be granted if and when it should be
16 granted. Staff is perfectly amenable, again subject to
17 the motion to dismiss by Public Counsel, for the company
18 to file for interim rates under the traditional type of
19 format where they demonstrate they have financial
20 distress and they demonstrate how much money is required
21 to relieve that financial distress. We're willing to
22 entertain that and turn that around in a fairly quick
23 time frame, and I suggested before about four to six
24 weeks for the presentation of Staff's case after the
25 company makes that filing.

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1 But we can not responsibly and adequately
2 review the PCA that's been requested given the mechanics
3 of how it works, given the factual issues that are
4 evident, given the policy issues that are evident, we
5 can not do that on the time frame suggested by the
6 company. We require three months, as we stated earlier
7 I think off the record, after the company were to file a
8 power supply case with the Commission that we can
9 analyze.

10 So in summary, we're ready, willing, and able
11 to examine the financial health of this company but in a
12 form and through a process that will accomplish the
13 Commission's responsibility of making -- ensuring that
14 rates are just, fair, reasonable, and sufficient, while
15 at the same time protecting everyone's due process
16 rights, including the company's and all other parties
17 and Staff. We just can't do that under the time frame
18 suggested and in the type of relief that is requested by
19 the company. Thank you.

20 JUDGE WALLIS: Mr. ffitich.

21 MR. FFITCH: Thank you, Your Honor. Public
22 Counsel would concur in the remarks of Staff. Our
23 fundamental position really is set forth in our motion
24 to dismiss. We believe that proper scheduling in this
25 matter is really dependent on the presentation of an

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1 appropriate request by the company. We do not have such
2 an appropriate request at this time, as we have
3 suggested.

4 I also want to respond to the point that the
5 Commission has an obligation to respond to the needs of
6 companies that are facing financial difficulties, and I
7 just want to make one or two points. One is that this
8 type of request has been coming before this Commission
9 since there has been a Commission. And the fact that a
10 company makes allegations about financial distress is
11 not determinative. It is only the beginning, and the
12 Commission has very well established and very well tried
13 and very reliable mechanisms for reviewing those
14 requests. And there has simply been no showing in this
15 proceeding that now in the year 2001 it is time to
16 depart from those.

17 There is no question the company has a right
18 to request interim rate relief. The Commission has
19 established a mechanism for doing that. And the
20 mechanism not only protects the company, it protects the
21 company's customers from unjustified requests for
22 interim and emergency rate relief. And, in fact, if you
23 look at the Commission orders going back through the
24 last few decades, the Commission has been very reluctant
25 to grant relief and has sought to engage in careful

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1 review. And one of the standards set out in the PNB
2 case is the adequacy of the hearing. This is not small
3 claims court, and we would urge the Commission to not
4 collapse and truncate and expedite procedures to the
5 point that they become meaningless and a deprivation of
6 due process for customers.

7 And we would suggest finally that if the
8 company believes that it's entitled to either interim
9 relief or a PCA in this case that it really knows full
10 well how to request those and has chosen not to do so in
11 this case. And I don't believe it's appropriate for the
12 company to be asking the Commission or other parties to
13 accede to this type of a process when we don't even have
14 to start down this road. There are other more
15 appropriate, more efficacious, more fair, more accurate,
16 and more productive processes available to us, and we
17 would urge that those be initiated. And once we have
18 that kind of a case before the Commission, Public
19 Counsel will commit to any kind of reasonable procedural
20 scheduling proposals that are made.

21 JUDGE WALLIS: Thank you, Mr. ffitch.

22 Do any of the other parties wish to comment?

23 Mr. Van Cleve.

24 MR. VAN CLEVE: Thank you, Your Honor. I
25 think that Mr. Cedarbaum has provided a simple but very

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1 convincing analysis that says that if this is a simple
2 request for interim rate relief, it can be processed
3 expeditiously much as the Avista case is being and other
4 interim rate relief requests have been in the past in a
5 short time frame. But if this case involves a PCA and
6 it's going -- and a deferral mechanism, it's going to
7 take much longer.

8 And I think in the past that PCA proposals
9 have been very controversial in this state. At one
10 time, Puget Sound Power and Light had a mechanism of
11 that sort, which was ultimately rejected. More recently
12 Avista proposed a PCA in its most recent general rate
13 case, and even in the context of a general rate case,
14 the PCA was rejected at least for the time being. There
15 are very difficult issues with the PCA like what is the
16 base line, and what are the appropriate adjusters, and
17 what type of adjustment should be made to ROE to reflect
18 a shift of risk from shareholders to customers. And
19 these simply can not be analyzed on an expedited basis
20 without looking at all the relevant facts.

21 So we would support I think what
22 Mr. Cedarbaum proposed, which is if the company refiles
23 this as a simple request for interim rate relief, it can
24 be processed quickly. But if it includes a deferral and
25 a PCA, then it needs to have a schedule that looks more

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1 like a traditional rate case schedule. Thank you.

2 JUDGE WALLIS: Ms. Arnold.

3 MS. ARNOLD: And the rate payers of Tukwila
4 concur. The rate payers should not be paying -- should
5 not be paying -- let me start that all over again.

6 We first of all object to an accounting order
7 with a promise to a future recovery or a recovery
8 mechanism absent a thorough investigation of what the
9 base line represents. Mr. Cedarbaum has said that the
10 Staff requires two to three months from receipt of a
11 power cost study in order to know whether or not the
12 request is just and reasonable, and the City of Tukwila
13 supports the Staff in its request for adequate time.

14 JUDGE WALLIS: Mr. Spigal.

15 MR. SPIGAL: I concur in the comments by
16 Mr. Cedarbaum, Mr. ffitich, Mr. Van Cleve, and
17 Ms. Arnold.

18 MR. KUFFEL: King County looks forward to
19 engaging in discussion with the company beginning
20 tomorrow about the scope of their petition and to what
21 extent it extends to the County or it's intended to
22 extend to the County or not.

23 With respect to the earlier comments, we
24 share in the concerns raised by Staff and Public Counsel
25 and other interveners regarding the scheduling concerns

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1 and would join in their proposed scheduling time line.

2 JUDGE WALLIS: Thank you, Mr. Kuffel.

3 Ms. Olsen.

4 MS. OLSEN: The City of Bremerton shares the
5 same concerns that have been voiced by the Commission
6 and the Public, and we join in those.

7 JUDGE WALLIS: Mr. Quehrn.

8 MR. QUEHRN: Thank you, Your Honor. We would
9 submit that the Commission decides what relief is
10 appropriate if we offer a showing that meets the
11 standard for interim rate relief. It is not the
12 position of Puget Sound Energy or Staff or Public
13 Counsel or any of the interveners to decide for the
14 Commission what relief they can provide if that standard
15 is otherwise satisfied. And I would submit to you that
16 we have submitted a petition that meets the standard and
17 should go forward.

18 Specifically with respect to Mr. Cedarbaum's
19 concern that they can't respond within three months
20 after a power supply case has been filed, I would only
21 reiterate that we do not believe that there is a
22 requirement under the standard that such a filing be
23 made. There are any number of other things that Staff
24 might be interested in that aren't necessarily key
25 questions to resolving a request for interim rate

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1 relief.

2 And finally with respect to Mr. ffitch, we
3 have heard several times this is not an appropriate
4 request, and I would submit to you that although that
5 may be Public Counsel's heartfelt view, that is again
6 getting to the merits of what this petition is about.
7 It is not -- there is nothing procedurally inadequate
8 about our filing, nor have I heard anybody say that
9 there is anything procedurally inadequate about our
10 filing from the standpoint of identifying the
11 appropriate standard and meeting that standard. Whether
12 it is appropriate or not or the relief is appropriate or
13 not is once again a question for the Commission, not for
14 any party to dictate. Thank you.

15 JUDGE WALLIS: Mr. Quehrn, just to clarify,
16 is it your position then that the Commission in
17 determining whether the deferral of power supply costs
18 is fair, just, reasonable, and sufficient, need not look
19 at historical power supply costs?

20 MR. QUEHRN: The type of evidence that the
21 Commission needs to look at, again, I believe are
22 responsive to the specific criteria set forth in the
23 standard. I have the standard in front of me. There is
24 no specific call to this particular issue. There is,
25 again, as Mr. ffitch mentioned, a requirement for a

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1 hearing, and I won't recite the standard, but there is
2 no specific call for that type of information. Might
3 the Commission want to ask questions and do some degree
4 of inquiry down those lines commensurate with interim
5 relief as opposed to a final PCA that's going to go on
6 forever, that may very well be a type of inquiry that
7 the Commissioners want to undertake. But again, the
8 type of analysis that I think Staff is wanting is
9 appropriate for a general rate case, not for interim
10 relief.

11 JUDGE WALLIS: Very well.

12 Are there any further matters to come before
13 the Commission?

14 It appears that there are not. I will thank
15 you all for attending today, and we will adjourn this
16 conference.

17 MR. FFITCH: Your Honor, I apologize, I had
18 intended on my own list to raise the question of
19 scheduling of a public comment hearing. I think perhaps
20 in my own defense, we had not gotten into that kind of a
21 detailed scheduling leading up to evidentiary hearings,
22 which would have naturally triggered that. But we would
23 request that the Commission consider establishing a
24 public comment hearing or hearings in this matter as it
25 makes scheduling decisions.

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1 JUDGE WALLIS: Yes, I did have that on my
2 list, and I deferred inquiring into it in light of our
3 inability to commit to any either set of dates or
4 general period in which the hearing must be scheduled.
5 I will commit on behalf of the Commission that in the
6 event that either a time frame is identified or some
7 dates are established, that the Commission public
8 affairs staff will work with Public Counsel, the
9 company, and other parties to the proceeding to
10 establish an appropriate time and place or times and
11 places for the opportunity for public comment.

12 MR. FFITCH: Thank you, Your Honor.

13 JUDGE WALLIS: Is there anything further?
14 It appears that there is not. Thank you all.
15 (Hearing adjourned at 4:10 p.m.)

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