

1 BEFORE THE WASHINGTON
2 UTILITIES AND TRANSPORTATION COMMISSION

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4 WASHINGTON UTILITIES AND) UE-031725
5 TRANSPORTATION COMMISSION) Volume I
6) Pages 1-50
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9 PUGET SOUND ENERGY, INC.,)
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12 A prehearing conference in the
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14 above-entitled matter was held at 1:37 p.m. on
15 Thursday, November 6, 2003, at 1300 South Evergreen
16 Park Drive, Southwest, Olympia, Washington, before
17 Administrative Law Judge DENNIS MOSS.

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20 The parties present were as follows:

21 PUGET SOUND ENERGY, by Todd Glass and
22 Lisa Hardie, Attorneys at Law, Heller Ehrman White &
23 McAuliffe, LLP, 701 Fifth Avenue, Suite 6100,
24 Seattle, Washington 98104.

25 BP WEST COAST PRODUCTS and TRANSCANADA
PIPELINE, LTD., by John A. Cameron, Attorney at Law,
Davis Wright Tremaine, 1300 S.W. Fifth Avenue,
Portland, Oregon 97201.

INDUSTRIAL CUSTOMERS OF NORTHWEST
UTILITIES and MICROSOFT, by Matthew Perkins, Attorney
at Law, Davison Van Cleve, 1000 S.W. Broadway, Suite
2460, Portland, Oregon 97205.

COMMISSION STAFF, by Robert L.
Cedarbaum, Assistant Attorney General, 1400 S.
Evergreen Park Drive, S.W., P.O. Box 40128, Olympia,
Washington, 98504-1028.

Barbara L. Nelson, CCR

Court Reporter

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1 PUBLIC COUNSEL, by Simon ffitch,
Assistant Attorney General, 900 Fourth Avenue, Suite
2 2000, Seattle, Washington, 98164 (via teleconference
bridge).

3 FEDERAL EXECUTIVE AGENCIES' CONSUMER
INTERESTS, by Norman J. Furuta, Attorney at Law, 2001
4 Junipero Serra Boulevard, Suite 600, Daly City,
California 94014 (via teleconference bridge).

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1 JUDGE MOSS: We'll go on the record. Good
2 afternoon, everyone. We are assembled today for our
3 first prehearing conference in the matter styled
4 Washington Utilities and Transportation Commission
5 against Puget Sound Energy, Inc., Docket Number
6 UE-031725. I think our business today will be
7 exclusively procedural, and we'll start with
8 appearances and the company.

9 MR. GLASS: Good afternoon, Your Honor. My
10 name is Todd Glass, Heller, Ehrman, White and
11 McAuliffe, 701 Fifth Avenue, Suite 6100, Seattle,
12 Washington, 98104. Phone number, 206-389-6142;
13 e-mail address tglass@hewm.com. With me today at
14 counsel table is my colleague, Lisa Hardie, and two
15 directors of the rate department of Puget Sound
16 Energy, Karl Karzmar and John Story.

17 JUDGE MOSS: And your facsimile number?

18 MR. GLASS: 206-515-8968.

19 JUDGE MOSS: Okay. Let's go ahead with our
20 intervenors. For ICNU and Microsoft, I believe.

21 MR. PERKINS: Thank you, Judge Moss. My
22 name is Matthew Perkins, from Davison Van Cleve, P.C.
23 Our address is 1000 Southwest Broadway, Suite 2460,
24 Portland, Oregon, 97205. Phone number is
25 503-241-7242; our facsimile number is 503-241-8160;

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1 and our e-mail address is mail@dvclaw.com. And also
2 appearing in this proceeding will be Brad Van Cleve
3 from our office for ICNU and Melinda Davison for
4 Microsoft.

5 JUDGE MOSS: Cogeneration Coalition of
6 Washington. Anyone present on the bridge line for
7 that organization?

8 MR. GLASS: Your Honor, Mr. Brookhyser left
9 me a message yesterday stating that he would not be
10 present at today's prehearing conference.

11 JUDGE MOSS: Is the client still interested
12 in the proceeding, as far as you know?

13 MR. GLASS: I believe so. I just don't
14 think he was able to attend today.

15 JUDGE MOSS: I see, all right. And for BP
16 and TransCanada.

17 MR. CAMERON: Hello, Your Honor. I'm John
18 Cameron. I tendered to the Commission today a joint
19 intervention petition on behalf of BP and
20 TransCanada. I'd like to enter my appearance and
21 that of counsel for TransCanada. Again, I'm John
22 Cameron, Davis, Wright, Tremaine, LLP, Suite 2300,
23 1300 Southwest Fifth Avenue, Portland, Oregon, 97201.
24 My phone number is 503-778-5206; fax number,
25 503-778-5299; and my e-mail address is

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1 johncameron@dwt.com.

2 JUDGE MOSS: Thank you.

3 MR. CAMERON: Co-counsel is Ms. Angela
4 Avery, TransCanada Pipelines, Limited, 450-First
5 Street Southwest, Calgary, Alberta, and their
6 equivalent of a zip code is all caps, T2P 5H1. Ms.
7 Avery's phone number is 403-920-2171; her fax number
8 is 403-920-2354; and her e-mail address is
9 angela_avery@transcanada.com.

10 JUDGE MOSS: Is Ms. Avery an attorney?

11 MR. CAMERON: She is, Your Honor.

12 JUDGE MOSS: Admitted in the U.S.?

13 MR. CAMERON: I can't say with certainty.

14 JUDGE MOSS: All right. It does not appear
15 that we have anyone present for Public Counsel today.
16 Is there a representative from Public Counsel on the
17 bridge line?

18 MR. FFITCH: Yes, thank you. Good
19 afternoon, Your Honor. Simon ffitich, Assistant
20 Attorney General, Public Counsel Section, Washington
21 Attorney General, 900 Fourth Avenue, Suite 2000,
22 Seattle, Washington, 98164. Phone number is
23 206-389-2055; fax number is 206-389-2058; e-mail is
24 simonf@atg.wa.gov.

25 JUDGE MOSS: Thank you, Mr. ffitich. And for

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1 Staff.

2 MR. CEDARBAUM: Thank you, Your Honor.

3 Robert Cedarbaum, Assistant Attorney General,
4 representing Staff. My business address is the
5 Heritage Plaza Building, 1400 South Evergreen Park
6 Drive Southwest, Olympia, Washington, 98504. My
7 telephone number is 360-664-1188; the fax number is
8 360-586-5522; and my e-mail address is
9 bcedarba@wutc.wa.gov.

10 JUDGE MOSS: I always get your e-mail
11 address wrong, Mr. Cedarbaum.

12 MR. CEDARBAUM: So do I sometimes.

13 JUDGE MOSS: Always R instead of B. I've
14 got to correct it now. All right. Are there any
15 other persons who wish to enter an appearance today,
16 either present in the hearing room or on the bridge
17 line?

18 MR. FURUTA: Yes, Your Honor, on the bridge
19 line, my name is Norman J. Furuta, and I'd wish to
20 appear for the Federal Executive Agencies' consumer
21 interest. My business address is 2001 Junipero Serra
22 --

23 JUDGE MOSS: You'll need to spell that one
24 for us.

25 MR. FURUTA: Yes. Spelled J-u-n-i-p-e-r-o

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1 S-e-r-r-a Boulevard, that's Suite 600, in Daly City,
2 California, Daly is spelled D-a-l-y, 94014.
3 Telephone is 650-746-7312; fax is 650-746-7372; and
4 unfortunately I have a long e-mail address. It's
5 furutanj@efawest.navfac.navy.mil. They tell me next
6 month I'm going to be getting a much shorter e-mail
7 address. You'll have to bear with me.

8 JUDGE MOSS: Well, yours isn't as bad as
9 some. All right. Anyone else? Okay. Thank you.

10 MR. GURTLER: Judge, this is Gerry Gurtler.

11 JUDGE MOSS: Sorry. Can't hear you.

12 MR. GURTLER: Judge, this is Gerry Gurtler,
13 with Microsoft. I'm being represented by Davison Van
14 Cleve. Would you like my contact information?

15 JUDGE MOSS: If you have counsel
16 representing you here, we don't really need you to
17 enter a formal appearance.

18 MR. GURTLER: Great. Thank you.

19 JUDGE MOSS: Thank you. Any other party
20 wishes to enter an appearance? All right. Thank
21 you. I do have written petitions to intervene, some
22 of which I received this morning, from Industrial
23 Customers of Northwest Utilities, Microsoft
24 Corporation, Cogeneration Coalition of Washington,
25 who is not represented today, BP West Coast Products

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1 and TransCanada Pipelines, Limited. That would seem
2 to be the full set, based on the appearances we've
3 had.

4 Let me just ask generally if there's any
5 opposition to any of these petitions to intervene?

6 MR. GLASS: Your Honor, the company does not
7 -- the company does not object to the intervention of
8 any of these parties. I would note that I think Mr.
9 Furuta is also seeking intervention.

10 JUDGE MOSS: Mr. Furuta, I'm sorry I missed
11 you. You're simply not down on my sheet and I'm
12 having that kind of a day. Federal Executive
13 Agencies.

14 MR. FURUTA: Thank you.

15 JUDGE MOSS: I do not have a written
16 petition from you. However, I assume you do wish to
17 intervene?

18 MR. FURUTA: That's correct.

19 MR. GLASS: Your Honor, I have two points of
20 clarification. One is that while we do not object to
21 the intervention, we do not necessarily agree with
22 the statements in some of the motions to intervene.
23 So by our agreeing, we're not agreeing with those
24 statements.

25 The second thing is that of primary

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1 importance to us is that the protective order with
2 the highly confidential provisions will be enforced
3 with regard to all of these intervenors. Thank you.

4 JUDGE MOSS: Yes, that's our next order of
5 business, is to discuss the motions and so forth.
6 Because we all recognize that this proceeding springs
7 from the settlement the Commission approved and
8 adopted in connection with the last rate case that
9 called for an expedited process -- an agreement among
10 the parties, at least, for an expedited process for
11 this type of proceeding, we did take some preliminary
12 steps in consultation with Staff, Public Counsel and
13 Puget Sound Energy to get a procedural order in place
14 so that discovery could commence.

15 That was done a week or so ago, and it's
16 essentially our standard form of protective order.
17 We will have an opportunity today to talk about any
18 adjustments that need to be made to that, but of
19 course it is an order effective in this proceeding
20 and governs the conduct of all the parties.

21 Discovery, as I mentioned, has commenced. I
22 would say, technically, it's commenced informally, so
23 we'll make it formal and invoke the Commission's
24 discovery rule for purposes of this proceeding.

25 Let me ask, though, are there any -- do we

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1 need to have any discussion about the protective
2 order? I believe I did have one e-mail from Public
3 Counsel expressing some concern, but perhaps it turns
4 out there is no concern.

5 MR. FFITCH: Yeah, thank you, Your Honor.
6 This is Simon ffitch. We did have an issue we wanted
7 to discuss.

8 JUDGE MOSS: Well, go ahead.

9 MR. FFITCH: Thank you. I -- and we have
10 had a chance to discuss this matter with Mr. Glass,
11 for the company, and Mr. Cedarbaum, and attempted to
12 work it out. I'm afraid that we still have a bit of
13 a difference and I wanted to bring that forward
14 today. I'll try to be concise as possible.

15 The basic form of the protective order
16 that's been entered in the case is acceptable to
17 Public Counsel, but with the understanding that the
18 order be interpreted in the same fashion that similar
19 orders have been interpreted in recent telecom
20 proceedings.

21 And as I explained to Mr. Glass, we actually
22 address in the series of motions and orders in the
23 current pending Qwest competitive classification
24 docket whether or not Public Counsel was subject to
25 the full panoply of outside counsel, outside expert

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1 and affidavit requirements of the protective order,
2 and ultimately the Commission ruled that and
3 interpreted the order to mean that we were treated
4 and received information under the order identically
5 to the Commission Staff, and that the special
6 requirements in those -- essentially the affidavit
7 and outside counsel, outside party -- outside expert
8 requirements did not apply to Public Counsel, just as
9 they did not apply to Staff.

10 The -- I think the unresolved dispute we
11 have here, maybe the only unresolved dispute with the
12 company is that they would like to kind of modify
13 that prior approach by requiring Public Counsel's
14 outside experts be subject to the affidavit
15 requirements. Again, we believe that's inconsistent
16 with the Commission's orders in the Qwest competitive
17 classification docket that were just issued earlier
18 this summer.

19 JUDGE MOSS: Okay. I will say that the way
20 I read and read and indeed communicated to the
21 parties informally in response to an e-mail from Mr.
22 Cedarbaum, my understanding was that the intent was
23 to have the protective order treat Public Counsel
24 identically to Staff with respect to in-house
25 personnel, but with the -- in the case of an outside

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1 expert, that person would be required to execute the
2 affidavit in Appendix C to the protective order, so
3 that's how I had been reading it. I'm not the
4 presiding officer in the Qwest competitive
5 classification case, so I don't have any particular
6 insight to what the Commission may or may not have
7 done there, not that it would necessarily govern
8 here, in any event.

9 So I guess I would like to hear why we
10 should treat an outside expert hired either by Public
11 Counsel or, for that matter, one hired by Staff,
12 differently from someone else?

13 MR. FFITCH: Well, I know this is sort of
14 the first answer doesn't necessarily always make a
15 very persuasive point, but we think it's important
16 that we thoroughly address these issues with the --
17 with the Commission in this current case, and it's
18 been a perennial issue and it was my understanding
19 that we had finally resolved it. That's point one.

20 I -- as I indicated to Mr. Glass, I'm a
21 little frustrated with having to go back and revisit
22 and reinvent the wheel on this issue when we really
23 had hammered it out pretty well in the comp class
24 case. But to your point specifically, the basis of
25 our position is that obviously Public Counsel does

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1 not represent competitors, and for that reason, we're
2 -- we believe we're so similarly situated with Staff,
3 we don't think Staff has ever been subject to this
4 special affidavit requirement.

5 We are subject to the protections of the
6 order, so that our Staff and our outside experts are
7 making a commitment by signing the expert agreement
8 to protect the information and maintain it in a
9 highly confidential fashion. And we believe that
10 gives adequate protection to the company.

11 In addition, they do have an opportunity, if
12 they have a special basis for concern, they can
13 always object to the experts that we name in a
14 particular case. So we're not suggesting that the
15 information be unprotected, but we're, I guess,
16 jealous of our position, as a statutory party who's
17 not representing competitors, and reluctant to be
18 placed in that sort of general category with the
19 special requirements, particularly as to the
20 affidavits.

21 The last point I would make is that the
22 affidavit requirement itself has been completely
23 dispensed with in the very recently-initiated mass
24 market impairment docket on the telecom side, which
25 involves a large number of competitors and a very

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1 large amount of very competitively-sensitive
2 information. The approach there has simply been to
3 have everybody sign the standard agreement to abide
4 by the protective order, but it's my understanding, I
5 can check it while we're on line here, because I have
6 a copy of the order right here, that they've
7 dispensed with the affidavit requirement in that
8 proceeding.

9 So that's kind of an alternate model that we
10 have out there that says it's enough if you commit to
11 abide by the terms of the order, limit the use of the
12 information to the purposes of the docket, agree not
13 to use it for any anticompetitive purposes, and
14 that's sort of been deemed sufficient in that case.

15 So that's essentially a statement of why we
16 take this position.

17 JUDGE MOSS: Well, I'll say that, Mr.
18 ffitich, while I share your frustration in returning
19 to this issue it seems perennially, I also recognize
20 that each case may have its own subtleties that
21 sometimes requires us to modify terms. We do that
22 from time to time, so I don't know that there's any
23 such thing as the perfect protective order that will
24 allow us to avoid having this conversation again in
25 the future.

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1 I guess my concern, while I have heard you
2 argue what essentially seems to be a point of
3 principle, I'm more concerned with the practical side
4 of things. Is there any practical difficulty caused
5 for you by the protective order in its current form?
6 It seems to me that it's fairly unrestrictive, and
7 simply provides a mechanism whereby those who are not
8 directly in your employ, and therefore not directly
9 under your control in terms of their professional
10 activities, are having to verify, if you will, by
11 affidavit, that they will not use this information in
12 some other setting in which they may find themselves
13 working for a competitive company, for example.

14 So is there any practical difficulty posed
15 by -- and again, as far as treating Public Counsel
16 evenhandedly with Staff, a statutory party, that is
17 my understanding of the current order. It treats you
18 evenhandedly, in that if Staff went out and hired an
19 outside expert, that person also would be required to
20 execute an affidavit and the Appendix C. So tell me
21 if there's a practical problem here.

22 MR. FFITCH: Well, with respect, Your Honor,
23 Staff -- this form of highly confidential protective
24 order has not previously been interpreted to require
25 Staff outside witnesses to sign affidavits. So

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1 that's a new reading.

2 JUDGE MOSS: Well, I don't know that we've
3 ever been put to making that interpretation, not in
4 any cases I've sat in.

5 MR. FFITCH: It's also a new reading as to
6 Public Counsel. We have -- I realize that, Your
7 Honor, I haven't had a chance to provide you with the
8 copies of the pleadings and orders from the other
9 case which lay this out in more detail, but in recent
10 -- in two recent significant telecommunications
11 dockets we have used outside consultants and have not
12 been required to follow this, you know, this
13 affidavit requirement.

14 So it is a matter of principle, and also, as
15 a practical matter, it can be an onerous requirement
16 for consultants if we can't tell, when we present
17 this affidavit requirement to consultants, and it
18 will be a new requirement for us, whether we're going
19 to -- whether the consultant's going to be willing to
20 sign off on it. Because it has some elements of sort
21 of a non -- you know, restrictions on employment to
22 it that can potentially interfere with the
23 consultants' livelihood and practice. We've had some
24 consultants express some real concerns about that.

25 Now, I don't know if that would happen for

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1 us in this case, because we haven't made a final
2 determination about who we would retain, and so it's
3 possible that in this case it might not be a
4 practical issue, but, you know, having, I thought,
5 established how this order was going to be
6 interpreted with respect to our office, I'm very,
7 very reluctant to retreat from that interpretation
8 just on sort of a case-by-case basis for the
9 convenience of, you know, Puget Sound Energy. We'll
10 be litigating this in every single case that comes
11 before us. I know the Commission has preferred to
12 have a standard approach to protective orders.

13 JUDGE MOSS: A preference that we have so
14 far failed to satisfy, it seems.

15 MR. FFITCH: Well --

16 JUDGE MOSS: Well, it says -- it appears to
17 me, and I'm familiar -- of course, I've been involved
18 in this discussion for years, and we have modified
19 the protective order, what we call the standard form
20 of protective order from time to time to address some
21 of these very concerns. I'm just looking now at page
22 seven of the protective order. Paragraph 12 is
23 probably the operative paragraph in terms of any
24 concerns that an outside consultant might have with
25 respect to accepting employment with you and

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1 therefore being foreclosed from potential employment
2 elsewhere, and all this appears to require is that
3 such a person not involve themselves in competitive
4 decision-making with respect to which documents or
5 information in this proceeding may be relevant.

6 I mean, this is at the very heart of the
7 purpose of a protective order, is to protect such
8 information, and so I guess my thinking on that is if
9 there's anybody who's reluctant to agree to that,
10 then I would be reluctant to have them looking at the
11 material.

12 Well, I'll hear from anybody else who wants
13 to be heard on this, and I don't think we'll try to
14 amend the protective order from the bench, but let me
15 go ahead and complete the record on this if anybody
16 else wants to be heard. And I guess the appropriate
17 thing to do would be to ask if there's anyone who
18 supports Public Counsel's position on this?

19 MR. CEDARBAUM: Your Honor, this is Robert
20 Cedarbaum. I'm not sure if this is a statement of
21 support or not, but just let me state my concern.
22 The reason why Staff did not object to the protective
23 order that was issued with respect to the highly
24 confidential information was really just a reality
25 check, and that was that we weren't planning and have

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1 no intention on -- no plan to hire any outside
2 expert, so this was sort of a no harm, no foul
3 situation from our point of view. That was the
4 basis, really, in large part for Staff not objecting.

5 If Staff were to look to outside help on
6 this case or any other case, it may very well be that
7 we would have some difficulty with the language
8 that's in the protective order. I personally have
9 never tendered that language to an outside expert to
10 ask that person if they would have any problem with
11 it, and maybe they would and maybe they wouldn't. I
12 don't know. But there's certainly a potential that
13 there would be some difficulty.

14 That's not -- from Staff's perspective,
15 that's not this case yet, since, again, we're not
16 looking to hire any outside expert, but I wouldn't
17 want the record to show by my -- that Staff was
18 necessarily agreeing with your statement, with all
19 due respect, that Staff outside experts would be
20 required to sign this affidavit or that a better
21 approach might be to revise this protective order in
22 more acceptable language along the lines of Public
23 Counsel's suggestion.

24 JUDGE MOSS: Hopefully we will someday
25 achieve perfection, but we are not there yet. I will

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1 say this. In specific cases, we have in the past
2 made accommodations to meet the unique circumstances
3 of a party where we have counsel traveling to Africa,
4 for example. We might have to make some allowances
5 for co-counsel when we have restrictive terms with
6 respect to the numbers of people, for example, which
7 was a prior form of our protective order that people
8 had difficulties with and we modified.

9 So although I don't like to spend so much
10 time as we are spending on this type of issue,
11 sometimes it's necessary to spend that kind of time,
12 and so I don't mind doing it and I don't mind
13 entertaining the idea of making some specific
14 adjustments if they're needed. For example, if
15 Public Counsel were to propose to hire a specific
16 expert and came forward and said that this expert we
17 want to hire says she will not serve if required to
18 sign this affidavit and so forth, then we might want
19 to inquire a bit further into that, see if there's
20 some accommodation that can be made and so forth, but
21 that's a specific case, rather than the abstract.
22 Maybe it is impossible to resolve this in the
23 abstract and have the perfect standard form of
24 protective order. I'm not sure.

25 If no one else wishes to be heard

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1 essentially in support or at least in that direction
2 with respect to Public Counsel, I'd like to hear from
3 Mr. Glass. Go ahead, Mr. Glass.

4 MR. GLASS: Thank you, Your Honor. As Mr.
5 ffitich accurately states, the company has no argument
6 with regard to Public Counsel's carveout, their
7 lawyers, their in-house staff, and that is due to
8 Public Counsel's statutory obligations. We do have
9 an objection to outside consultants and experts being
10 given the same access to highly-confidential
11 information without an affirmative statement
12 acknowledging that they're not going to turn around
13 and use that information with their other clients,
14 their other competitors.

15 Public Counsel has, in other proceedings,
16 engaged consulting firms such as R.W. Beck and others
17 who have very active consulting practices for other
18 companies that compete with the type of project
19 owners and energy project developers that we are
20 trying to guard their information.

21 Consequently, I have no doubt in my mind
22 that R.W. Beck is going to be consulting competitors.
23 Consequently, we object to letting them have the
24 information without that affirmative statement. The
25 very reluctance, as I think you've pointed out, the

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1 very reluctance and refusal to sign because they
2 think of it as a noncompete is exactly why and
3 evidence of the reason for this very commitment.

4 I've read the pleadings in UT-030614, and
5 with due respect to Mr. ffitich, I don't see that it
6 squarely deals with the question of outside
7 consultants.

8 Finally, I have here in this binder the -- I
9 think 50 different confidentiality agreements that
10 the company signed with project developers in order
11 to obtain the information that we have now classified
12 as highly confidential. If we are to, in this
13 proceeding, give that information to the likes of
14 R.W. Beck or other types of consultants that do
15 advise competitors, the company might seek some --
16 they might receive some legal action and even
17 possibly the Commission in the form of external
18 protective orders to make sure that that doesn't
19 happen, because I have a feeling that the 40 or so
20 project developers that handed this information over
21 would not like to have it in the hands of somebody
22 that hasn't made that affirmative commitment.

23 JUDGE MOSS: All right. Well, I'll do this.
24 I'll go back and study the protective order again and
25 see if I have any further concerns in light of the

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1 arguments I've heard. In the meantime, Mr. ffitch, I
2 invite you, if you wish, to furnish me with the
3 determinations, I believe you described them, or
4 rulings or whatever orders they were from the
5 Commission in these other proceedings that resolved
6 this matter in a way contrary to what I expressed as
7 my understanding of the agreement as written. Then
8 I'll certainly be happy to look at that, as well.

9 If you wish, you may, of course, file a motion
10 to amend the protective order, and we'll take that up
11 formally. And again, I must say that my concern with
12 this sort of thing is very much a practical concern.
13 My goal is to facilitate the free exchange of
14 information that is required for people to access and
15 study and analyze for purposes of developing a record
16 satisfactory to the Commission's needs. And so
17 absent practical problems, and you know, granted a
18 practical problem might be that you have a hard time
19 hiring a consultant because there's something the
20 consulting community regards as onerous here, you
21 know, that's -- evenhanded treatment, I think that's
22 a fairly important principle and one that we have
23 conformed to here. It's just that we have a
24 different understanding or interpretation perhaps of
25 what the treatment is, not -- I think you do

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1 understand that, in my view, we are treating Public
2 Counsel and Commission Staff identically.

3 So again, I'm not going to sit here and try
4 to tweak the protective order today, but those are
5 the options that we have available to us and it's
6 something that I spent perhaps a bit more time than
7 I'd care to spend on internally, as well as in
8 proceedings, but I will certainly discuss it further
9 with my colleagues and the Commissioners and we'll
10 see what we might need to do.

11 MR. FFITCH: Thank you, Your Honor. I would
12 be happy to send the documents that I'd mentioned
13 electronically just for efficiency, and because we're
14 not actually asking to have the order amended per se,
15 but simply an interpretation of it, I'd be happy to
16 just have that be taken under advisement. I don't
17 know if any of the other parties would want service
18 of those documents. We don't have a full service
19 list set up yet.

20 JUDGE MOSS: Well, if you wanted -- yeah, I
21 think the electronic service would be perfectly
22 adequate. Indeed, you can -- if it's -- if sending
23 the documents themselves is in any way difficult, you
24 can simply give me the docket numbers and the dates
25 or the order numbers or whatever, and I can access

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1 them myself and just copy our group on that. As far
2 as the service list is concerned, if you were here
3 today, I could provide you with one. I'll send you
4 one electronically. How about that?

5 MR. FFITCH: Thank you very much, Your
6 Honor. I'll send out the copies to everybody.

7 JUDGE MOSS: I'll send out -- as part of the
8 prehearing conference order, I'll include a service
9 list that will have all the relevant contact
10 information, so you'll all have that probably
11 tomorrow and certainly by Monday. All right. Well,
12 thank you all very much.

13 MR. CAMERON: Your Honor, I did want to make
14 --

15 JUDGE MOSS: Oh, I'm sorry. Mr. Cameron.

16 MR. CAMERON: I did want to make one
17 comment, please. And it does not bear on Public
18 Counsel's issues. We don't have any problem with
19 signing the protective order materials.

20 I did want to raise one point, though, and
21 that is it's our position that Puget's choice of
22 resources has a necessary bearing on its avoided cost
23 under the Public Utility Regulatory Policies Act. We
24 don't have the joint issue on that today, but to the
25 extent that is true, we think it's incumbent on Puget

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1 to publish that information and make it publicly
2 available for the benefit of qualified facilities
3 under PURPA. Again, it's not something that we would
4 disclose; it would be, we believe, incumbent on the
5 Commission or Puget to do that, but I don't know yet
6 the position Puget will take on information regarding
7 the cost of its Frederickson I proposed acquisition,
8 which is really the only resource we're talking about
9 here.

10 I did want to make note of the fact that we
11 don't necessarily agree that all the information
12 should be kept confidential.

13 JUDGE MOSS: All right. Thank you. That's
14 noted for the record. All right. Are there any
15 other motions or requests that we have today that we
16 need to take up or shall we move on to process and
17 procedural schedule?

18 MR. CEDARBAUM: Your Honor, there's one --
19 I guess one issue that is noted on the proposed
20 schedule that I distributed this morning, but you
21 referenced the discovery rule earlier before, so
22 maybe to single that one issue out, Staff, the
23 company and I believe Public Counsel have agreed
24 prior to today to reduce the turnaround time for data
25 request responses from the 10 business days, as it

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1 states under the rule, to five business days, and
2 perhaps we can just get a ruling on that single item
3 before we move on to more pure process type items.

4 JUDGE MOSS: And Puget's in agreement?

5 MR. GLASS: Yes, Your Honor.

6 JUDGE MOSS: Okay. Well, Puget will tend to
7 carry the principal laboring oar in the discovery
8 response stage, although others, of course, will need
9 to respond, also, unless there's an objection, and
10 hearing none, we will reduce the response time to
11 five business days effective immediately. And I'll
12 include that in the prehearing order.

13 Anything else? Okay. Process and
14 procedural schedule, you know, we seem to be headed
15 down a more or less traditional path for this type of
16 case with prefiled testimony and exhibits, and I
17 don't see anything in the proposed schedule that
18 Staff, Public Counsel, and Puget have put up here --
19 did I get that right? Is it those three?

20 MR. CEDARBAUM: Yes, it is.

21 JUDGE MOSS: -- that would suggest anything
22 other than that sort of traditional process. I'm
23 sure you'll tell me if I'm mistaken about that. But
24 the proposal that's before me is to have the Staff,
25 Public Counsel and Intervenor direct testimony -- or

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1 actually, I would call it response testimony and
2 exhibits January 16th, which is a Friday, and then
3 the Puget Sound Energy rebuttal testimony and
4 exhibits on January 30th.

5 Now, the hearing schedule, and I had
6 previously discussed this with Mr. Cedarbaum off the
7 record, it being a wholly procedural matter, and he
8 had suggested to me the possibility of hearings
9 commencing on the 16th, which is a state holiday.

10 While I personally have no particular
11 problem with that, in all candor, I have not cleared
12 that with the Commissioners, and I know they'll be
13 sitting at hearing. So I'm not prepared today to
14 endorse that day. It is -- the week is available
15 otherwise, it appears. I had actually suggested to
16 Mr. Cedarbaum, and I think he passed that on at least
17 to Puget, probably to Public Counsel, as well, the
18 idea of going on the 9th. That would -- or the week
19 of the 9th. That would just give you a week, but we
20 could make it maybe 10 days and start on the
21 afternoon of the 11th or something like that.

22 Do we anticipate we're going to need five
23 days? I mean, we've got a huge volume of material
24 here, to be sure. On the other hand, the
25 testimonies, at this juncture, are relatively brief.

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1 I've even had time to read them all, and so it's not
2 too much.

3 MR. CEDARBAUM: There's a balancing act
4 here, I guess.

5 JUDGE MOSS: Sure.

6 MR. CEDARBAUM: Between -- and the main
7 players, in Staff's mind, or the main points that
8 we're balancing are trying to keep the prefiling of
9 Staff, Public Counsel and Intervenor responsive
10 testimony no earlier than mid-January, because,
11 especially with all the holidays thrown in there,
12 it's very difficult to accelerate that, which would
13 have been necessary had we moved the hearings up to
14 the week of the 9th. So that's why we came up with
15 the week of the 16th of February. My gut reaction is
16 that we wouldn't need more than that week for the
17 hearings, but I haven't read as much of the case, I
18 guess, as you have, Your Honor. I -- the company has
19 how many witnesses? Five witnesses?

20 JUDGE MOSS: Five.

21 MR. CEDARBAUM: My understanding from Staff
22 is that we will have no more than three, is my
23 current understanding. Mr. ffitch can speak for
24 himself, but I'm assuming one or two, and I don't
25 know about the Intervenors, so I guess from a head

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1 count, it seemed like five days would be enough.

2 JUDGE MOSS: Let's see if we can get some
3 better idea about that. Mr. ffitch, has your
4 thinking gone far enough that you know how many
5 witnesses you might have?

6 MR. FFITCH: I think one or two is a fair
7 estimate, Your Honor.

8 JUDGE MOSS: Let's call it two, so we're
9 using a conservative estimate. Mr. Cameron, do you
10 anticipate that you'll put on a witness?

11 MR. CAMERON: I believe so, Your Honor. I
12 can't tell you at the moment how many that might be.

13 JUDGE MOSS: I'll give you one for the time
14 being for purposes of count.

15 MR. CAMERON: Okay. Seems fair.

16 JUDGE MOSS: How about you, Mr. Perkins?

17 MR. PERKINS: I think at this point we
18 anticipate having one witness.

19 JUDGE MOSS: I saw Mr. Schoenbeck's name on
20 the pleading. I assume he's your expert.

21 MR. PERKINS: That's correct.

22 JUDGE MOSS: How about the Federal Executive
23 Agencies, Mr. Furuta? Are you anticipating that
24 you'll put on a witness?

25 MR. FURUTA: At this point, it's more likely

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1 that we'll not have a witness, but we would just be
2 crossing.

3 JUDGE MOSS: Okay. Thank you. Well, that's
4 12 witnesses all together, then. We could probably
5 do that in a week. Again, always depends on how
6 extensive the testimony is or how much examination
7 there needs to be with respect to the exhibits,
8 because that really is the bulk of the material that
9 we have, and it is a considerable bulk, as personnel
10 from Heller Ehrman will testify, because they were
11 here today helping us arrange it for our files and
12 they spent many hours doing that, which we
13 appreciate.

14 Is the time after the 30th of January -- do
15 you feel like you need the full two weeks to prepare,
16 Mr. Cedarbaum? I realize you get the rebuttal there
17 at that last step, and so you may not know.

18 MR. CEDARBAUM: I don't know. I mean, I
19 can only be -- I can only be cautious and assume that
20 two weeks is the minimum amount because, well,
21 anything less than two weeks is just difficult with
22 -- you can barely get one round of data requests in,
23 anyway, with that amount of time. Two weeks just
24 isn't that long.

25 JUDGE MOSS: I understand.

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1 MR. CEDARBAUM: And likewise, it's not that
2 long. The company has the same two weeks to put its
3 rebuttal case and it's expressed concern to me that
4 that's a short time, as well.

5 JUDGE MOSS: Sure.

6 MR. CAMERON: Your Honor, I would join Mr.
7 Cedarbaum and try to preserve the two weeks between
8 rebuttal and hearing. It occurs to me that we might
9 propose now to convene the hearing on the 16th. If
10 the Commissioners' schedules can't accommodate that,
11 we could always consider going long on the four days,
12 Tuesday through Friday, as necessary, to finish off
13 the hearing within that week. We've done that
14 before.

15 MR. GLASS: Yes, we have.

16 MR. CEDARBAUM: We've also spent time in the
17 hearing room on holidays before.

18 JUDGE MOSS: Yes, we have. I've missed
19 several in the last two years, as well as being
20 involved in what one Commissioner refers to as the
21 Bataan death march hearings.

22 MR. CEDARBAUM: Your Honor, I guess I would
23 just only ask that if, for some reason, the entire
24 week of the 16th is unacceptable and if the
25 Commission was inclined to accelerate that to the

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1 9th, that you convene another prehearing conference
2 by phone, if necessary, to talk about that, because
3 that -- you know, quite honestly, we came up with the
4 schedule keeping in mind the four-month process.

5 JUDGE MOSS: Sure.

6 MR. CEDARBAUM: But honestly, we've had
7 disagreements among the three parties who proposed
8 this as to what that four-month commitment was, but
9 we're here trying to accommodate the company, and
10 that's fine, but if we have to accelerate the hearing
11 and likewise accelerate prefiling of the Staff case,
12 that's kind of not the deal we came in -- kind of the
13 deal and sort of the expectations that we were acting
14 upon. If we were going to accelerate that, we might
15 want to have more argument about the schedule than
16 agreement about the schedule.

17 JUDGE MOSS: Well, I guess I was just
18 looking to see if there might be some little bit of
19 room here to adjust without ruffling anybody's
20 feathers, and so I was thinking, as I mentioned,
21 perhaps starting on the afternoon of the 11th or even
22 starting on the 12th. That way, if we started, for
23 example, on the morning of the 12th, then we'd have
24 two full days of hearing, the parties would have a
25 relaxing three-day weekend in which to sharpen and

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1 hone their cross-examination, and we might finish by
2 Wednesday, the 18th, say. You would lose a little
3 time in terms of preparing cross-examination after
4 the rebuttal testimony, but you'd gain a little extra
5 time on the briefs. Is something like that
6 unworkable, from your view?

7 MR. CEDARBAUM: Your Honor, I'm just not
8 expecting this to be easy no matter how we slice and
9 dice it. Again, I just -- I think it's difficult to
10 agree that we're -- that we don't need the full two
11 weeks in between filing of rebuttal and cross.

12 JUDGE MOSS: Okay.

13 MR. CEDARBAUM: I just don't see -- I mean,
14 unless the -- it seems to me that I guess I would
15 rather have long days the 17th through the 20th if
16 the 16th is out than to quicken that up.

17 JUDGE MOSS: Yeah, you know, I can't say the
18 16th is out. I don't know.

19 MR. CEDARBAUM: Right. So I guess I --
20 Staff's proposal would be that for you -- to ask you
21 to take this to the Commissioners and find that out
22 before we worry too much about alternatives.

23 JUDGE MOSS: Sure. All right. Well, I'll
24 do that. I'll go ahead and -- well, I haven't asked
25 if others have any comments on the schedule, and I'll

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1 do that, but my inclination is to take this to the
2 Commission and see what they want to do. And they
3 may decide we'll just start on the 17th and cross our
4 fingers. Although there is some opportunity to slip
5 into the following week. I don't see anything
6 prohibitive on the calendar. There's some activity
7 that week, but I think we can arrange for a hearing
8 day if we needed it.

9 Does anyone else -- okay. To recapitulate,
10 January 16 for Staff, Public Counsel and Intervenor
11 direct; January 30 for rebuttal; February 16 through
12 20 for hearings, and then simultaneous post-hearing
13 briefs on March 5th.

14 Does anybody else have a problem with any of
15 those dates?

16 MR. GLASS: Your Honor, I don't have a
17 problem with it and I've been staying quiet because I
18 think that the agreed-to schedule here, at least as
19 among Staff, PSE and Public Counsel, is a give and
20 take product.

21 I would say this, that note two is very
22 important, I think to all the parties, in that if we
23 have 14 days to prepare the rebuttal case, then
24 there's 14 days for everybody else to prepare after
25 our rebuttal case. We'd rather not expend that time

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1 with the discovery, so we have placed in a note two
2 in which all parties would provide models, source
3 documents, work papers and outsource documents -- or
4 output documents at the time of the filing of their
5 cases so that we don't need to waste a week waiting
6 for that data, because 14 days is short.

7 The second thing I'd like to note is that
8 the company acknowledges the daunting size of the
9 filing and acknowledges that that takes some time to
10 work through. We're trying to do it this way in
11 order to accelerate the schedule and allow the
12 consideration to go forward more quickly.

13 I would say that later this month we will be
14 having a meeting -- offering a meeting to the
15 industrial customers first off to explain the filing
16 to them. Early in December we are offering to have
17 another meeting with other folks, to the extent that
18 they're interested, to come discuss with the company
19 and have us, in an off-the-record type of setting,
20 explain what we were thinking, what we were doing,
21 where we were going and where they'll find the
22 answers if they're looking for it, which I'm hoping
23 will also assist in discovery.

24 Finally, we're hoping that sometime in
25 December, at least the parties can come together and

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1 discuss whether there's some common ground in the
2 potential of limiting the amount of issues going
3 forward in the case because none of us need to spend
4 time on things that aren't issues.

5 So we'll -- all of those things we are
6 hopeful that the schedule meet -- are a very
7 important objective of the four months of process.
8 Thank you.

9 JUDGE MOSS: Okay. And I will include the
10 note two in the prehearing order, as well. As soon
11 thereafter as possible is a little bit susceptible to
12 interpretation. Do the parties want me to put some
13 kind of time frame on that? I mean, it strikes me
14 the work papers are going to be done before
15 testimony, so I don't know why it would be a problem
16 to meet this.

17 MR. CEDARBAUM: Your Honor, it took me -- it
18 took how many people this morning to just put
19 together your filing?

20 JUDGE MOSS: Delicate instrument here.

21 MR. CEDARBAUM: It took me three hours on
22 Monday to put together my filing. I think it's just
23 -- Staff is going to do its best to provide all of
24 our work papers to the company when we file, but as a
25 practical matter, with that last couple days of

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1 logistics, especially with all the confidential and
2 highly confidential information, we just may not get
3 there. So we talked about our filing day is a
4 Friday. If we missed Friday, it would be Monday or
5 Tuesday the following week. That's what we thought
6 is as soon thereafter as possible.

7 JUDGE MOSS: We'll come in on Monday morning
8 and find hanks of hair all over the carpets and so
9 forth, I suspect. All right. I understand. I think
10 we can rely on the parties' good faith and my sense
11 that there's a high level of cooperation here and the
12 mutual interest of moving this proceeding along on a
13 fast track. So I'm going to rely on that good faith,
14 as I always try to do in these proceedings, and to
15 the extent there's a problem, I'm sure it will be
16 brought to my attention and we'll deal with it at the
17 time. We won't anticipate problems.

18 All right. Then I think we'll tentatively
19 go with this schedule, with the caveat that we may
20 not have a hearing on the 16th, but otherwise I think
21 we'll be able to meet this. I'll probably schedule a
22 couple of extra days that week of the 23rd just to be
23 sure and reserve the appropriate resources.

24 The briefs on the 5th, I'm going to include
25 that those need to be filed here by noon on the 5th,

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1 and that's important in terms of logistics if we're
2 going to get our order completed in an expeditious
3 way.

4 So as we get closer to that date, I won't do
5 it now, but as we get closer to that date, if the
6 parties tell me that this is going to be a problem,
7 what we can do is allow for electronic submission by
8 noon on the Friday followed by paper copies on the
9 Monday.

10 MR. CAMERON: Could we do that now?

11 JUDGE MOSS: Want me to go ahead and --

12 MR. CAMERON: Yes, please.

13 JUDGE MOSS: -- allow for that? The only
14 reason I'm hesitating at all, Mr. Cameron, is that it
15 does present certain logistical difficulties for me,
16 but I will overcome them, okay. We'll do it that
17 way.

18 MR. CAMERON: Thank you.

19 JUDGE MOSS: At the same time, I'll ask that
20 the briefs be kept short, but I won't impose a page
21 limitation. The Commission's rules, I believe, allow
22 for 60 pages, which is usually excessive and you
23 don't need it, so don't use it if you don't have to.

24 Okay. Do we need to resolve anything else
25 in terms of process or procedural schedule, or does

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1 that take care of it?

2 MR. GLASS: Your Honor, I have one
3 administerial announcement, that, once again, the
4 daunting file, we found in the last few days a few
5 pages disappeared into the copier and didn't come out
6 into the copies. We'll be making another sort of
7 follow-up filing with the Commission and with all the
8 parties hopefully tomorrow, possibly Monday, but we
9 do acknowledge that there are a few pages missing and
10 we'll be making that correct.

11 JUDGE MOSS: And it is quite literally a few
12 pages, I believe?

13 MR. GLASS: No more than 10 to 15, something
14 like that.

15 MR. CAMERON: May I inquire? Is this really
16 in the nature of errata, just filing a few pages?

17 MR. GLASS: Well, they fall into two
18 categories. Some are just pages that just
19 disappeared and didn't make it into the copies. The
20 second set is that we found that we overdesignated a
21 few pages as either confidential or highly
22 confidential and, upon further consideration, we
23 don't think they're confidential at all. So we're
24 going to backtrack and put those into the correct
25 category.

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1 JUDGE MOSS: All right. Do we have any
2 other business that the parties wish to raise?

3 MR. CEDARBAUM: Your Honor, I just have one
4 question. You distributed an exhibit list --

5 JUDGE MOSS: Ah, yes.

6 MR. CEDARBAUM: -- this morning. I was
7 wondering, were you going to provide us with the
8 numbers associated with those or --

9 JUDGE MOSS: Well, I don't do that until
10 later. And the reason is that I like to number the
11 -- use sequential numbers to the extent possible. So
12 of course, at this juncture all we have is the direct
13 testimonies and exhibits. We'll no doubt have
14 cross-examination exhibits for each of these
15 witnesses or most of them, and likewise, when we get
16 Intervenor, Staff and Public Counsel witnesses, so I
17 need to -- I can't number them at this point.

18 For the present purposes, to the extent you
19 need to communicate about these among yourselves or
20 with us, you can simply use the identification marks,
21 WAG-1T, for example, that sort of thing, and that's
22 adequate to our needs.

23 Let's do discuss this, however. As you all
24 know, in recent proceedings, probably over at least
25 the course of the last two years, it has been our

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1 practice to have a final prehearing conference
2 usually about two business days before the hearing to
3 exchange cross-examination exhibits and to mark all
4 exhibits in the proceeding. In a recent case in
5 which I presided, I took the bold step of trying to
6 do that by mail, and it worked. We were actually
7 able to exchange all the cross-examination exhibits,
8 they were all neatly packaged by witness with
9 dividers, tabbed dividers between each exhibit,
10 between all the exhibits, all the materials were
11 furnished to me, I was able to -- oh, I also had the
12 parties give the descriptions, so I didn't have to
13 come up with a description for each exhibit. And I
14 had them do it on an electronic version of the
15 exhibit lists that I have distributed today. Within
16 a very short period of time, I was able to assemble
17 all of that material into a single exhibit list. It
18 went very smoothly.

19 So I'm putting it to you whether you want to
20 follow through with this experiment in this
21 proceeding or whether you would actually prefer to
22 have a final prehearing conference approximately two
23 business days before the commencement of the hearing.
24 Anybody?

25 MR. CEDARBAUM: I guess I just have a

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1 question of clarification. Was that -- were the
2 exhibits received by you and the parties on the same
3 day or was it received by you?

4 JUDGE MOSS: Same day. We set a date for
5 that, and it was a receipt date. Everybody got the
6 -- now, granted this is the next step. The
7 proceeding I'm referring to in which this succeeded
8 is one in which there are only two parties. So
9 that's why I chose that proceeding for this
10 experiment that I've been wanting to try for some
11 time. And so this would be the next step, where we
12 have a multi-party proceeding, and if you all think
13 it would be simpler, I'm open to your ideas.

14 MR. CAMERON: Just a question, please. This
15 mail process, that was simply for purposes of
16 designating exhibits and not receiving them into
17 evidence?

18 JUDGE MOSS: Oh, correct. We don't ever
19 receive the exhibits into evidence until the live
20 hearing.

21 MR. CAMERON: So you weren't that bold?

22 JUDGE MOSS: Oh, no. Well, I don't think I
23 legally could be. We have to have those subject to
24 objections, so we do that at the hearing and we did
25 that in this instance, as well, and would do that

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1 here. It's just simply a replacement for that final
2 prehearing conference where the parties all come
3 together and bring their boxes of exhibits and pass
4 them up and exchange them and so forth. It's just
5 doing that by mail.

6 What it requires on the part of the parties
7 is a higher order or a higher level of organization.
8 You have to be sure that you've got everything in
9 nice, neat stacks by witness with all the exhibits
10 separated by tabs, and then it can quickly be
11 processed by your counter-parties, and so that's --
12 and by me, and of course I'm processing multiple
13 sets, so it's particularly important to me that it be
14 well-organized. But as I said, it worked well for
15 these parties, and since you all have been through
16 this process with us at least once, if not multiple
17 times, that familiarity helps.

18 But I'm willing to do it either way. I'm
19 perfectly happy to hold it. I'm just -- frankly, I'm
20 thinking this is perhaps more of a benefit for the
21 parties than for the bench, in the sense that we
22 don't end up taking half a day out of your time where
23 travel is required and so forth, so --

24 MR. CAMERON: Based upon your description,
25 I'd prefer to try it by mail. I'd also ask if you

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1 could make this document available to us
2 electronically?

3 JUDGE MOSS: Yes, my practice is to share
4 the exhibit list that I prepare electronically. I
5 didn't do it this time because I just got it
6 finalized. I'll go ahead and send you this version,
7 and then, as we update it with the addition of the
8 response testimony, the rebuttal testimony, and
9 ultimately the cross-examination testimony, I will
10 update it each time and provide it to you. At the
11 rebuttal stage, you know, if you give me descriptions
12 on the exhibit list, that's great, too. That saves
13 time, so -- and I'd require that at the
14 cross-examination stage, because I don't want to find
15 myself sitting here for two days figuring out what to
16 call exhibits. So Mr. Cedarbaum, does this work,
17 from your perspective?

18 MR. CEDARBAUM: You know, it's much easier
19 for me to walk out of my office and walk across the
20 parking lot to come to a prehearing conference than
21 it is for anybody else in the room because they have
22 to travel. So I guess my first -- I guess my first
23 reaction was I guess I'd rather have the prehearing
24 conference because it doesn't inconvenience me.

25 JUDGE MOSS: That's rather selfish, Mr.

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1 Cedarbaum.

2 MR. CEDARBAUM: And because -- well, and
3 actually, mostly because given the short two-week
4 turnaround time, we're probably going to be getting a
5 lot of data request responses, you know, maybe after
6 that distribution of exhibit time. And if you have
7 to put something in the mail to be received on the
8 Thursday prior to the hearing, that means we're only
9 getting it all ready on Wednesday, which makes it
10 more likely that you're going to have additional
11 exhibits to come in on Monday at the hearing.

12 So I guess -- I mean, if all the parties
13 want to do it by mail, I'm not going to object to
14 that. I just think that we might, in this situation,
15 even though we're all used to this type of process,
16 we might end up with a lot more exhibits straggling
17 in after that distribution date.

18 JUDGE MOSS: Well, let's do this, then. I
19 won't make a firm decision on this for now. I've
20 planted the suggestion, you all can think about it
21 some more, and it may depend in part on the volume
22 that we're talking about. If the volume of potential
23 cross-examination exhibits is huge, it might make
24 more sense to hold the prehearing. If it's
25 relatively more modest, then the mail or the

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1 overnight delivery service might be an effective way
2 to do it.

3 So let's reserve that decision. We can
4 probably have a prehearing conference by telephone,
5 or even, if this is a procedural matter, we can even
6 have an informal conference on the telephone among
7 ourselves and resolve this closer in time to the
8 hearing date. So I'll keep that in the back of my
9 mind and we'll decide the best way to proceed.

10 All right. Any other business from the
11 parties that's going to tickle anything else in my
12 mind? I have a few closing remarks. On paper
13 filings in this proceeding, we do need an original
14 and 19 copies, and I was trying to pare that down and
15 it kept getting pared back up, so we ended up at what
16 used to be the standard number, original plus 19 for
17 internal distribution needs.

18 Remember to make all your filings through
19 the Commission's Secretary, either by mail to the
20 Secretary at WUTC, P.O. Box 47250, 1300 South
21 Evergreen Park Drive, Southwest, Olympia, Washington,
22 98504-7250, or by other means of delivery to the
23 Commission's physical address that I just mentioned.

24 I want to stress that we do require that
25 filings of substance be provided to us

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1 electronically, as well as a paper copy. Someday
2 we'll get to the point where we only require
3 electronically, but our statutes haven't caught up
4 with us yet, so we're not there.

5 It's very important to us to have the
6 electronic copy so that we can post the
7 nonconfidential materials to the Internet and also
8 make them available internally to ease the processing
9 of the materials. So that includes testimony,
10 briefs, motions, answers, all that sort of thing.
11 You can furnish the electronic copy either by e-mail
12 attachment or on a three and a half-inch diskette,
13 preferably in a PDF type format, supplemented by
14 either MS Word or WordPerfect.

15 And I remind you that service on all parties
16 must be simultaneous with filings under our rules. I
17 will enter a prehearing conference order probably
18 tomorrow, but certainly by Monday, and I'll -- it
19 will have an appendix that will keep you mindful of
20 format requirements that I will stress. And I'll say
21 that Puget did -- I'll give them an A, maybe an A
22 minus. You did very well in that only a few things
23 fell through the cracks. Considering the volume of
24 the filing, I guess I'd have to give you an A.

25 Do be careful to follow the requirements for

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1 confidential documents being on colored paper, yellow
2 for confidential, blue for highly confidential.
3 That's important to help us keep up with things and
4 make sure that we afford the documents the proper
5 treatment. Be sure to three-hole-punch everything.
6 The volume of paper that we have to process on a
7 daily basis is enormous and it makes a big difference
8 to us to have that one little thing done.

9 MR. CAMERON: Does that go for motions, as
10 well, the three-hole punch?

11 JUDGE MOSS: As far as I'm concerned, every
12 piece of paper that comes in to the Commission should
13 be three-hole-punched. Now, others might not agree
14 with me and people seem loath to puncture holes in
15 their letterhead for some reason. I'm not sure why
16 that is. But, yeah, my preference is that you
17 three-hole-punch everything. Got one like that the
18 other day. Made my day, Mr. Cameron. So anyway, I
19 do ask that you be mindful of those formats.

20 We've discussed the prospect of a final
21 prehearing conference and we'll resolve that question
22 later. All right. If there's nothing further, I
23 thank you all for being here, and please feel free to
24 contact me with any procedural issues, and we'll look
25 forward to working together through the course of the

0050

1 next few months. Thank you.

2 (Proceedings adjourned at 2:46 p.m.)

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