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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 In the Matter of:

4 WESTERN VILLAGE, LLC,)
)
5 Petitioner/Complainant,)
)
6 vs.) DOCKET NO. UE-051828
) Volume I
7 PUGET SOUND ENERGY, INC,) Pages 1 - 27
)
8 Respondent.)

9 THE WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
10 Petitioner/Complainant,)
)
11 vs.) DOCKET NO. UE-051966
) Volume I
12 PUGET SOUND ENERGY, INC.,) Pages 1 - 27
)
13 Respondent.)

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15 A prehearing conference in the above matter
16 was held on February 9, 2006, at 1:30 p.m., at 1300
17 South Evergreen Park Drive Southwest, Olympia,
18 Washington, before Administrative Law Judge KAREN
19 CAILLE.

20 The parties were present as follows:

21 PUGET SOUND ENERGY, INC., by KIRSTIN S.
DODGE, Attorney at Law, Perkins Coie, 10885 Northeast
22 Fourth Street, Suite 700, Bellevue, Washington
98004-5579; telephone, (425) 635-1407.

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24 Kathryn T. Wilson, CCR

25 Court Reporter

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1 WESTERN VILLAGE, LLC, by WALTER H.
2 OLSEN, JR., Attorney at Law, Olsen Law Firm, 604 West
3 Meeker Street, Suite 101, Kent, Washington 98032;
4 telephone, (253) 813-8111.

5 WASHINGTON UTILITIES AND TRANSPORTATION
6 COMMISSION, by ROBERT D. CEDARBAUM, Assistant Attorney
7 General, 1400 South Evergreen Park Drive Southwest,
8 Post Office Box 40128, Olympia, Washington 98504-0128;
9 telephone, (360) 664-1188.

10 PUBLIC COUNSEL, by SIMON J. FFITCH (via
11 bridge line), Assistant Attorney General, 900 Fourth
12 Avenue, Suite 2000, Seattle, Washington 98164-1012;
13 telephone, (206) 389-2055.

14 MANUFACTURED HOUSING COMMUNITIES OF
15 WASHINGTON, by JOHN E. WOODRING, Attorney at Law, 2120
16 State Avenue Northeast, Suite 201, Olympia, Washington
17 98506; telephone, (360) 754-7667.

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

2 JUDGE CAILLE: Good afternoon. My name is
3 Karen Caille, and we are convened in a hearing room in
4 Olympia, Washington. It's approximately 1:30. Today
5 is February the 9th, 2006. We are here for a
6 prehearing conference in two matters, Docket No.
7 UE-051828, Western Village versus Puget Sound Energy,
8 and this is a formal complaint and petition for
9 declaratory order.

10 The other matter is Docket No. UE-051966,
11 Washington Utilities and Transportation Commission
12 versus Puget Sound Energy, and this matter is a
13 suspension of tariff revisions clarifying
14 responsibilities regarding the installation, ownership,
15 maintenance, and replacement of service lines to
16 non-residential customers, including service lines to
17 multifamily residential structures and service lines
18 within mobile home parks.

19 I would like to begin with appearances, and
20 what I will do is go around the room, and if you will
21 specify which docket you are here for or if you are
22 here for both, and why don't we start with you,
23 Mr. Cedarbaum.

24 MR. CEDARBAUM: Thank you, Your Honor. My
25 name is Robert Cedarbaum. I'm an assistant attorney

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1 general representing Commission staff in both
2 proceedings. Would you like my business address?

3 JUDGE CAILLE: Yes, your address, phone
4 numbers, e-mail.

5 MR. CEDARBAUM: My business address is the
6 Heritage Plaza Building, 1400 South Evergreen Park
7 Drive Southwest, Olympia, Washington, 98504. My
8 direct-dial telephone number is area code (360)
9 664-1188. The fax number is (360) 588-5522, and my
10 e-mail is bcedarba@wutc.wa.gov.

11 JUDGE CAILLE: Thank you. And I'm not
12 familiar with who you are, so would you please
13 introduce yourself?

14 MR. OLSEN: My name is Walter Olsen, and I'm
15 the attorney for Western Village, LLC, d/b/a, Western
16 Village Estates, for Docket No. UE-051828, and may be
17 also appearing in the other docket number. I presume
18 that that was one of the purposes of today's hearing in
19 that regard.

20 I am from the Olsen Law Firm at 604 West
21 Meeker Street, Suite 101, Kent, Washington, 98032. My
22 phone number there is (253) 813-8111. My fax number is
23 (253) 813-8133, and my e-mail address is
24 walt@olsenlawfirm.com.

25 JUDGE CAILLE: Thank you very much, and I

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1 want to remind everyone to please speak slowly for the
2 benefit of the court reporter. And you, sir?

3 MR. WOODRING: I'm John Woodring, and I'm
4 appearing today on behalf of the Manufactured Housing
5 Communities of Washington. We have petitioned for
6 intervention in the docket matter UE-051828 and
7 potentially in UE-051966.

8 My address is 2120 State Avenue Northeast,
9 Suite 201, Olympia, Washington, 98506. My telephone
10 number is (360) 754-7667. My fax number is (360)
11 754-0249, and my e-mail is
12 johnwoodring@woodringlaw.com.

13 JUDGE CAILLE: Ms. Dodge?

14 MS. DODGE: Kirstin Dodge for Puget Sound
15 Energy, Inc., in both dockets. My address is 10885
16 Northeast Fourth Street, Suite 700, Bellevue,
17 Washington, 98004. Telephone number is (425) 635-1407.
18 Fax is (425) 635-2400. My e-mail is
19 kdodge@perkinscoie.com.

20 JUDGE CAILLE: Mr. ffitch?

21 MR. FFITCH: Thank you, Your Honor. Simon
22 ffitch, assistant attorney general with the Public
23 Counsel section, 900 Fourth Avenue, Suite 2000,
24 Seattle, Washington, 98164; phone number, (206)
25 389-2055; fax, (206) 389-2079; e-mail,

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1 simonf@atg.wa.gov, appearing in Docket UE-051966.

2 JUDGE CAILLE: Thank you, Mr. ffitch. Are
3 there any other appearances to be entered? Hearing
4 none, let the record reflect there are no other
5 appearances.

6 The next matter I would like to take up is
7 the petition to intervene. In Docket UE-051828, the
8 Manufactured Housing Communities of Washington has
9 petitioned to intervene. Is there any objection to my
10 granting this petition? Hearing none, then it is
11 granted.

12 Then my next question was going to be what
13 about the other docket, and maybe we will just put that
14 aside for a minute because I think a threshold question
15 we need to decide here is what the process is on the
16 complaint/declaratory petition for declaratory order.

17 I have a couple of concerns, and one of them
18 is the standing of Complainant to bring the Complaint,
19 and maybe we could discuss that first. It's my
20 understanding that the underlying complaint was a --
21 maybe you can expound on it, Mr. Olsen.

22 MR. OLSEN: I would be happy to. Again, Walt
23 Olsen for Western Village Estates, which is a
24 manufactured home community located in Oak Harbor,
25 Washington.

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1 This is a community who is a customer of
2 Puget Sound Energy and has historically relied on PSE
3 to maintain, repair, and replace its infrastructure
4 located within the boundaries of Western Village
5 Estates, and that would include buried service,
6 electrical service, wire, and in essence, all hardware
7 necessary to provide electrical service to PSE's
8 individual customers who live at Western Village
9 Estates. Western Village Estates is a manufactured
10 home community in which my client owns the property on
11 which the residents place a manufactured home that is
12 owned by the resident.

13 Historically, PSE has maintained and repaired
14 the service wire located within the community without
15 question or without distinguishing between where the
16 service wire happened to be. Lately, as late as last
17 summer, a dispute arose between Western Village and
18 Puget Sound Energy regarding PSE's obligation to
19 maintain wire within the community, and specifically,
20 there was an outage by one of the residents of the
21 community that PSE had provided a repair for in the
22 past which became itself unworkable, and so there was
23 an outage there. We submitted an informal complaint,
24 and with the help of the Commission, we were able to
25 resolve that one incident at that time.

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1 But in the midst of resolving that one
2 incident, this dispute has arisen, and in that regard,
3 we've received correspondence from PSE indicating that
4 it does not intend to do this again, so to speak, and
5 it does not intend to maintain the service wire that it
6 had been maintaining for all the years before the
7 incident that took place last summer.

8 So from our perspective, we do believe there
9 is an actual controversy between the parties as it
10 relates to PSE's obligation to maintain the service
11 wire as provided by the language or intent of PSE's
12 tariff.

13 JUDGE CAILLE: Any response, Ms. Dodge?

14 MS. DODGE: Yes. In some sense, they may not
15 have standing to go to a complaint or not, even though
16 they have standing in the suspended tariff, so I'm not
17 sure that it makes much difference. The way that I had
18 been viewing it was less a standing issue than a
19 necessary party issue. Is there anyone here for the
20 tenants? And with Mr. ffitch on the phone, maybe that
21 concern goes away. I'm not sure at the end of the day
22 that standing is going to keep anyone in or out, but do
23 we have everybody here that needs to be heard?

24 JUDGE CAILLE: What I'm really trying to get
25 to is how to combine the two of these in a way that

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1 works, and Mr. ffitch, I'm not certain you entered an
2 appearance under the Western Village docket; did you?

3 MR. FFITCH: No, I did not, Your Honor. We
4 are initially at least in the process of evaluating our
5 level of participation in the docket. It does appear
6 to be an important issue for residents of multifamily
7 units in mobile home parks, so we have not made a final
8 decision about level of participation, but I would be
9 happy to enter an appearance in both dockets. That may
10 be the most efficient approach, and I would be
11 comfortable doing that.

12 JUDGE CAILLE: We will have you appearing in
13 Docket UE-051828 as well. Ms. Dodge, just to follow-up
14 on your necessary parties --

15 MS. DODGE: I didn't mean that technically
16 legally in this form but more conceptually. It's
17 publically noticed that anyone who cares to appear can
18 comment or not.

19 JUDGE CAILLE: One way that we can combine
20 these two dockets and avoid the issue of standing is to
21 take it as the alternate proposal by Western Village,
22 and that is to take it as a declaratory order
23 proceeding and combine that with the tariff proceeding.
24 Do you see any advantages or disadvantages to that,
25 assuming that none of the necessary parties object to

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1 proceeding in a declaratory order form?

2 MS. DODGE: The Complaint itself is for
3 declaratory relief. It's a going-forward issue. There
4 is no issue here of past relief or anything like that,
5 so in that sense, both proceedings are about the same
6 thing. What are the rules of the game and what are
7 they going to be going forward.

8 From an efficiency standpoint, the Company
9 would support consolidating the two because the same
10 facilities are at issue, the same tariff sheet, things
11 like that, but there is a complication in that we have
12 an issue around the burden of proof and how to proceed,
13 because in the complaint proceeding...

14 Well, the easiest one is the suspended
15 tariff. The current tariff is what it is, and it has
16 been that way for, I think, 30 years. It has already
17 been found to be fair, just, reasonable, and
18 sufficient, and the Company has proposed revisions
19 ordering revisions are suspended, and the Company has
20 the burden of showing that its proposed revisions meet
21 the legal standard, and the Company accepts that burden
22 and is fine with that, and we are prepared to submit
23 testimony and put our witnesses up for
24 cross-examination within the next couple of months on
25 these issues.

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1 The thing is, the Complaint does seem to
2 raise the question whether the existing tariffs are
3 fair, just, reasonable, and sufficient because they are
4 arguing things that are inconsistent with the face of
5 the tariff language, so in that sense, we believe that
6 it's the Complainant's burden to show the existing
7 tariff is not fair, just, reasonable, or sufficient and
8 in particular, this issue, the tariff says the customer
9 must pay, and from the Company's perspective, the
10 question is, Do you view that as the mobile home park
11 owner or the tenants, and we are trying to clarify the
12 tariff revisions, that is, the park owner, because
13 arguably under the current tariff, the way that it's
14 written and various other definitions, "customer" means
15 the tenants, and what the park seems to be saying is
16 neither the park nor the tenant. So we would have to
17 take "customer" out of the existing tariff and really
18 reword the entire tariff differently than it is now.

19 We want to make sure the burdens are clear.
20 As far as how exactly to proceed procedurally, we are
21 happy to go forward first and submit testimony. We are
22 open to other discussion today as well.

23 JUDGE CAILLE: Maybe I should go back to
24 Mr. Olsen, and then I'll hear from you, Mr. Cedarbaum,
25 and Mr. Ffitch, I want to hear from you too eventually.

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1 So Mr. Olsen?

2 MR. OLSEN: In one respect, I would disagree
3 with Ms. Dodge as it relates, at least from our
4 perspective, what we see the potential remedy being
5 from this administrative process. I wouldn't agree
6 that the claim for declaratory relief that we seek is
7 just forward-looking, and in my mind, I see this case
8 as very similar to a prior case I had before the
9 Commission involving the Camelot Square Mobile Home
10 Park and buried telecommunication wire, which in many
11 respects raised the same issues we are raising in our
12 formal complaint, that being the responsibility of the
13 parties to maintain and repair and provide trenching
14 and do the things that need to be done in order to
15 provide the residents with the utilities that each of
16 the providers are providing the residents.

17 In that case, after the same proceeding that
18 we are starting now, the orders which followed provided
19 for a certain limited retrospective remedy as it
20 relates to the actions taken by that utility provider.
21 In my mind, our formal complaint and declaratory relief
22 is very similar in that regard. In fact, when I wrote
23 it, I started with Camelot Square's formal complaint.
24 So I hope the remedies would be broader than what
25 Ms. Dodge has characterized them to be.

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1 But in short, Western Village wishes to
2 resolve the issues regarding the repair and maintenance
3 of service wire and is also open to whatever procedure
4 it takes to accomplish that as the petition requests,
5 the rights and obligations of the parties both before
6 and after are declared.

7 JUDGE CAILLE: Mr. Olsen, do you have the
8 docket number for Camelot Square?

9 MR. OLSEN: I do.

10 JUDGE CAILLE: I'm familiar with the case but
11 I didn't bring it up with me and didn't think I would
12 need it. If you are having difficulty finding it, we
13 will probably take a break to discuss schedule, and I
14 can get it then.

15 MR. OLSEN: It looks like a copy of the
16 petition I have with me doesn't have the docket number
17 on it.

18 JUDGE CAILLE: I will get that during the
19 break. Mr. Cedarbaum, did you want to weigh in on
20 this?

21 MR. CEDARBAUM: Just a couple of points.
22 Staff does see some benefit in consolidation of the two
23 dockets. The Commission's rule, which I think is
24 480-07-320, the standard is common issue of fact or
25 principles of law. It seems like we are in that area

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1 that consolidation makes sense both in terms of that
2 standard and the administrative convenience of
3 processing the case. So Staff would support
4 consolidation if that's the Commission's preference.

5 With respect to burden of proof, I think the
6 Company and the other parties in this case are at the
7 stage more intimately involved and familiar with the
8 facts. I've read the Complaint and I've had some
9 discussions with Staff, but I have a lot more to learn
10 about background and what's going on in this case, but
11 I think that it's clear on the declaratory order
12 complaint, the burden of proof is on the party that
13 brought the petition. That's Western Village. And on
14 the tariff filing base, the burden of proof is on the
15 company who filed the tariff.

16 It's not clear to me in reading the pleadings
17 that Western Village is not making an argument as to
18 interpretation and application of the existing tariff,
19 not only prospectively but also retroactively. Again,
20 that's just from the face of reading the pleadings. I
21 need to learn more on that, but I'm not sure I would
22 eliminate that past period of time at this stage.

23 JUDGE CAILLE: Mr. Woodring, I didn't mean to
24 bypass you. Would you like to speak on this issue?

25 MR. WOODRING: Yes, Your Honor. And keep in

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1 mind I represent a trade association that has
2 approximately 550 manufactured housing communities in
3 Washington, and that's an estimate of about 30 percent
4 of the communities in the state, and a manufactured
5 housing community by definition under the mobile home
6 tenant act is where two or more lots where manufactured
7 homes are located. So this activity in a lot of those
8 communities; in fact, I own one a community serviced by
9 Puget Sound Energy, and I'm a member of MHCW, and I
10 would be impacted by this tariff proceeding and the
11 other action.

12 Those communities have a significant interest
13 in this matter, not only from interpretation of the
14 tariff prospectively but also retroactively, because
15 there may be communities out there where Puget Sound
16 Energy has not performed the repair activities, and
17 over the years, I haven't represented this association
18 and I represented parks where there has been this kind
19 of activity going on, they would be impacted by this
20 retroactively -- or the nature of repairs, whether they
21 conducted some repairs or not other repairs. So we
22 would submit that it would be appropriate to deal with
23 the tariff proceeding both in a retroactive and an
24 prospective manner.

25 JUDGE CAILLE: Do you have any objection to

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1 the consolidation of these proceedings?

2 MR. WOODRING: I don't have any objection.

3 JUDGE CAILLE: Mr. Olsen, I don't think I got
4 whether you objected to being consolidated.

5 MR. OLSEN: I have no objection.

6 JUDGE CAILLE: Mr. ffitch, please.

7 MR. FFITCH: Your Honor, thank you. I don't
8 really have anything to add to what's been said on
9 burden of proof. I don't have any objection to the
10 consolidation.

11 JUDGE CAILLE: Thank you. It would appear to
12 me that these matters should be consolidated, and my
13 only concern is about the burden of proof being
14 different in each of them, but perhaps we can take care
15 of that in the way that the cases are presented.

16 It sounds to me like there really isn't a
17 standing issue that I was concerned about initially.
18 Having said that, is there anyone in the room --
19 Ms. Dodge, yes.

20 MS. DODGE: I think to the extent we are
21 talking about some park that may exist somewhere that
22 has a damages claim, depending on how this case comes
23 out, I don't think that these complainants or any of
24 the others have standing. We don't have to figure this
25 out at the prehearing conference, but there has been no

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1 claim made that anyone was actually paid moneys or
2 anything else improper, and those would have to be
3 looked at individually, it seems to me.

4 JUDGE CAILLE: Do the parties feel there is a
5 need to brief that standing issue that you just brought
6 up, Ms. Dodge? I'm seeing no's.

7 So could you please just explain to me again
8 a little more slowly so the court reporter can get it
9 too and I can write it down too what your position is
10 on the standing issue?

11 MS. DODGE: I may want a chance to consider
12 this a little bit more. The whole standing issue is
13 new. We haven't been looking at this as a standing
14 issue. Standing is typically looked at pretty
15 liberally, especially in these proceedings, and the
16 Company certainly would not try to make the argument
17 that the manufactured housing association or that a
18 mobile home park wouldn't have some impact by how this
19 issue comes out, so that's not the concern.

20 The idea that somehow at one particular
21 mobile home park has come forward with a specific
22 incident that has triggered a declaratory order
23 complaint, that is good enough for us to investigate
24 these issues, but what I'm hearing today for the first
25 time is that somehow this is some class-action type of

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1 retroactive case, which brings up a whole lot of other
2 issues that I'm not prepared to address today, and I'm
3 not sure that we need to figure them out before we
4 actually get through case presentation, briefing and
5 everything else.

6 JUDGE CAILLE: Yes. It can be taken with the
7 case, in other words, if it does appear to arise as an
8 issue. But for purposes of today and where we are and
9 where we are proceeding, I'm going to conclude that
10 there isn't a typical standing issue. Everybody here
11 is affected, and I was approaching this from like harm
12 and zone of interest, that classic type of analysis.
13 So I will discuss this further in the prehearing
14 conference order.

15 Having said that, at this point,
16 Mr. Woodring, would you care to intervene in the other
17 docket as well?

18 MR. WOODRING: Yes, I would ask permission to
19 do that.

20 JUDGE CAILLE: Is there any objection to
21 that? Then Mr. Woodring, the Manufactured Housing
22 Communities of Washington have been granted
23 intervention in Docket UE-051966 as well, and
24 Mr. Olsen, you were also a little on the fence.

25 MR. OLSEN: Western Village would also ask to

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1 intervene in the other docket as well.

2 JUDGE CAILLE: Is there any objection to that
3 intervention? Then Western Village is granted
4 intervention in UE-051996 as well. That takes care of
5 our intervention. It would appear that these matters
6 should be consolidated. I will give it some more
7 thought and set forth a decision in the prehearing
8 conference order, but I really don't see any reason not
9 to. Are there any other motions at this point?

10 MR. CEDARBAUM: I'm not sure this goes in the
11 motion category, but if we are going to be having
12 prefiled testimony, it probably makes sense to have
13 formal discovery on that.

14 JUDGE CAILLE: That was going to be my next
15 question.

16 MR. CEDARBAUM: I'll hold off on that then.

17 JUDGE CAILLE: I assume the parties will want
18 to invoke the discovery rule; is that correct?

19 MR. OLSEN: Yes on behalf of Western Village.

20 MR. CEDARBAUM: Yes.

21 MS. DODGE: Yes.

22 JUDGE CAILLE: Mr. ffitch?

23 MR. FFITCH: No objection.

24 JUDGE CAILLE: Then the discovery rules will
25 apply, and those are found at WAC 480-07-400 through

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1 425, and generally, discovery, I don't get involved in
2 unless there is a problem, so if there is one, please
3 bring it to me immediately.

4 Do you believe that there needs to be a
5 discovery cutoff date? Maybe we should go off the
6 record and discuss that in conjunction with the
7 schedule, but before we go off the record, do you think
8 there is going to be the need for a protective order?

9 MS. DODGE: There probably would, Your Honor.
10 Depending on where discovery goes, we may have some
11 customer information and things like that.

12 JUDGE CAILLE: Then I'll have a standard
13 protective order prepared and signed by the Commission.
14 I think we are at the point of schedule. Have the
15 parties had an opportunity to discuss scheduling
16 amongst themselves?

17 MR. OLSEN: No.

18 JUDGE CAILLE: Then let's go off the record.

19 (Recess.)

20 JUDGE CAILLE: The parties have had an
21 off-record discussion amongst themselves and partly
22 with me about scheduling, and they have agreed to the
23 following schedule: In order to accommodate the
24 different burden of proofs in each of these
25 proceedings, there are going to be four rounds of

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1 testimony.

2 On March 8th, the parties with the burden of
3 proof, there will be direct testimony filing by both
4 parties with the burden of proof, the Company on the
5 tariff revisions and Western Village on its complaint
6 proceeding. On April 19th, those parties will reply to
7 each other. On April 26th, the parties will get
8 together and hopefully engage in fruitful settlement
9 discussions.

10 On May 31st, Staff and Public Counsel will
11 file their responsive case to all the testimony filed
12 so far. On June 21st, the Company and Western Village
13 would file rebuttal on their burden of proof issue and
14 the rebuttal to Staff and Public Counsel prefiled
15 testimony.

16 Then we have scheduled hearings for July
17 19th, 20th, and 21st; opening briefs, August the 10th,
18 and simultaneous replies, August the 25th. The parties
19 have agreed that for the filing of the briefs, they
20 will e-mail copies of the briefs and then follow with
21 hard-copy service.

22 I just thought of something. Typically, we
23 schedule a prehearing conference about a week before
24 the hearing in order to exchange cross-exhibits and
25 take care of any other procedural matters. I'm

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1 wondering if we should go ahead and pencil in something
2 just in case we need that. We may not need to do that
3 depending on the number of exhibits.

4 MR. CEDARBAUM: Would that be a live
5 prehearing conference, because we have got into the
6 helpful practice of doing a lot of this just by e-mail,
7 just circulating.

8 JUDGE CAILLE: I'll consult with my
9 colleagues about that.

10 MR. CEDARBAUM: What we've been doing in
11 hearings quite a bit is parties will submit to you and
12 exchange amongst each other our witness order,
13 hopefully we can agree to, our cross-examination
14 estimates, and a list of our proposed cross-examination
15 exhibits, and then that would be done a couple of days
16 before the hearing, and then we would also send hard
17 copies of the exhibits to counsel and their witnesses
18 for delivery the next day so they actually have them in
19 their hands, and we show up at the hearing the day
20 after that or something like that.

21 JUDGE CAILLE: That sounds acceptable to me,
22 especially since the commissioners are not going to be
23 sitting on this, we don't have to create exhibit books
24 for them. Let's dispense with that.

25 MS. DODGE: It would be good to have a date

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1 certain probably the week before. It's nice to have
2 the cross-exhibits in time to look them over before the
3 hearing.

4 JUDGE CAILLE: Can we say cross-exhibits will
5 be due on July 12th?

6 MR. CEDARBAUM: That's fine to the extent
7 that we know them, but with a week in between that date
8 and the actual hearing is a pretty good chunk of time,
9 so there might be additional cross-exhibits. As long
10 as we can still have the opportunity to offer them and
11 circulate them as soon as possible, that's fine. I can
12 just say the practice I've been experiencing in cases,
13 including general rate cases, is that this
14 predistribution of materials can be just a couple of
15 days ahead of time of the hearing.

16 If the hearing is on July 19th, that's a
17 Wednesday, so by even on the 17th with actual receipt
18 of a hard copy on the 18th, and typically, the exhibits
19 are data request responses that everybody has seen, so
20 you know what they are, and you get the hard copy the
21 next day.

22 JUDGE CAILLE: I just need to get them in an
23 exhibit list.

24 MR. CEDARBAUM: Again, I'm thinking out loud
25 here. That may not be what everyone wants to do, but

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1 it seems like a week ahead of time to do that is too
2 much.

3 JUDGE CAILLE: I can live with Monday.

4 MS. DODGE: That's fine. We would rather get
5 them all at once.

6 JUDGE CAILLE: It's still understood that if
7 you discover something the night before and you have a
8 reasonable explanation for it, it will be considered.

9 MR. CEDARBAUM: Again, just to interject one
10 more time, typically, we've had that electronic
11 distribution of cross-estimates, witness lists, and
12 exhibits by two o'clock of the day they are distributed
13 so that people have that afternoon to get organized.

14 JUDGE CAILLE: So, Mr. Cedarbaum, you are
15 saying on the 17th --

16 MR. CEDARBAUM: On the 17th at no later than
17 two o'clock, the parties will exchange to each other
18 their proposed witness order, their proposed
19 cross-examination time estimates, and then often times,
20 we receive grids from the ALJ to fill in for that to
21 happen, and also an electronic list of their
22 cross-examination exhibits per witness, and then they
23 will also by overnight delivery send out those exhibits
24 to counsel with sufficient copies for their witness as
25 well to receive the next day.

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1 JUDGE CAILLE: I'm pretty sure we did that in
2 PacifiCorp, so I'm familiar with that process. I'm
3 amending the procedural schedule just to add that July
4 17th date for due date for the parties'
5 cross-examination exhibits, their witness order, their
6 cross times, and I will send out a letter prior to that
7 with more particulars.

8 Does anyone have anything to add to what I
9 just put into the record regarding the procedural
10 schedule?

11 MR. OLSEN: No.

12 MR. CEDARBAUM: The only thing I would add,
13 Your Honor, is that since this is an ALJ case, and
14 typically, then we would have petition for administrative
15 review and replies, I think in our off-record discussion,
16 we discussed the possibility that we may not need reply
17 briefs because we will have later opportunities, or later
18 on in the proceeding, we may find that it would be
19 agreeable to waive a proposed order, so there should be
20 some discussion to be flexible later on to accommodate
21 those concerns.

22 JUDGE CAILLE: I will mention that in the
23 prehearing conference as well.

24 MR. CEDARBAUM: If you would like to, that's
25 fine. I just wanted to have that thought on the

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1 record.

2 JUDGE CAILLE: It's on the record then, and
3 hopefully, the parties will remember that and remind me
4 about a possible waiver and the dispense of the reply
5 briefs. I believe the only other thing I need to
6 convey is we will need an original plus eight copies of
7 everything to our internal distribution, and that is
8 combining the two cases together.

9 I believe that is all I have today.
10 Everything else I will put in the address for mailings
11 and filings in the prehearing conference order, and I
12 just want to stress that any filings of substance, like
13 testimony, briefs, motions, and answers include an
14 electronic copy furnished either by e-mail attachment
15 or by a diskette, and I will restate that in the
16 prehearing conference order as well. That is all I
17 have. Is there anything further?

18 MS. DODGE: I have a question of
19 clarification. The Commission has the Web portal file
20 in now, but it was my understanding, at least the last
21 time I heard it discussed in a procedural rules workshop,
22 that it's actually not necessarily as convenient as
23 e-mail for actually a live proceeding, so are you
24 saying e-mail?

25 JUDGE CAILLE: Yes. I prefer e-mail until I

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1 know more about the Web portal. Thank you everyone.

2 (Prehearing conference adjourned at 3:00 p.m.)

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