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BEFORE THE WASHINGTON

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UTILITIES AND TRANSPORTATION COMMISSION

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WASHINGTON UTILITIES AND )  
TRANSPORTATION COMMISSION, )

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Complainant, )

) Docket No. UE-140762

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v. )

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PACIFIC POWER & LIGHT )  
COMPANY, )

9

)

Respondent. )

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PREHEARING CONFERENCE - VOLUME I

12

Pages 1 - 27

13

ADMINISTRATIVE LAW JUDGE DENNIS J. MOSS

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10:02 A.M.  
MAY 30, 2014

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1 OLYMPIA, WASHINGTON; MAY 30, 2014

2 10:02 A.M.

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5 JUDGE MOSS: Good morning, everybody.

6 My name is Dennis Moss, I am an administrative law  
7 judge with the Washington Utilities and Transportation  
8 Commission. We are convened this morning in the  
9 matter styled Washington Utilities and Transportation  
10 Commission against PacifiCorp, Docket UE-140762.

11 I should probably check that style. Are we  
12 styling this Pacific Power & Light Company or  
13 PacifiCorp?

14 MS. WALLACE: Pacific Power & Light  
15 Company.

16 JUDGE MOSS: Right, okay. So that will  
17 be the style. I won't go back and repeat it. All  
18 right. That will be reflected on the order, the  
19 prehearing order.

20 Let's begin with appearances. But before we  
21 do, I want to check with some folks who are supposedly  
22 with us by telephone and make sure they are there in  
23 fact there.

24 Mr. ffitich, are you on the line?

25 UNIDENTIFIED SPEAKER: Has it been

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1 turned on? We haven't heard any beeping.

2 JUDGE MOSS: No beeping? Oh, bummer.

3 All right. Let me go see if we can get it turned on.

4 (Discussion off the record.)

5 JUDGE MOSS: We will just be off the

6 record now.

7 (A brief recess.)

8 JUDGE MOSS: Let's go back on the

9 record.

10 After a brief interlude to connect the  
11 conference bridge line and ascertain the presence of  
12 certain counsel who had indicated that they would be  
13 appearing by phone today, as to which I had no  
14 objection, we are now going to resume our prehearing  
15 conference. We will begin taking the short form of  
16 appearances today, starting with the Company.

17 Ms. Wallace?

18 MS. WALLACE: Sarah Wallace on behalf of  
19 Pacific Power & Light Company.

20 JUDGE MOSS: Thank you.

21 And Ms. McDowell will also be appearing?

22 MS. WALLACE: Yes.

23 JUDGE MOSS: Ms. McDowell, do you want  
24 to enter your own appearance for the Company?

25 MS. McDOWELL: This is Katherine

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1 McDowell, McDowell, Rackner & Gibson, here on behalf  
2 of PacifiCorp.

3 JUDGE MOSS: All right. I don't want to  
4 take everybody's fun away. We will just go around the  
5 room here.

6 MS. KAPLA: Kathleen Kapla, Keyes, Fox &  
7 Wiedman, on behalf of The Alliance for Solar Choice.

8 JUDGE MOSS: Okay.

9 MR. ROBERTS: Sam Roberts from  
10 Hutchinson Cox on behalf of Wal-Mart.

11 JUDGE MOSS: Is your mike on,  
12 Mr. Roberts? The light should be illuminated.

13 MR. ROBERTS: It appears to be.

14 JUDGE MOSS: Okay. I just can't always  
15 tell. That's all right.

16 MR. ROBERTS: Sorry.

17 JUDGE MOSS: Go ahead.

18 MR. ROBERTS: On behalf of Wal-Mart  
19 Stores, Inc.

20 JUDGE MOSS: Thank you very much.

21 Mr. Shearer?

22 MR. SHEARER: Brett Shearer, Assistant  
23 Attorney General, on behalf of Commission Staff.

24 I would also like to enter an appearance for  
25 Patrick Oshie, Assistant Attorney General, on behalf

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1 of Commission Staff.

2 JUDGE MOSS: All right. Thank you very  
3 much.

4 Mr. ffitch?

5 MR. FFITCH: Good morning, Your Honor.  
6 Simon ffitch, Senior Assistant Attorney General, for  
7 the Office of Public Counsel.

8 JUDGE MOSS: Thank you.

9 And Mr. Purdy?

10 MR. PURDY: Yes, Brad Purdy on behalf of  
11 The Energy Project.

12 JUDGE MOSS: Thank you.

13 Mr. Weber?

14 MR. WEBER: Josh Weber, Davison Van  
15 Cleve, on behalf of Industrial Customers Northwest  
16 Utilities.

17 JUDGE MOSS: Am I missing anybody? No  
18 one else wishes to enter an appearance today?

19 All right. Thank you very much.

20 I have written petitions to intervene from  
21 Boise White Paper and The Energy Project, filed this  
22 morning. Wal-Mart Stores filed somewhat in advance,  
23 in accordance with our procedural rules. The Alliance  
24 for Solar Choice is going to petition orally today,  
25 which is allowed under our procedural rules, although,

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1 discouraged. It does not reflect unfavorably on you,  
2 that you wish to petition orally, Ms. Kapla.

3 Why don't you go ahead and state your  
4 petition?

5 MS. KAPLA: Thank you.

6 The Alliance for Solar Choice is located in  
7 San Francisco, California. It leads advocacy across  
8 the country for the rooftop solar industry. It is  
9 founded and comprises some of the largest solar  
10 rooftop companies in the nation, including Demeter  
11 Power, Solar City, Solar Universe, Sungevity, SunRun,  
12 and others.

13 TASC members -- and I apologize, the Alliance  
14 for Solar Choice is often referred to shorthand as  
15 TASC.

16 The member companies have dozens of rooftop  
17 solar projects in Washington and also have employees  
18 in the state. TASC is interested in responding to  
19 PacifiCorp's proposed residential fixed charge and  
20 tiered block rates, and is also interested in  
21 PacifiCorp's testimony regarding a distributed  
22 generation-specific charge. TASC expects to focus on  
23 the impacts these proposals would have on PacifiCorp's  
24 solar customers. TASC does not intend or propose to  
25 broaden the issues in the proceeding and seeks

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1 intervention only to respond to the proposals made by  
2 PacifiCorp.

3 JUDGE MOSS: Thank you very much. You  
4 have taught me a few things about the case already.

5 Is there going to be any objection to this?

6 MS. WALLACE: No objection, Your Honor.

7 MR. SHEARER: No objection.

8 JUDGE MOSS: All right, no objection.

9 And how about to the written petitions?

10 MS. WALLACE: No objection, Your Honor.

11 JUDGE MOSS: No objection. All right.

12 Then with that, I will just observe for the record  
13 that I have read the written petitions. They are, at  
14 least Boise White Paper and The Energy Project,  
15 parties with whom we are familiar by prior encounters.  
16 Wal-Mart Stores is somewhat similarly situated to  
17 Boise White Paper, being a large commercial customer  
18 of the company. I am satisfied by Ms. Kapla's  
19 descriptions of the interests of The Alliance for  
20 Solar Choice in the context of this case. Therefore,  
21 I will grant all of these petitions to intervene.

22 All right. We are in the category of motions  
23 or prior requests. I will just note for the record  
24 that we entered a protective order in this proceeding  
25 on May the 14th, to facilitate discovery, which will

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1 of course continue pursuant to the Commission's  
2 procedural rules.

3 I did want to ask, because in the past we have  
4 adjusted the response times for discovery at various  
5 intervals in the procedural schedule, and there does  
6 not seem to be such a request this time. I just want  
7 to verify that we are going to stay with the standard  
8 ten-day turn around throughout?

9 MS. WALLACE: No, Your Honor. After  
10 rebuttal testimony on November 14th, the Company has  
11 agreed to a five-day -- five-business-day turnaround  
12 for discovery.

13 JUDGE MOSS: All right. But we are not  
14 shortening after response?

15 MS. WALLACE: There was no discussion of  
16 that, no.

17 JUDGE MOSS: Okay. We did that last  
18 time, that's why I asked. You can always come to me  
19 later if things change.

20 All right. So I will have a ten-day response  
21 time, preliminary discovery period, and then after  
22 rebuttal testimony we will reduce the response time to  
23 five business days.

24 MS. WALLACE: Thank you.

25 JUDGE MOSS: I will include that in the

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1 order.

2 MS. WALLACE: There was also a question  
3 about whether Your Honor and the Commission would  
4 prefer that the issues matrix be -- the preliminary  
5 issues matrix -- matrixes filed in July and October,  
6 be filed with the Commission or just circulated among  
7 the parties?

8 JUDGE MOSS: I think those can just be  
9 circulated.

10 MS. WALLACE: And then we will file the  
11 final with you?

12 JUDGE MOSS: Yes. They are working  
13 documents. We can file the last one with the  
14 Commission's records.

15 MS. WALLACE: Thank you, Your Honor.

16 JUDGE MOSS: All right. I received this  
17 morning from Mr. Shearer a copy of the parties agreed  
18 procedural schedule. I will just confirm that that is  
19 indeed the agreed schedule. Nobody needs to respond  
20 unless they have some objection to what has been  
21 circulated. All right, fine. I don't really see any  
22 need to recite that into the record. It will be in  
23 the prehearing conference order.

24 I would compliment the parties on having given  
25 me a very thorough going list of events and dates. It

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1 seems rational to me at this moment. The  
2 December 16th date for the hearing is notable to me  
3 only because it is my son's birthday. I don't know if  
4 it will have any significance for the commissioners  
5 beyond this. I will have to check on that date, on  
6 the time frame. It is pretty far out, so I am hopeful  
7 that we will be able to accommodate the parties  
8 interest in having the hearing commence at that time.

9 MR. PURDY: Your Honor, this is Brad  
10 Purdy. I had my phone on mute and started to say  
11 something earlier. Regarding the proposed schedule, I  
12 have no objection. I just saw this for the first time  
13 this morning. My client actually intervened late  
14 yesterday.

15 JUDGE MOSS: Yes.

16 MR. PURDY: I do have a question as to  
17 the Staff circulating a settlement offer on  
18 August 28th, prior to settlement conferences. I don't  
19 quite follow that.

20 JUDGE MOSS: That is something that is  
21 new to me as well, Mr. Purdy.

22 Do you have a comment on that, Mr. Shearer?

23 MR. SHEARER: I don't have any comment.  
24 It was just something forwarded from Staff as a  
25 potential date to do that.

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1                   JUDGE MOSS: Settlement discussions and  
2 offers and counteroffers and so on and so forth are in  
3 the province of the parties. We do like to have them  
4 reflected. Indeed we require that the settlement  
5 conference at least be reflected as part of the  
6 procedural schedule.

7                   Mr. Purdy, I think that is just sort of a --  
8 you might think of that more as notational than  
9 anything else, or in the category of "it depends,"  
10 that we frequently tell our clients. We will  
11 just have to see. You will have to see what happens  
12 among the parties between now and then.

13                   MR. PURDY: I appreciate that  
14 clarification. Thank you.

15                   JUDGE MOSS: All right.

16                   And then, of course, the settlement conference  
17 is scheduled for early September. If you all change  
18 that, please do let us know, otherwise, we don't have  
19 any -- as I said, we don't have any particular  
20 involvement in that. I see another opportunity on  
21 October 21st.

22                   MR. FFITCH: Your Honor, this is Simon  
23 ffitch.

24                   JUDGE MOSS: Yes, sir.

25                   MR. FFITCH: Mr. Purdy's comment has

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1 prompted a thought, which is that -- I don't disagree  
2 with anything you have said about the settlement  
3 portion of the schedule. It may be better practice  
4 not to have the Staff circulation of an offer actually  
5 part of the formal schedule because it is certainly  
6 discretionary with Staff.

7 I think my point was going to be, the  
8 Commission isn't ordering Staff to issue a settlement  
9 offer on that date. Once it becomes part of the  
10 prehearing conference order, it starts to look like  
11 the Commission has an order directing a party to  
12 circulate a settlement proposal, which I think is not  
13 the intent.

14 JUDGE MOSS: All right, Mr. ffitch. I  
15 think your point is well taken.

16 Does anybody else want to comment on that?

17 There is no real need for it to be part of the  
18 formal procedural schedule. Mr. ffitch, being a  
19 former administrative law judge himself, is returning  
20 to that line of thought and I appreciate his remarks.

21 Thank you, Mr. ffitch.

22 MR. FFITCH: Thank you, Your Honor.

23 JUDGE MOSS: We will take that out.

24 We will leave the settlement conferences. We  
25 do require that those dates be in the schedule.

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1 Again, that is subject to change, at the will of the  
2 parties. We don't interfere with that process.

3 Anything else on the schedule?

4 Then subject to the change that I just  
5 indicated, we will adopt the schedule, I will just  
6 reiterate, subject to the Commissioners' availability  
7 for the evidentiary hearing beginning on December the  
8 16th.

9 All right. For the electronic submission of  
10 documents for filing and service of documents, I just  
11 want to remind the parties they are free to agree  
12 among themselves to waive all forms of service other  
13 than electronic service, if that's what they prefer.  
14 We do ask that you file a letter with the Commission  
15 memorializing your waiver so that we don't run into  
16 some problem down the line. Other than that, you are  
17 free to make such arrangements as you wish among  
18 yourselves, in terms of the form of deliveries.

19 The Commission, of course, does require  
20 certain paper filings. At this juncture we are hoping  
21 to change that in the not too distant future. For the  
22 moment at least, we do require that -- we will need in  
23 this case an original plus 18 copies for internal  
24 distribution at the Commission. If the filing  
25 includes information that is designated as

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1 confidential, we need the original and 18 copies of  
2 the fully unredacted version and the original and one  
3 copy of any redacted version.

4 Any questions about that?

5 Those of you who are new here might have  
6 questions. I am happy to entertain them. These are  
7 long-standing practices here, the way we do things.

8 The filings must be made through the  
9 Commission's Secretary, either by mail, directed to  
10 the secretary at WUTC, P.O. Box 47250, 1300 South  
11 Evergreen Park Drive Southwest, Olympia, Washington  
12 98504-7250, or by other means of delivery to the  
13 Commission's offices. All filing of substance, and by  
14 that I mean testimony, briefs, motions, answers, must  
15 include an electronic copy furnished either by e-mail,  
16 as an attachment, or via the Commission's web portal.

17 If you are not familiar with our web portal  
18 and wish to gain some direction on that, stop by the  
19 records center on the way downstairs, out the door.  
20 They are on your right there. They can give you some  
21 insights as to how that works. I can't, I don't have  
22 a clue.

23 I ask the parties to please provide me  
24 courtesy copies of their filings electronically. I  
25 also ask that you do that in MS Word, if possible. I

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1 often get documents in .pdf, which is useful, and I  
2 can convert them into a type of document that is more  
3 useful to me. If you can send it in Word, so much the  
4 better.

5 Service on all parties must be simultaneous  
6 with filing. Again, those who have participated  
7 previously before me understand my practices, but I  
8 will go through them in more detail today, since we  
9 have a couple of counsel who are new to the process.

10 Close in time to the hearing, I am going to  
11 require the parties to submit a witness list showing  
12 an order of presentation. That is something the  
13 parties work out among themselves, subject to witness  
14 availability and what makes good sense in terms of  
15 grouping witnesses, that sort of thing. I will also  
16 require at that time estimates of the time each  
17 counsel requires for cross-examination of each witness  
18 and cross-examination exhibit lists.

19 The cross-examination exhibits are exchanged  
20 in advance of the hearing. There is a date for that  
21 on the procedural schedule. I believe it's  
22 December 10th, if memory serves. We will have those  
23 delivered here to the Commission, as indicated in the  
24 prehearing conference order. In terms of the number  
25 of copies and so forth, I think we are going to ask

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1 for six copies of everything here. That's for  
2 distribution to the Commissioners, me, and several  
3 policy advisors, or a couple of policy advisors.

4 Again, I will enter a prehearing conference  
5 order that will have all of this information repeated  
6 and in some cases elaborated on. I am available for  
7 procedural questions by telephone or e-mail. You  
8 should all have that contact information.

9 Any other business from the parties?

10 MS. WALLACE: Yes, Your Honor.

11 JUDGE MOSS: Yes, Ms. Wallace?

12 MS. WALLACE: As part of our filing, we  
13 asked for amortization of three deferrals that we have  
14 made in late 2013 and early 2014.

15 JUDGE MOSS: Right.

16 MS. WALLACE: Yesterday the Commission  
17 also approved another deferral that they consolidated  
18 into this docket.

19 JUDGE MOSS: Yes.

20 MS. WALLACE: I was wondering if you  
21 would also want to consolidate the other three dockets  
22 or just --

23 JUDGE MOSS: Well, if these other  
24 matters are under separate docket numbers, we would  
25 want to consolidate the dockets formally into this

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1 one.

2 MS. WALLACE: They have docket numbers.  
3 They haven't been declared adjudications, but they do  
4 have docket numbers.

5 JUDGE MOSS: Well, if we are going to  
6 take them up in the context of this proceeding, let's  
7 do that. Why don't you send me something in writing.

8 MS. WALLACE: Okay.

9 JUDGE MOSS: Actually, file something in  
10 writing asking for consolidation. I will tell you now  
11 that I will grant that. We will take care of getting  
12 that done.

13 MS. WALLACE: And then I assume once  
14 consolidated the protective order in this docket  
15 would cover --

16 JUDGE MOSS: It covers everything, yes.

17 MS. WALLACE: Thank you.

18 JUDGE MOSS: Once we consolidate,  
19 everything is treated the same. It is really just a  
20 question of captioning and recordkeeping. It is  
21 important that we do that.

22 MS. WALLACE: It will be quite a large  
23 caption.

24 JUDGE MOSS: I'm afraid you are right.  
25 Fortunately, we have the capabilities of Microsoft

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1 Word to help us out, or frustrate us, as the case may  
2 be.

3 MS. WALLACE: And a somewhat silly  
4 request for permission, but it does make things a lot  
5 easier over time.

6 JUDGE MOSS: Well, levity is good toward  
7 the end of the week. Go ahead.

8 MS. WALLACE: Can we drop the three  
9 underscores and parens around exhibit numbers, so it's  
10 just exhibit number?

11 JUDGE MOSS: Yes, we can. The  
12 underscore and the parens is part of the procedural  
13 rules, isn't it?

14 MS. WALLACE: Yes.

15 JUDGE MOSS: I believe it is.

16 It has long been the practice now at the  
17 Commission to simply adopt the premarked numbers for  
18 exhibits, as they are required to be premarked in the  
19 procedural rules. But the procedural rules spell out  
20 that it say "exhibit number blank," and then the  
21 witness's initials and a number. There may be certain  
22 letters following it, T for testimony, for example, or  
23 a C if it is confidential, this sort of thing. You  
24 can check all the details out in the procedural rules.

25 Yes, for convenience, you can drop the

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1 underscore and the parentheses around the premarked  
2 number because that is -- that will be the exhibit  
3 number we use ultimately. That's fine.

4 We have an open rulemaking to revise our  
5 procedural rules at this time. I am sure this will be  
6 one of the items that is changed. That process has  
7 been sidetracked, unfortunately, by the press of other  
8 business. We don't know when that is going to come to  
9 fruition.

10 Thank you for making that point. It will save  
11 a little bit of ink and paper.

12 MS. WALLACE: Yes, thank you.

13 JUDGE MOSS: Anything else?

14 All right. Thank you all very much for being  
15 here today. Those of you by phone --

16 MR. FFITCH: Sorry, Your Honor.

17 JUDGE MOSS: Oh, you have something,  
18 Mr. ffitch?

19 MR. FFITCH: I do. I apologize. I had  
20 my mute button on.

21 JUDGE MOSS: All right. Go ahead.

22 MR. FFITCH: Just to request the ability  
23 of parties to send you e-mail addresses for additional  
24 persons to include on the electronic courtesy service  
25 list that the Commission will be using in the docket.

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1 For example, in our case, and we have already provided  
2 those to you. We would have our analyst and our  
3 support staff, so that they would receive the  
4 electronic communications in the case. I think this  
5 is consistent with the previous practice as well.

6 JUDGE MOSS: Yes, that's right,  
7 Mr. Ffitch. I will be happy to again provide a  
8 courtesy electronic service list so the parties will  
9 have all of that information in one place. I will  
10 emphasize that that is not the official service list  
11 in this case. The records center here maintains the  
12 official service list which designates one counsel and  
13 one company or party representative for the receipt of  
14 service. We have to be clear that these are separate  
15 documents. The one that I will give you is just for  
16 your benefit, for your use, but there is a formal list  
17 available through the records center.

18 MR. FFITCH: Thank you, Your Honor.

19 And I would just ask, you know, as a courtesy,  
20 that all counsel or all parties use the courtesy  
21 service list so that -- I think it is beneficial to  
22 everybody, so that other staff within their offices  
23 can see the incoming filings and so on simultaneously  
24 with counsel.

25 We have had experience in some other cases

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1 where some folks are using the Commission's list and  
2 others are not, so some filings occasionally are  
3 slipping through the cracks.

4 In any event, thank you very much, Your Honor.

5 JUDGE MOSS: Okay. And I will encourage  
6 the parties to do that. It is a long procedural  
7 schedule and people do have other commitments,  
8 personal or professional, and so it is good to have  
9 sometimes a wider distribution within a given office  
10 that so something does not slip through the cracks and  
11 cause unnecessary motions and activity by me.

12 Anything else?

13 MR. FFITCH: Your Honor, I'm sorry, one  
14 other item, and that is the public comment hearings.

15 JUDGE MOSS: Yes, sir.

16 MR. FFITCH: The hearings are marked to  
17 be determined on the schedule that has been submitted.

18 JUDGE MOSS: Yes.

19 MR. FFITCH: I have had an opportunity  
20 to confer with Mr. Kouchi in the Public Affairs Staff.  
21 Public Counsel would request that the Commission  
22 consider the same approach that was used in the last  
23 PacifiCorp general rate case. That specifically was  
24 to hold a hearing in Yakima and Walla Walla. I  
25 believe one was an evening hearing followed by a

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1 midday hearing the next day. We would simply request  
2 the Commission consider doing that again.

3 And then the timing of those I think ideally  
4 would be September or October, thinking about the  
5 potential for inclement weather later in the year.

6 I had a conversation with Mr. Kouchi about  
7 that. I think I am reflecting that that is the Public  
8 Affairs Staff predilection on this matter as well.

9 JUDGE MOSS: All right. Thank you,  
10 Mr. Ffitch.

11 Anybody else want to comment on this?

12 All right. Well, I will take it up with the  
13 Commissioners and we will set some dates, Mr. Ffitch.

14 MR. FFITCH: Thank you.

15 JUDGE MOSS: I appreciate your input on  
16 that and particularly your thoughtful suggestion that  
17 we do this before the snow begins. We will certainly  
18 endeavor to do that.

19 MR. FFITCH: Thank you.

20 JUDGE MOSS: Once again, does anyone  
21 else have anything else they would like to add to  
22 today's record?

23 Apparently not. Okay, thank you. Now I will  
24 begin the thank-yous.

25 Thank you all very much for being here today,

0026

1 including those of you who appeared by telephone. We  
2 will get the prehearing conference order out promptly  
3 and we will proceed from there.

4 I look forward to working with you all to  
5 bring this case to a good conclusion.

6 (Prehearing Conference concluded 10:33 a.m.)

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C E R T I F I C A T E

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STATE OF WASHINGTON

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COUNTY OF KING

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I, Sherrilyn Smith, a Certified

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Shorthand Reporter in and for the State of Washington,

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do hereby certify that the foregoing transcript is

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true and accurate to the best of my knowledge, skill

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and ability.

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SHERRILYN SMITH

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