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1                   BEFORE THE WASHINGTON UTILITIES AND  
2                   TRANSPORTATION COMMISSION

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4 WASHINGTON UTILITIES AND            ) Docket No. UE-981238  
  TRANSPORTATION COMMISSION,        )  
5                                    Complainant,    ) Volume II  
  ) Pages 18 - 29  
6                                    vs.                )  
  )                )  
7 PUGET SOUND ENERGY,                )  
  Respondent.    )  
8 \_\_\_\_\_)                                    )

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10                   A hearing in the above matter was  
11 held on September 2, 1999, at 9:35 a.m., at 1300  
12 Evergreen Park Drive Southwest, Olympia, Washington,  
13 before Administrative Law Judge DENNIS MOSS.

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15                   The parties were present as  
16 follows:

17                   PUGET SOUND ENERGY, INC., by  
18 Matthew R. Harris, Attorney at Law, Summit Law Group,  
19 1505 Westlake Avenue North, Suite 300, Seattle,  
Washington 98109.

20                   INDUSTRIAL CUSTOMERS OF NORTHWEST  
21 UTILITIES, by S. Bradley Van Cleve, Attorney at Law,  
22 Duncan, Weinberg, Genzer & Pembroke, P.C., Suite  
23 2915, 1300 S.W. Fifth Avenue, Portland, Oregon,  
24 97201.

25                   THE COMMISSION, by Robert  
Cedarbaum, Assistant Attorney General, 1400 South  
Evergreen Park Drive, S.W., P.O. Box 40128, Olympia,  
Washington, 98504.  
BARBARA SPURBECK, CCR

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1                   JUDGE MOSS: We are convened this morning  
2 in Washington Utilities and Transportation Commission  
3 against Puget Sound Energy, Docket Number UE-981238.  
4 I think all of you know me. My name is Dennis Moss.  
5 I'll be the presiding administrative law judge in  
6 this proceeding, as I have been from its early  
7 inception, back in December of 1998, when we first  
8 discussed our procedures, which called for this case  
9 to be coordinated with Docket Number UE-981410, and  
10 the parties expressed their desire that this  
11 proceeding not go forward in earnest until that  
12 proceeding had been concluded, which occurred on  
13 August the 3rd of this year with the Commission's  
14 final order in the other docket.

15                   So we established a prehearing conference  
16 for today in order to determine a procedural schedule  
17 and any other matters that need to be resolved at  
18 this point. We've previously provided for discovery,  
19 we previously entered a protective order, so those  
20 matters have been taken care of.

21                   Having said all of that, let's turn to the  
22 housekeeping matter of taking appearances. And this  
23 being a complaint case brought by the Commission,  
24 I'll begin with Staff, Mr. Cedarbaum.

25                   MR. CEDARBAUM: Yes, Robert Cedarbaum,

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1 Assistant Attorney General, representing Commission  
2 Staff. My address and telephone number and other  
3 vital statistics, I think, are already of record.

4 JUDGE MOSS: That's correct. Go ahead for  
5 the Respondent, then.

6 MR. HARRIS: Matthew Harris, on behalf of  
7 Puget Sound Energy.

8 JUDGE MOSS: And again, as previously noted  
9 in the record. And then we have -- I don't recall  
10 whether Ms. Davison or you, Mr. Van Cleve, had  
11 previously entered an appearance in this case, but  
12 let's go ahead and have yours.

13 MR. VAN CLEVE: I believe it was Ms.  
14 Davison. I'm Brad Van Cleve, on behalf of the  
15 Industrial Customers and Northwest Utilities.

16 JUDGE MOSS: And just for the record, I  
17 believe Ms. Davison was Ms. Horgan at that time, but  
18 it's the same as Ms. Davison. She'll be appearing  
19 also in the case?

20 MR. VAN CLEVE: Yes.

21 JUDGE MOSS: Will you be the primary  
22 contact for purposes of service?

23 MR. VAN CLEVE: Yes, I will.

24 JUDGE MOSS: And it appears that we have no  
25 other persons interested at this point. I guess it

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1 would be a little late in the game for anybody else  
2 to get involved anyway. As I recall from our early  
3 prehearing conference, Public Counsel indicated they  
4 would not participate in this proceeding, and of  
5 course, they have no representative here today.

6 MR. HARRIS: For your information, I did  
7 receive a message from Public Counsel that they were  
8 going to monitor this proceeding, but not participate  
9 actively.

10 JUDGE MOSS: Okay. Thank you very much.  
11 So I think the parties have had an opportunity  
12 already to discuss procedures and dates, and so let  
13 me just hear from you as to what you propose in that  
14 regard.

15 MR. CEDARBAUM: Yes, Your Honor. Of  
16 course, subject to your schedule and the Commission's  
17 schedule, the agreed schedule that we came up with  
18 this morning that we're proposing be accepted is as  
19 follows:

20 The Company would file its direct case in  
21 this proceeding on September 21st. Staff and  
22 Intervenor would file their direct case on October  
23 13th. Company rebuttal testimony would be filed on  
24 October 27th. A hearing would take place in Olympia  
25 on November 9th and 10th, if necessary. Closing

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1 briefs on November 24th.

2           And I think we had also agreed -- perhaps I  
3 could be wrong about this, but I think we also agreed  
4 that we would shorten the turnaround for discovery  
5 requests from the current ten business day rule down  
6 to -- I would hope we could do it in three to five  
7 business days.

8           MR. HARRIS: That would be fine.

9           JUDGE MOSS: Is that agreeable?

10          MR. HARRIS: Yes.

11          MR. CEDARBAUM: That would be the rule in  
12 this case from today, I guess.

13          JUDGE MOSS: Okay.

14          MR. VAN CLEVE: You said five?

15          MR. CEDARBAUM: Five business days.

16          JUDGE MOSS: Is that agreeable to you, Mr.  
17 Van Cleve?

18          MR. VAN CLEVE: Yes, it is, Your Honor.

19          JUDGE MOSS: Okay.

20          MR. CEDARBAUM: And my recollection again  
21 in this case is that we do have a proposed order  
22 waived.

23          JUDGE MOSS: Initial order.

24          MR. CEDARBAUM: An initial order waived, so  
25 presumably the November 9th and 10th hearing, the

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1 Commissioners themselves don't need to sit, so  
2 hopefully that frees us up on the schedule.

3 JUDGE MOSS: Are you all quite comfortable  
4 with that two days, because I notice that we do have  
5 a holiday on the 11th, and I've also penciled in a  
6 vacation day for myself on the 12th, so if we did not  
7 finish, that would slip us over into the following  
8 week.

9 MR. HARRIS: You're not offering to cancel  
10 your vacation?

11 JUDGE MOSS: No, I'm not.

12 MR. HARRIS: I'm very comfortable with two  
13 days. I can't imagine it actually carrying over to  
14 the second day, but I'm usually too optimistic on  
15 that.

16 MR. CEDARBAUM: I agree. I think two days  
17 will be plenty.

18 JUDGE MOSS: Okay. I just wouldn't want to  
19 break it up, three days there. I don't see any  
20 problem in the schedule you've proposed. I was  
21 looking at my calendar. Of course, most of those  
22 dates won't affect me anyway. Intervenors and Staff  
23 are going to file on the same day?

24 MR. CEDARBAUM: Yes.

25 JUDGE MOSS: October 13th?

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1 MR. CEDARBAUM: That's right.

2 JUDGE MOSS: All right. Let's set that  
3 schedule, then. We'll have the PSE pre-file direct  
4 testimony on the 21st of September; Intervenors and  
5 Staff direct on the 13th of October; PSE rebuttal on  
6 the 27th of October; and we'll set the 9th and the  
7 10th as hearing dates and I'll schedule a room.

8 Given the small number of participants, if  
9 it turned out that this room was unavailable on one  
10 of those days, and I note that the 10th is a  
11 Wednesday, normally a Commission meeting day, then  
12 we'll just probably be able to arrange Room 108. I  
13 don't think that will be a problem for this case.

14 Oh, simultaneous briefs on November the  
15 24th, is that the suggestion?

16 MR. CEDARBAUM: Yes.

17 JUDGE MOSS: Okay. I think, in this case,  
18 we'll go ahead with that. I've been sort of moving  
19 in the direction of preferring serial briefs, but I  
20 think we'll go ahead with simultaneous briefs in this  
21 case. That's your preference, I gather.

22 MR. CEDARBAUM: I think we were looking at  
23 the Thanksgiving holiday that week, just trying to  
24 get the case submitted to the Commission before then.  
25 I think if it turns out during the case that a better

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1 process for briefing would be better, then we could  
2 always consider that.

3 JUDGE MOSS: I'll return to an issue that  
4 became a little bit of a problem in the last case, in  
5 which we were all participating together, and that  
6 was the question of common outline for briefs. I do  
7 prefer that. It makes the job that I do far easier.  
8 It makes it -- particularly when we have a waiver of  
9 initial decision, it makes it far easier for the  
10 Commission, if they have not sat in the case, to see  
11 everything lined up issue by issue.

12 So in this case, what I'm going to do is  
13 ask you all to provide me a draft outline at the  
14 outset of the evidentiary proceeding, and if we need  
15 to modify that in light of the evidence and in light  
16 of what comes forth, then we'll modify it at the  
17 conclusion. And I may take a hand in that, but I do  
18 want us to proceed in that way.

19 And I think that's something we're going to  
20 begin trying to do across the board in these cases,  
21 because it does just make things so much easier for  
22 us. It may make things a little more difficult for  
23 you, but the opportunity is there for you to come up  
24 with the outline, rather than having one imposed. I  
25 know some of you, at least, didn't like my outline



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1 last time and I didn't insist that it be used, but  
2 that's what I want to do.

3 I think, on filings, we'll continue to need  
4 the original plus 12, which was the number we set,  
5 and the Commission's internal distribution has not  
6 changed in this case. So we'll continue with that.  
7 I'll just recall, for purposes of the record, that  
8 all filings must be made through the Commission's  
9 secretary, WUTC, P.O. Box 47250, 1300 South Evergreen  
10 Park Drive S.W., Olympia, Washington, 98504-7520, or  
11 by other means of delivery to the Commission's  
12 offices at the physical address I just mentioned.

13 Service on all parties must be simultaneous  
14 with filing. Ordinarily the Commission does not  
15 accept filings by facsimile, although I understand  
16 there's some effort to move to an electronic filing  
17 system. That has not yet been fully implemented. So  
18 for the time being, at least, you'll need to continue  
19 to file by paper. And if you do need to file  
20 something on an expedited basis, just give me a call.  
21 I can't think of an instance when I have not allowed  
22 that, so we can take care of that sort of thing.

23 Do we have any sense at this point how many  
24 witnesses we're looking at? How about for Staff?  
25 MR. CEDARBAUM: I would say no more than

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1 two. Perhaps just one.

2 JUDGE MOSS: How about for the Intervenors?

3 MR. VAN CLEVE: Probably one.

4 JUDGE MOSS: For the Company?

5 MR. HARRIS: Probably one.

6 JUDGE MOSS: Okay. Well, that's short and  
7 sweet. Maybe you all can send me a common witness  
8 list and exhibit list and so forth as we get close to  
9 hearing and order of presentation and so forth all  
10 laid out. You all know how I like to do these  
11 things, so if you could come up with an agreed list  
12 and that will maybe same time and effort.

13 MR. CEDARBAUM: Would that include  
14 cross-examination exhibits, as well?

15 MR. CEDARBAUM: Yeah, I do like that. I  
16 think that's helpful to go ahead and exchange those  
17 in advance, and then I can get them all marked up. I  
18 often can hand you an exhibit list when you come in.  
19 That also keeps things organized, which is very  
20 helpful.

21 Again, I'll remind parties that fact  
22 stipulations are encouraged in all of our  
23 proceedings. Our rules provide for that, 480-09-470.  
24 The parties are encouraged to consider alternative  
25 dispute resolution and settlement discussions as a

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1 means to resolve their differences, as opposed to  
2 doing so through litigation, having a result that may  
3 not make anyone less happy that if they settled a  
4 resolution, and of course, Commission Staff should be  
5 given opportunity to participate. In this case,  
6 they're the complainant, so naturally they'll be  
7 participating in the settlement discussions. I don't  
8 need to say that. Is there any other business we  
9 need to take care of this morning?

10 MR. HARRIS: No.

11 MR. CEDARBAUM: I just wanted to confirm  
12 that when we file our testimony and briefs, you would  
13 also like an electronic version filed with that?

14 JUDGE MOSS: Yeah, that's something that  
15 has been a little uneven, also. I'm glad you  
16 mentioned that. It's very helpful if we have this  
17 stuff in electronic format. I realize that may pose  
18 some problems in the confidentiality issues. But I  
19 think the way around that, I suppose, is to file an  
20 electronic version that was redacted and we'll sort  
21 of fill in the blanks, if you will, with the colored  
22 paper, confidential documents, or whatever needs to  
23 be. But it is helpful to have the things  
24 electronically, particularly the testimonies. Saves  
25 me a lot of work.

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1                   Anything else? Great. Well, let's all go  
2 have a cup of coffee. We're off the record. Thanks.  
3                   (Proceedings adjourned at 9:44 a.m.)  
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