

BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,)
Complainant,)
vs.) Docket UE-152253
PACIFIC POWER & LIGHT COMPANY,)
Respondent.)

PREHEARING CONFERENCE, VOLUME I
Pages 1 - 65
ADMINISTRATIVE LAW JUDGE MARGUERITE FRIEDLANDER

9:30 A.M.
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OLYMPIA, WASHINGTON; DECEMBER 22, 2015
9:31 A.M.
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JUDGE FRIEDLANDER: Okay. Let's get started. My name is Margaret Friedlander. I'm the Administrative Law Judge for this proceeding before the Washington Utilities and Transportation Commission. This is the time and place set for a prehearing conference in the Pacific Power & Light Company's expedited rate filing or known as an ERF, E-R-F. The matter has been designated by the Commission Staff as Docket UE-152253. We're going to go ahead and take appearances by the parties. Just to let you know, I do not need your addresses, as long as they're accurate and correct in the filings that you've made. We can skip the phone numbers and the fax numbers as well. So we'll begin with Pacific Power. MS. McDOWELL: Thank you, Your Honor. And good morning, everyone. This is Katherine McDowell here on behalf of Pacific Power. With me today is Matt McVee, in-house counsel for Pacific Power. JUDGE FRIEDLANDER: Thank you. Appearing today on behalf of Staff?

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1 MS. CAMERON-RULKOWSKI: Appearing on behalf
 2 of Commission Staff, Jennifer Cameron-Rulkowski,
 3 Assistant Attorney General, and with me are also Patrick
 4 J. Oshie, Christopher M. Casey and Julian H. Beattie,
 5 also Assistant Attorneys General.
 6 JUDGE FRIEDLANDER: Okay. Thank you.
 7 Appearing today on behalf of Public Counsel?
 8 MR. FFITCH: Good morning, Your Honor.
 9 Appearing for Public Counsel, Simon J. ffitch, Senior
 10 Assistant Attorney General, for the Public Counsel Unit
 11 of the Washington State Attorney General's Office.
 12 JUDGE FRIEDLANDER: Thank you. We have
 13 three petitions for intervention. Who's appearing today
 14 on behalf of the Energy Project?
 15 MR. PURDY: I am, Your Honor. Brad Purdy.
 16 JUDGE FRIEDLANDER: Okay. Thank you. And
 17 could you spell your last name for the court reporter.
 18 MR. COWELL: Yes. P, as in papa, U-R-D, as
 19 in delta, Y.
 20 JUDGE FRIEDLANDER: Thank you. Appearing
 21 today on behalf of Boise White Paper?
 22 MR. COWELL: Yes. Thank you, Your Honor.
 23 Appearing on behalf of Boise is Jesse E. Cowell,
 24 C-O-W-E-L-L.
 25 JUDGE FRIEDLANDER: Thank you.

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1 And finally, appearing today on behalf of
 2 Sierra Club?
 3 MS. SMITH: Gloria Smith.
 4 JUDGE FRIEDLANDER: Okay.
 5 Are you the attorney of record or is Alexa
 6 Zimbalist?
 7 MS. SMITH: Alexa Zimbalist is my assistant.
 8 I'm the attorney of record.
 9 JUDGE FRIEDLANDER: Okay. Thank you.
 10 And we usually, for purposes of the service
 11 list, have the attorney and one representative of the
 12 organization. Is there someone else on -- or in the
 13 Sierra Club that would receive service?
 14 MS. SMITH: Travis Ritchie -- I supervise
 15 Travis Ritchie. He's a staff attorney with the Sierra
 16 Club also.
 17 JUDGE FRIEDLANDER: Okay. Thank you. Is
 18 there anyone else in the hearing room or on the
 19 conference bridge who wishes to make an appearance?
 20 Okay. Hearing nothing, let's take up the
 21 three petitions to intervene, and we'll begin with the
 22 Energy Project. Mr. Purdy?
 23 MR. PURDY: Yes.
 24 JUDGE FRIEDLANDER: Are there any objections
 25 to intervention by the Energy Project?

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1 MS. McDOWELL: No objection, Your Honor.
 2 MR. OSHIE: No objection.
 3 MS. CAMERON-RULKOWSKI: None from Staff,
 4 Your Honor.
 5 JUDGE FRIEDLANDER: Thank you.
 6 So you are admitted into the proceeding,
 7 Mr. Purdy, on behalf of the Energy Project.
 8 MR. PURDY: Thank you.
 9 JUDGE FRIEDLANDER: You're welcome.
 10 And we'll go to the Sierra Club. Are there
 11 any objections to intervention by the Sierra Club?
 12 MS. McDOWELL: No objection, Your Honor.
 13 JUDGE FRIEDLANDER: Thank you.
 14 MR. FFITCH: No objection, Public Counsel.
 15 MS. CAMERON-RULKOWSKI: Your Honor, Staff is
 16 not objecting to Sierra Club's intervention, but Staff
 17 does want to raise the concern that the Sierra Club
 18 confine itself to the interests that it expressed in its
 19 petition for intervention, and that's specifically the
 20 depreciation schedule and the installation of the SCR
 21 systems on the Jim Bridger units, and Staff is concerned
 22 that issues are not brought into this proceeding that
 23 are better addressed in other proceedings.
 24 JUDGE FRIEDLANDER: Thank you.
 25 Did you have anything to reply, Ms. Smith?

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1 MS. SMITH: Sierra Club has no objection to
 2 that. We are very interested in the interim retrofit of
 3 the Bridger coal plant. We've litigated that issue in
 4 other states, and we have no interests in broadening the
 5 issues in this docket.
 6 JUDGE FRIEDLANDER: Okay. Thank you.
 7 And I will grant the petition.
 8 And is there any objection to Boise White
 9 Paper's intervention request?
 10 MS. McDOWELL: No objection, Your Honor.
 11 MR. FFITCH: No objection from Public
 12 Counsel.
 13 MS. CAMERON-RULKOWSKI: No objection from
 14 Staff.
 15 JUDGE FRIEDLANDER: Okay. Great. Thank
 16 you.
 17 So the intervention is granted.
 18 Let's move into the motion to dismiss. It's
 19 my -- before we go there, it's my understanding that a
 20 protective order has already been entered in this case,
 21 and I would imagine that discovery has already begun.
 22 MS. McDOWELL: Yes, Your Honor.
 23 JUDGE FRIEDLANDER: Okay. Great.
 24 So let's go on to the motion to dismiss.
 25 Mr. Cowell, do you want to brief the Court on that?

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<p>1 MR. COWELL: Yes, I'd be glad to. Thank 2 you, Your Honor. 3 So first of all, Boise is appreciative of 4 the opportunity to discuss its motions. And to start 5 off, I'd like to just state Boise's position and all the 6 content within Boise's motion is appropriate for 7 discussion here at the prehearing conference. 8 I'd just bring the Court's attention to -- 9 excuse me, the judge's attention to the prehearing 10 conference rule, which states that the results of a 11 prehearing conference will control the course of this 12 proceeding. So in that light, and with the prehearing 13 conference rule also stating that it's proper to discuss 14 the identification of issues and kind of a general 15 clause, that any other issue that may aid the Court in 16 its determination in this proceeding, that it's 17 appropriate to discuss everything that's within Boise's 18 motion. 19 So that said, moving specifically to Boise's 20 motions. In -- before formulating an issue in these 21 motions, Boise looked at the precedent that seemed to be 22 controlling that had come out in the PSE remand 23 proceeding, including the Thurston County Superior Court 24 order that partially reversed the Commission's initial 25 PSE order that had dealt with Puget Sound Energy's</p>	<p>1 such that it would justify PacifiCorp's -- and, again, I 2 agree with Staff's characterization -- a very similar 3 filing of a combination of an expedited rate filing and 4 a rate plan combination. In Boise's view, the answer 5 would be no, that the Company's filing now is not 6 justified. 7 Now, again, as I mentioned, the very similar 8 ERF rate plan combination was remanded back to the 9 Commission by the Thurston County Superior Court after 10 judicial review. And once that had happened, the 11 Commission acknowledged the Court's determination that 12 it, quote, should have undertaken a full analysis of ROE 13 in the rate plan and expedited rate filing context. So 14 the dilemma that seems to be before us is whether the 15 Company has filed a direct case which would allow the 16 Commission to conduct a, quote, full analysis of ROE and 17 another place, the Commission said a thorough-going 18 analysis of ROE. 19 Boise's contention is that a full or 20 thorough-going analysis of ROE cannot be undertaken in 21 the manner that the Company presented its case. Now, 22 this is based on Boise's view that the Company is 23 explicitly holding in reserve at least a part of 24 Mr. Strunk's return on equity testimony. They said they 25 expressly reserved the right to seek the higher ROE as</p>
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<p>1 expedited rate filing combined with multi-year rate plan 2 package. So we looked at that, and then we looked at 3 how the Company presented this filing, and we came to 4 the conclusion that there is a dilemma or possibly even 5 a series of dilemmas. The Company called this a 6 catch-22, but in kind of stating this issue that's 7 before us, I'd like to state that Boise doesn't believe 8 that we've created a catch-22, but we're trying to deal 9 with a series of dilemmas that's before us based on 10 precedent and how the Company structured its filing. 11 So to start off with, I would agree with 12 Staff's characterization that Pacific Power's filing is, 13 quote, very similar in context to the recent PSE case 14 that I just referred to. Both center upon a multi-year 15 rate plan in conjunction with an expedited rate filing. 16 And so in our view, here's the initial 17 dilemma. In the initial PSE final order, which was 18 Order 7, and eventually there were 15 orders in that 19 case. The Commission acknowledged that the expedited 20 rate filing, multi-year rate plan combination was, 21 quote, somewhat of an experiment. So this is before the 22 judicial review, before the remand, the Commission said, 23 look, this is somewhat of an experiment. 24 And so the question now before us is did the 25 PSE experiment turn out to be a successful experiment</p>	<p>1 supported by Mr. Strunk's explicit statement that he had 2 demonstrated that a higher ROE or 10.0 percent ROE was 3 appropriate for the Company. 4 Staff also states that the Company's filing, 5 quote, does not include a comprehensive cost of capital 6 presentation. And Staff also points out in their 7 response to Boise's motions -- and I'll clarify that 8 Staff is not supporting Boise's motions -- but they do 9 point out a risk that the Commission faces in light of 10 the Superior Court's ruling. And in view of that, Staff 11 suggests that the Company should be made to supplement 12 evidence on cost of capital. 13 Now, Boise pointed out in its motions that 14 the Commission in 2014 granted a motion to dismiss when 15 a company, quote -- when a company failed to, quote, 16 file a direct case that provides full support for its 17 rate request. 18 JUDGE FRIEDLANDER: I remember that one. It 19 was mine. Thanks. 20 MR. COWELL: Okay. And, you know, again, in 21 doing this whole process -- I wasn't aware of that, Your 22 Honor -- and, you know, obviously I'm just looking at 23 what's before us? What's the precedent? Where is it 24 directing us? And again, in that order, it says that 25 because of that, because there wasn't full support in</p>

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<p>1 the direct case, that such a filing, quote, necessarily 2 results in dismissal. And so the argument that the 3 Company should supplement its whole case later in the 4 proceeding was also rejected in that order. 5 So in filing a motion to dismiss, Boise is 6 asking the Commission to determine whether it can 7 conduct a full analysis of the Company's return in 8 equity simply on the basis of the direct case. If the 9 Commission determines that it cannot, Boise would argue 10 that a motion to dismiss is appropriate, not 11 supplementation. 12 If the Commission can, then a thorough-going 13 analysis of return on equity will be a primary focus of 14 this case by dint of that determination, and this will 15 necessarily involve consideration of Mr. Strunk's 16 testimony purportedly demonstrating that a 10 percent 17 ROE is appropriate for the Company. And this 18 effectively amounts to, in Boise's view, a Company 19 request for an ROE change, which is a definitional 20 characteristic of a general rate case. And so it's for 21 this reason that Boise has also filed an alternative 22 motion to treat this proceeding as a general rate case. 23 And in doing so, Boise, first of all, makes 24 the point that at least substantively, the Company's 25 filed what would meet the Commission definition of a</p>	<p>1 exempt various rules when it's in the public interests, 2 and that's, in fact, what the Commission did in Puget 3 Sound's ERF and multi-year rate plan combination case. 4 So knowing that, the remainder of our 5 alternative motion discusses why Boise does not believe 6 it is in the public interest to treat this as anything 7 but a general rate case, and I won't go into all the 8 details. It's in the motion. But essentially that we 9 have the complexity and breadth that you would see in a 10 general rate case, and in particular, as we kind of lay 11 out, we have a stark similarity between the very issues 12 that were in PSE's prior rate case that the Commission 13 contrasted in PSE's ERF, and with the Company's own 14 recent general rate case. 15 And considering all these factors, Boise 16 believes that it would be appropriate to treat this as a 17 general rate case. 18 And as a final point, I want to clarify, the 19 Company, whether explicitly or impliedly, stated that we 20 are taking the position that coming out against the 21 concept of an ERF, and we're not. Our position is the 22 combination of an expedited rate filing with a 23 multi-year rate plan, which is what the -- was before 24 the Thurston County Superior Court and judicial review. 25 And what the Commission commented on in its own</p>
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<p>1 general rate case. 2 Staff, in its response, had argued in a 3 different context, but they had stated that it would be 4 inappropriate to elevate form over substance when Staff 5 was arguing that the Commission should consider a 6 different general rate case rule for determination of 7 analyzing the Company's filing. And Boise likewise 8 believes that, at the very least, in substance, this is 9 essentially a general rate case. 10 Specifically, as Boise pointed out in its 11 motions, we have a cumulative rate increase request, 12 it's about 6 percent, and depending on how one 13 interprets the text of the general rate case 14 definitional rule, the second year rate plan increase is 15 over 3 percent. 16 Also, if we get to the point that the case 17 is not dismissed, then it's going to be -- because it's 18 a determination that there's sufficient ROE evidence 19 already in the Company's direct case, in which 20 circumstance, the Commission is going to be reviewing 21 the evidence that a higher ROE is appropriate. And 22 again, that would meet the Commission's definition of 23 what constitutes a general rate case. 24 Now, in Boise's motions, we've very clearly 25 stated that we fully recognize that the Commission can</p>	<p>1 precedent in the PSE remand proceeding is what we're 2 looking at because the Company has filed a very similar 3 case. And in that context, the ERF with the multi-year 4 rate plan that the Company is filing should, in the 5 alternative, be treated as a general rate case. It 6 would be prudent and appropriate to do so. 7 JUDGE FRIEDLANDER: So let me ask a couple 8 of clarifying questions. 9 MR. COWELL: Sure. 10 JUDGE FRIEDLANDER: You mentioned 11 Mr. Strunk's testimony. 12 MR. COWELL: Yes. 13 JUDGE FRIEDLANDER: You said that he's 14 holding testimony in reserve. Where do you get that 15 from in his direct? 16 MR. COWELL: I am actually taking that from 17 the petition, Your Honor. 18 JUDGE FRIEDLANDER: Okay. So there's no -- 19 you're not citing to anything in his testimony that says 20 he's -- 21 MR. COWELL: Well, I -- sorry. 22 JUDGE FRIEDLANDER: No, go ahead. Go ahead. 23 MR. COWELL: So two points: So in paragraph 24 9 of our alternative motion, we first point out that 25 Company has explicitly reserved its right to seek the</p>

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<p>1 higher ROE supported by Mr. Strunk's testimony. And 2 then in paragraph 10, we point out that Mr. Strunk has 3 purportedly demonstrated that an ROE of 10.0 percent 4 continues to be appropriate for Pacific Power. 5 So the Company, in saying that it's not 6 updating rate of return, which would include ROE, is 7 effectively -- it's like holding this contingent delayed 8 release mechanism. We have this testimony that's out 9 there, and the Company is saying, look, we're not 10 seeking an increase of ROE, but it's in -- it's in their 11 filed case. So that either the Commission's not going 12 to look at it because the Company is saying, we're not 13 asking for an increase, or it is, in which case ROE is 14 out there in this case. 15 There's testimony that Mr. Strunk is 16 explicitly stating demonstrating a 10.0 percent higher 17 ROE is appropriate, and in which case we've got a 18 broader proceeding on our hands which would justify a 19 general rate case or at least a general rate case-like 20 treatment. 21 JUDGE FRIEDLANDER: Okay. And so Boise 22 White Paper is just concerned about the ROE, though. 23 They're not concerned -- you're not concerned about cost 24 of capital or capital structure not being an element of 25 the case?</p>	<p>1 be used sparingly and with care, and in this case there 2 is no basis for dismissing the Company's filing. 3 Most importantly, in response to Boise's 4 motion, Staff has reviewed the filing and submitted a 5 declaration that the Company's filing complies with the 6 Commission's filing requirements for rate cases. That's 7 not for ERFs, that's for general rate cases. 8 So under even the higher standard, Staff's 9 review has indicated that the Company has satisfied the 10 Commission's filing requirements. That may be implicit 11 in the fact that the case was recommended for 12 suspension, the filing was accepted and the adjudicatory 13 process has begun, but Staff has made it expressed or 14 explicit in the declaration it filed in response to this 15 motion. So in terms of just meeting the Commission's 16 filing requirements, we think that box has been clearly 17 checked. 18 With respect to the implications of the PSE 19 orders on this case, as our response details, we believe 20 that Boise has overstated the impact of those holdings, 21 and that even under a broad reading of those orders, the 22 Company has addressed the evidentiary issues by filing 23 cost of equity testimony in this case, notwithstanding 24 the fact that the Company is not seeking to change its 25 return on equity or any component of the cost of</p>
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<p>1 MR. COWELL: I'd say it this way, Your 2 Honor. And, again, in looking at the precedent of what 3 the Commission needs to consider, it's going to -- I can 4 state with certainty, at least based on my reading of 5 the precedent, that it needs to take a full or a 6 thorough-going analysis of ROE. Now, that would, I 7 would presume, necessitate a wider look, because ROE is 8 a component of capital. But for sure, it needs to take 9 a very thorough look at ROE, and that very well may open 10 up the door to a larger examination. But that's 11 essentially why we're saying this should be treated like 12 as a general rate case or at least with process that 13 would approach a normal general rate case process. 14 Because it allows parties to -- it doesn't unnecessarily 15 constrain them knowing that ROE may be a central focus 16 in this case. 17 JUDGE FRIEDLANDER: Okay. That was one of 18 the questions that I had. 19 Ms. McDowell? 20 MS. McDOWELL: Thank you, Your Honor. 21 Katherine McDowell here on behalf of Pacific 22 Power. I appreciate the opportunity to respond to 23 Boise's motions. 24 To begin with, the standard on motions to 25 dismiss that this Commission follows is that they should</p>	<p>1 capital. We have, out of an abundance of caution, given 2 the PSE precedent, filed testimony of our cost of 3 capital expert in our last case, basically indicating 4 that -- you know, taking the evidence from the last 5 case, updating it and indicating that providing 6 evidentiary support for holding ROE and the other 7 components of cost of capital constant in this case. 8 Now, Boise suggests that the Company's 9 reservation of its right to put on a full cost of 10 capital case, in case the Commission decides that it 11 wants to see a full cost of capital case, does not 12 convert the Company's filing into something that, you 13 know, it isn't. I mean, we have done that in a 14 footnote, as a reservation of rights, understanding that 15 the Commission does have the discretion to say, this is 16 what we want to see in this case. If that's the case, 17 we put that reservation of rights in there instead of 18 having to refile testimony that would restate the 19 positions. 20 So we simply put that in there indicating 21 that if the Commission decides to go a different course 22 than the one that the Company has proposed here, we 23 would be able to rely on Mr. Strunk's testimony, but we 24 don't believe that that procedurally has any impact on 25 the Company's request or the nature of the Company's</p>

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<p>1 filing here.</p> <p>2 Now, while the Staff also opposes Boise's</p> <p>3 motion, Staff has raised the question of whether the</p> <p>4 Company should supplement its filings with evidence on</p> <p>5 the specific issues they flagged are the current credit</p> <p>6 rating and cost of debt.</p> <p>7 And just to first address the legal issue,</p> <p>8 we think that the Commission looked at this issue in</p> <p>9 Order 11 on the PSE remand, where the question was</p> <p>10 raised, does that remand require the Commission to look</p> <p>11 broadly at all of the components of capital -- of cost</p> <p>12 of capital, including capital structure and debt as</p> <p>13 opposed to just focusing on ROE, return on equity. And</p> <p>14 the Commission made clear that the remand was focused on</p> <p>15 ROE, and that to the extent issues came in about capital</p> <p>16 structure or debt, it was only as they pertain to ROE</p> <p>17 that those issues were not opened up by the remand.</p> <p>18 So we believe that based on that Order 11,</p> <p>19 and ultimately the final order which addressed only ROE</p> <p>20 and had no mention of either debt or capital structure,</p> <p>21 that the PSE case does not stand for the proposition</p> <p>22 that all components of cost of capital must be addressed</p> <p>23 to comply with whatever precedent PSE orders set. So</p> <p>24 for this reason, we don't believe that the</p> <p>25 supplementation proposed by Staff is legally required.</p>	<p>1 expedited or not, and we appreciate Staff's support for</p> <p>2 handling this case in an expedited manner. We do think</p> <p>3 we can probably get to an outcome with Staff in terms of</p> <p>4 a schedule that would be workable for Staff and meet our</p> <p>5 goals for the kind of schedule that has been adopted</p> <p>6 previously in limited issue filings. And in Footnote 17</p> <p>7 of our petition, we've cited some of those cases. You</p> <p>8 know, something like five, six months, in that zone.</p> <p>9 That tends to be the schedules that have been adopted in</p> <p>10 these limited-issue filings. They're more open to that.</p> <p>11 We don't think that there's any reason to</p> <p>12 convert this case based on cost of capital issues or</p> <p>13 otherwise into a full 11-month rate case as Boise</p> <p>14 suggests. The petition meets the requirement for a</p> <p>15 limited issue filing under 480-07-505. The annual</p> <p>16 increases are under 3 percent. The tariffs for customer</p> <p>17 classes are limited to under 3 percent, and the Company</p> <p>18 did not request a change to its authorized rate of</p> <p>19 return or its capital structure, so those are the</p> <p>20 requirements of the rule. We have met those.</p> <p>21 And we also believe -- and this is probably</p> <p>22 more important, given the Commission's discretion on</p> <p>23 these issues -- that the petition is consistent with the</p> <p>24 Commission's stated policy alternatives to seek --</p> <p>25 either policies to seek alternatives, to traditional,</p>
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<p>1 Notwithstanding that, we do respect Staff's</p> <p>2 position and appreciate their input on what should be</p> <p>3 included in this case and what would be helpful to be</p> <p>4 included in this case.</p> <p>5 So for that reason, we are open to a process</p> <p>6 for supplementing the record, as long as we can do it</p> <p>7 within the confines of an expedited process so it can be</p> <p>8 done without delay. And given the fact that these are</p> <p>9 discrete -- very discrete pieces of evidence Staff has</p> <p>10 pointed to, we would be open to a process to supplement</p> <p>11 the record in that manner.</p> <p>12 One thought we had was that we could</p> <p>13 supplement the record in response to bench requests.</p> <p>14 That would be a very quick and expeditious way to put in</p> <p>15 current cost of debt and current credit rating. Those</p> <p>16 are not items that we think require significant</p> <p>17 testimony. Those are really factual items that could be</p> <p>18 elicited and the record could be filled out in that</p> <p>19 manner. So we are open to a process like that that</p> <p>20 would address Staff's concerns without delaying or</p> <p>21 converting this case into something that it's really not</p> <p>22 intended to be.</p> <p>23 Now, turning to Boise's alternative motion,</p> <p>24 we do agree that ultimately the issue really posed by</p> <p>25 that motion is about whether this case should be</p>	<p>1 continual rate case filings. And that's why the Company</p> <p>2 has tried to put the ERF together with the rate plan</p> <p>3 following the PSE precedent and the Commission's policy</p> <p>4 directives.</p> <p>5 Now, if the Commission does believe it's</p> <p>6 necessary, the Commission does have the ability to grant</p> <p>7 an exemption from any part of its rules that it believes</p> <p>8 an exemption is warranted. And the public policy</p> <p>9 rationale in -- that is required, the public interest</p> <p>10 finding that's required for such an exemption we believe</p> <p>11 is met in this case. The petition offers several</p> <p>12 benefits in addition to promoting the types of policies</p> <p>13 that the Commission has previously identified in the PSE</p> <p>14 case and the Staff has identified in PacifiCorp's prior</p> <p>15 rate cases. The list of benefits is in our petition.</p> <p>16 It includes a stay-out provision that would result in a</p> <p>17 three-year gap between rate cases. And there's a</p> <p>18 proposed increase to low-income funding in 2016 and '17.</p> <p>19 Additional Commission basis reports that would be filed</p> <p>20 to make the process transparent and auditable and</p> <p>21 ultimately predictable and limited rate increases.</p> <p>22 For all of those reasons, we believe our</p> <p>23 petition is supported by the evidence and meets the</p> <p>24 Commission's rules and the Company's initial burden for</p> <p>25 filing, and for these reasons, we would ask the</p>

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<p>1 Commission to deny Boise's motions. 2 Thank you, Your Honor. 3 JUDGE FRIEDLANDER: Thank you. 4 So Mr. Strunk's testimony, does it solely 5 address ROE or does it also go into cost of capital 6 issues? 7 MS. McDOWELL: Mr. Strunk's testimony solely 8 addresses cost of equity. 9 JUDGE FRIEDLANDER: And you mentioned that 10 the Company is not opposed to filing cost of capital 11 information, but it sounded like you wanted that -- 12 you're more amenable to filing it if it's in the form of 13 a response to a bench request than in testimony; is that 14 correct? 15 MS. McDOWELL: Yes. And that's really just 16 a function of not wanting to build in another round of 17 testimony into the proceeding and extend the schedule. 18 You know, we're -- you know, we can probably manage to 19 do that testimony quickly if people would prefer to see 20 it in that manner, but either way, our goal is to do 21 this in the most expeditious way possible, and given the 22 limited nature of the information requested, we think a 23 bench request might be the best way to go. 24 JUDGE FRIEDLANDER: Okay. Thank you. 25 MS. McDOWELL: Thank you.</p>	<p>1 proceeding or not, we still have that suspension date. 2 And so Staff is unclear about what we would actually -- 3 what actually would change if the case were designated 4 in a particular way. Perhaps that would mean the full 5 cost of capital would need to be filed. We're not 6 exactly sure. However, it doesn't seem like it would 7 change much. 8 And then I would simply say that Staff 9 doesn't oppose proceeding through a bench request for 10 supplementing the record. I think testimony is 11 generally the most helpful, but we do understand that 12 there's concern about delaying the process, and Staff -- 13 I'll just finally say that Staff does support moving 14 this case forward on an expedited schedule, and I 15 believe we'll get to specifics about the schedule later. 16 And that concludes my argument for Staff. 17 JUDGE FRIEDLANDER: Okay. Thank you. 18 Mr. ffitch? 19 MR. FFITCH: Thank you, Your Honor. 20 I'd like to also not repeat arguments that 21 have been made, but touch on a few highlights and just 22 explain our position. 23 We do support in general the Boise motion. 24 First of all, with regard to the ERF issues, Public 25 Counsel has frequently stated in a number of cases that</p>
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<p>1 JUDGE FRIEDLANDER: Staff? 2 MS. CAMERON-RULKOWSKI: Thank you, Your 3 Honor. 4 Commission Staff will rely primarily on its 5 briefing in its response, and I just have a few quick 6 points. 7 I would reiterate that Staff did review the 8 filing by Pacific Power in detail, and it did determine 9 that essentially the Company has met its burden of going 10 forward, and it would meet a summary judgment standard. 11 The issue from the PSE judicial review case 12 is, yes, that was limited to return on equity to cost of 13 equity; however, the real issue in the background there 14 is the risk of staleness to cost of capital testimony, 15 and that's why Staff has suggested that the Company 16 supplement the evidentiary record with additional cost 17 of capital evidence, and specifically what Staff 18 believes that the parties are going to need as they 19 embark on their own cost of capital analysis. 20 Boise is arguing in the alternative that the 21 filing be redesignated as a general rate case, and Staff 22 believes, however, that that doesn't really produce a 23 different result. Under the statute, we have got a 24 statutory deadline for this case of October 8th, 2016, 25 and whether this case is designated as a general rate</p>	<p>1 we do not oppose and we're comfortable with the use of 2 an expedited rate filing in appropriate situation. In 3 our understanding of what's appropriate for an ERF, is 4 essentially a simple update type of rate case where a 5 company has had a fully litigated rate case recently and 6 can simply come in and update those costs and have a 7 clean case without new or complicated issues, and that 8 would include cost of capital that has been recently set 9 after full litigation. 10 In this case, we think the ERF is not really 11 an appropriate designation of this case because the case 12 includes depreciation issues. It includes prudence 13 issues with regard to the Jim Richard plants. It 14 includes attrition theories or some type of alternative 15 rate setting for the second year of the proposed case, 16 and it includes the cost of capital issues. And so we 17 just -- we don't think it's really appropriate to call 18 it an ERF. 19 We also agree that it's most properly 20 designated as a general rate case for the reasons 21 stated. The net effect is 6 percent. That's what the 22 Company is asking for, and elevating, you know, form 23 over substance to say that that's not a general rate 24 case, we think it sort of does violence to the spirit of 25 the rule.</p>

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<p>1 And it also, as has been extensively 2 discussed here, there is the cost of capital issue 3 that's in the case. And I think just to follow up on 4 Ms. Rulkowski's statement, I think that's the difference 5 of designating it as a general rate case. The main 6 difference is that cost of capital, then, is clearly at 7 issue.</p> <p>8 So I guess I would go on to say, though, 9 that even if it's not a general rate case, I think 10 what's critical for the Commission to decide here is a 11 schedule that's commensurate with the issues so that -- 12 you know, I'm agreeing here with Ms. Cameron-Rulkowski 13 on a point that whether or not you define it as a 14 general rate case, the Commission has got to act by 15 October. And whether it's a rate case or an ERF or a 16 general rate case, the schedule -- the Commission's got 17 quite a bit of discretion about how to set the schedule.</p> <p>18 So what we're asking here at the end of the 19 day from the customer perspective is a fair schedule 20 that has adequate time to address all the issues, which 21 may well include cost of capital.</p> <p>22 A couple of other points on cost of capital. 23 We agree with the suggestion of Staff that there is a 24 staleness issue here. The cost of capital that's in 25 place right now was not set in the last general rate</p>	<p>1 wanted to raise. I guess a couple of other sort of 2 stray points. There's a similarity with -- I might 3 describe them as the problems that Puget ran into in its 4 case. It also sought to rely on a kind of a stand pat 5 cost of capital from a previous case, and ultimately the 6 Court decided that wasn't really appropriate. There had 7 to be a fresh decision made. And so it's not reassuring 8 to just have the Company say, we're not changing 9 anything. We don't need to prove anything because we're 10 not changing anything. I don't know if that's a totally 11 fair characterization, but in terms of the stand pat 12 argument, that's -- that's what Puget, you know, 13 requested to do in their rate plan case.</p> <p>14 I guess the only other thought sort of 15 relates to the ERF versus GRC point that occurred to me 16 in listening to counsel, is that it's interesting to -- 17 the purpose of an ERF is essentially efficiency, I 18 think, and to try to address rate needs in an efficient 19 way for the Company, as well as for other parties. And 20 in this case, actually, the fact that PacifiCorp has 21 chosen to fully comply with the general rate case filing 22 requirements, is almost an indication that, you know, 23 there isn't quite the argument in favor of easing the 24 Company's administrative burden, if you will. They've 25 already accepted that burden and put that basic filing</p>
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<p>1 case. That was a holdover cost of capital from a 2013 2 rate case, and the Commission expressly just said, we're 3 not going to really address that in the 2014 case 4 because that's in litigation. So we think there's a 5 staleness question with the entire issue of cost of 6 capital.</p> <p>7 Just as an aside, Ms. McDowell sort of 8 arguing that, under the remand decision, only ROE would 9 be a necessary determination, without addressing that 10 issue one way or the other, I think, you know, our view 11 is that the rate of return, aka cost of capital, is 12 actually under other legal authority an essential 13 ingredient in setting rates, fair, just and reasonable 14 rates for customers. So we think you need to have a 15 record on cost of capital, not just ROE.</p> <p>16 And one other point that hasn't been 17 mentioned yet, which we wanted to point out to the bench 18 is maybe a statement of the obvious, but we have pending 19 appeals and we may get a decision. We may well get a 20 decision during the pendency of this case. And one of 21 the issues on appeal is capital structure. So if there 22 is a decision regarding capital structure from the court 23 of appeals, that may affect this litigation as well and 24 throw cost of capital into the mix as an issue.</p> <p>25 So I think that may be most of the things I</p>	<p>1 information into the record.</p> <p>2 So I think those are all the thoughts that I 3 have, Your Honor, with regard to the issues that have 4 been raised. Thank you.</p> <p>5 JUDGE FRIEDLANDER: Okay. Thank you.</p> <p>6 I did have a couple of questions. First of 7 all, you mentioned that the cost of capital information 8 may be a bit stale. Do you know offhand when the last 9 time cost of capital was litigated in a Pacific Power 10 case?</p> <p>11 MR. FFITCH: The 2013 general rate case, 12 Your Honor, is my recollection.</p> <p>13 MS. CAMERON-RULKOWSKI: The date of that 14 order is December 4, 2013, I believe.</p> <p>15 JUDGE FRIEDLANDER: So it's a little over 16 two years, then?</p> <p>17 MR. FFITCH: And then probably the test year 18 that was used for the information relied on by the 19 witnesses in that case would be older than December 20 2013.</p> <p>21 JUDGE FRIEDLANDER: So you had mentioned I 22 think 2014, that was the case that the Commission 23 declined to decide cost of capital because of the 24 ongoing litigation; is that correct?</p> <p>25 MR. FFITCH: Correct. And they also looked</p>

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1 at the statute that allowed them to not revisit an issue
 2 within two years. I think that was one of
 3 the available theories --
 4 JUDGE FRIEDLANDER: Okay. Gotcha. Okay.
 5 And then the only other question is just to
 6 clarify, you do think that the Superior Court's order
 7 and Judge Murphy's order in particular requires cost of
 8 capital to be litigated in any rate case; is that
 9 correct?
 10 MR. FFTCH: Your Honor, I guess I don't
 11 feel prepared right now to talk about specifically what
 12 Judge Murphy's order held. It is our position that in a
 13 rate case, a company has the burden of proof to
 14 establish one of the key cost components for setting
 15 fair, just and reasonable rates, and that is the cost of
 16 capital.
 17 JUDGE FRIEDLANDER: Okay. Thank you.
 18 What I want to do is go to the intervenors,
 19 and then I'll get back to Mr. Cowell to respond, and I
 20 think I may have some additional questions for
 21 Ms. McDowell.
 22 Ms. Smith, did you have anything to add?
 23 MS. SMITH: Sure. Just very briefly.
 24 Sierra Club also supports Boise's motion. For us, we
 25 think the ERF isn't necessarily an appropriate

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1 mechanism. Because as I think Mr. ffitch mentioned, the
 2 currency component of the Bridger retrofit is actually a
 3 fairly large, complicated and controversial issue. We
 4 think that expedited review by the Commission would
 5 burden the parties in working up their case. We
 6 anticipate a fair amount of discovery back and forth and
 7 testimony. And so, you know, if we were to go with an
 8 expedited schedule it would place the burden on the
 9 parties, and we're not really taking countervailing
 10 prejudice to the Company should a fuller schedule unfold
 11 for this proceeding. Frankly, that's all I have on
 12 this.
 13 JUDGE FRIEDLANDER: Okay. And so that
 14 relates to I think the alternative motion. The motion
 15 to dismiss, though, relating to the sufficiency of the
 16 return on equity evidence, do you have any position on
 17 that?
 18 MS. SMITH: Fair enough. No, Sierra Club is
 19 neutral on that.
 20 JUDGE FRIEDLANDER: Okay. Thank you.
 21 Mr. Purdy, the Energy Project?
 22 MR. PURDY: Yes. Thank you, Your Honor.
 23 The Energy Project is not as far along in
 24 its knowledge of this case as the other parties, but it
 25 does support Boise White's motion, and I won't repeat

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1 the arguments made by Mr. Ffitch, but I think they were
 2 compelling in his characterization of what circumstances
 3 justify an ERF rather than a GRC. And it does seem to
 4 me to be possible that there -- this case in some way or
 5 another does involve actually an examination of cost of
 6 capital. And so for those reasons, I would simply not
 7 repeat the others and join in the motion.
 8 JUDGE FRIEDLANDER: Thank you. And, again,
 9 as with Sierra Club, it sounds like you're supporting
 10 the alternative motion, but I'm not hearing that you're
 11 also supporting Mr. Cowell's argument that the return on
 12 equity testimony is insufficient based on the Court's
 13 ruling?
 14 MR. PURDY: At this point, we don't have a
 15 position on the PSE testimony.
 16 JUDGE FRIEDLANDER: And, Ms. Smith, you had
 17 something to add?
 18 MS. SMITH: I agree. Sierra Club takes the
 19 same position on the return of equity. We're neutral.
 20 We're not taking a position.
 21 JUDGE FRIEDLANDER: Okay.
 22 MS. SMITH: We do -- as you succinctly
 23 pointed out, we support the alternative motion.
 24 JUDGE FRIEDLANDER: Okay. Thank you.
 25 Mr. Cowell, did you want to respond to

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1 what's been said so far?
 2 MR. COWELL: Just briefly, Your Honor.
 3 I think that, based on Boise's position and
 4 what I've also heard, that to the extent that we have
 5 a -- and I'm just going to go to the alternative motion
 6 discussion here. To the extent that we have a
 7 controversy over how to designate this process and the
 8 length of process, I think it would be prudent to err on
 9 the side of caution. And in terms of
 10 Ms. Cameron-Rulkowski mentioned what do we have to gain
 11 by a designation, I would say that there is a gain at --
 12 going to Public Counsel's comment, that we're not going
 13 to unnecessarily restrict any review by just treating
 14 this as a general rate case. But even if we don't, I
 15 chose the phrasing to treat "as a general rate case," to
 16 purposefully allow maximum flexibility that even if
 17 it's -- however one would designate it, call it an
 18 expedited case and shave off a month or so, you know, it
 19 technically would be expedited.
 20 But as, again, I think it was well stated by
 21 Mr. ffitch that, even if it's not technically a general
 22 rate case, that the process is critical that the
 23 schedule be commensurate with the general rate case like
 24 issues that we have before us.
 25 And the final point, we mentioned this in

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1 our motions, that the Commission itself affirmed the
 2 original concept of an expedited rate filing by Staff to
 3 be a simple and straightforward process. You used those
 4 exact words. And looking at the totality of what the
 5 Company's filing includes, the various issues and the
 6 complexity, as Sierra Club mentioned, just on one of
 7 their main -- in one of their main issues, that we're
 8 not dealing with that original concept of an expedited
 9 rate filing with what's before us in the Company's
 10 filing.

11 JUDGE FRIEDLANDER: Thank you.
 12 Ms. McDowell?

13 MS. McDOWELL: Yes, Your Honor. I just
 14 wanted to clarify -- excuse me a moment.

15 Your Honor, I just wanted to clarify exactly
 16 what went on in the Company's previous rate proceedings
 17 with respect to cost of capital. So cost of capital was
 18 fully litigated in both the 2013 and 2014 cases. We
 19 had, in both cases, full presentation of evidence,
 20 cross-examination, Commission examination on cost of
 21 capital, all aspects of cost of capital.

22 In the 2014 case, the Commission, after
 23 hearing all that evidence, decided not to update the
 24 capital structure or the cost of equity, but the
 25 Commission did update the cost of debt, and the

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1 Commission did update the rate of return. So it's not
 2 accurate to say that the Commission did not address cost
 3 of capital in the 2014 case. It certainly did address
 4 it. It addressed it by deciding to hold two of the --
 5 basically make no change in two of the components, but
 6 to ultimately update the cost of debt and change and
 7 reduce the rate of return. So I just want to be clear
 8 that it's not -- it isn't accurate to say that they just
 9 took a pass on the issue in the 2014 case.

10 JUDGE FRIEDLANDER: So the Commission did
 11 rule on the cost of debt and was it the credit rating?

12 MS. McDOWELL: It was the overall rate of
 13 return.

14 JUDGE FRIEDLANDER: Rate of return, okay.

15 MS. McDOWELL: So because cost of debt
 16 changed and was reduced, rate of return changed as well.

17 JUDGE FRIEDLANDER: Exactly, okay. All
 18 right.

19 Okay. So is there any other discussion on
 20 this before I make a ruling?

21 Okay. So I look at this as two motions, two
 22 parts. The first part of Boise White Paper's motion is
 23 the straight-up motion to dismiss based on the Court's
 24 ruling that there has to be adequate presentation of a
 25 return on equity component, even in an ERF, and I will

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1 grant you that the Court's decision was fairly obtuse.
 2 But I do agree with that, that there has to be some
 3 return on equity component within an ERF, and I think
 4 that was adequately stated in the PSE remand case as
 5 well. However, I'm not going to get into the merits of
 6 that case, and the Court itself didn't get into a
 7 specific level of return on equity testimony or exhibits
 8 that have to be demonstrated.

9 Our Staff currently is fine with and feels
 10 that the initial filing was adequate in the passing the
 11 prima facie test for going forward, and I am going to go
 12 along with that. So the motion to dismiss is denied.

13 Now, on the other hand, the alternative
 14 motion is a little bit trickier. Staff is correct.
 15 This is a tariff revision, and the Commission has until
 16 October of next year to decide this case. We can call
 17 it a general rate case. We can call it an ERF. We can
 18 call it something else entirely, but ultimately the
 19 Commission does have the length of time given by
 20 regulation to decide this case that is going to be
 21 needed.

22 My main concern here is making sure that all
 23 parties have an opportunity to comment fully and receive
 24 due process, but also that we try and get this done in
 25 an expeditious manner. The alternative motion, I look

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1 at it as an attempt to clarify what this proceeding is,
 2 and to that extent, I guess I would just say it's an
 3 expedited rate filing at this point.

4 Now, you all are going to be working in a
 5 moment on a schedule. I'm hoping that you can work
 6 collaboratively and cooperatively and come up with a
 7 schedule that will meet all of your needs. If that
 8 becomes impossible or unworkable, then I'll intervene
 9 and make up the schedule myself. It would be in all of
 10 your best interests, though, I think, for you to have
 11 more participation in what the schedule looks like than
 12 for me to make it up.

13 So I'm going to -- that's about the best
 14 clarification I can give you, Mr. Cowell, as far as what
 15 the proceeding is. It's going to depend on what you all
 16 bring out of it.

17 As far as cost of capital, the Company has
 18 offered to present cost of capital information.
 19 Personally I would prefer testimony. We -- we are
 20 not -- if you can provide it quickly, as is stated -- as
 21 has been stated, that's wonderful. I know that will
 22 meet your needs, and it should hopefully meet the
 23 parties' needs as well. I would feel more comfortable
 24 with testimony than a bench request.

25 Is there anything further on the motion

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1 itself?

2 MR. FFITCH: I defer to Mr. Cowell. I do

3 have a question if he doesn't seek clarification, Your

4 Honor. With regard to -- and you partially answered it

5 by indicating that the Company, I believe, should file

6 additional cost of capital testimony to supplement what

7 they filed?

8 JUDGE FRIEDLANDER: Yes. I believe that

9 Ms. McDowell had offered to file testimony in the form

10 of cost of debt and their credit rating; is that

11 correct?

12 MS. McDOWELL: In response to Staff's

13 suggestion --

14 JUDGE FRIEDLANDER: Right.

15 MS. McDOWELL: -- that the record be

16 supplemented in that manner. While we don't agree that

17 it's legally required, to facilitate the processing of

18 this case and respond to Staff's concerns, we are

19 willing to do that in an expedited manner.

20 JUDGE FRIEDLANDER: And I guess my question

21 of clarification would be, what does an expedited manner

22 entail?

23 MS. McDOWELL: We think that we can have

24 that testimony prepared within ten days -- I'm hearing

25 January 8th is the date upon which we would be able to

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1 submit that testimony.

2 JUDGE FRIEDLANDER: Okay. Thank you.

3 And, Mr. ffitch?

4 MR. FFITCH: Can I inquire of counsel about

5 the capital-structure issue, where that would stand?

6 And maybe also comment on, you know, looking into the

7 crystal ball, what happens if we get a ruling from the

8 Court on that issue?

9 MS. McDOWELL: So we are proposing to file

10 testimony in response to the issues that Staff has

11 identified. Capital structure is not one of those

12 issues. The capital structure the Commission has

13 adopted has been in place for many years. It is on

14 appeal now, and we have, in our petition, have addressed

15 that by saying, you know, if there's an order that comes

16 down, the Commission will need to address that and we'll

17 need to focus on that, depending on the nature of the

18 order. And I don't think we can do any better than

19 that, and I think it's out of our hands. Whatever the

20 Court says, it says. If the Court affirms the

21 Commission, then we move forward. If the Court does

22 something different, then we will need to sort it out

23 just like the PSE remand.

24 JUDGE FRIEDLANDER: Mr. ffitch?

25 MR. FFITCH: Thank you. That's helpful I

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1 think.

2 So just for my own clarification, is it

3 correct for me to understand that the cost of capital is

4 an issue in this proceeding?

5 JUDGE FRIEDLANDER: I would say to the

6 extent that the Company has already filed a return on

7 equity testimony and that they're going to be filing

8 testimony on cost of debt, as those two elements relate

9 to the capital structure, yes, to rebut testimony that

10 they file. It's hard to talk in generalities when we

11 haven't seen the testimony yet, but to the extent that

12 the Company files testimony relating to those issues,

13 yes, they are fair game.

14 MR. FFITCH: Thank you, Your Honor.

15 MS. McDOWELL: I think the only thing I'd

16 add to what you just observed is that our position, that

17 we are not proposing to change any elements of the cost

18 of capital remains, and that is, you know, not unlike

19 many issues in many rate cases where we don't propose

20 any change in that treatment. Typically, those issues

21 are not the focus of much attention or litigation, but,

22 you know, they -- I think there is precedent that

23 parties are free to raise, you know, issues in response

24 to the Company's testimony. And I agree with you that

25 to the extent we put in testimony, parties may respond

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1 to it.

2 JUDGE FRIEDLANDER: This is a bit of a

3 conundrum from the Court's order that I have wrestled

4 with over the last couple of days. When a company does

5 not propose a change in the capital structure or cost of

6 the return on equity, it would be very difficult for me

7 to require testimony that is going to say anything other

8 than we do not require or do not want to change anything

9 related to the ROE, in which case we're a bit back where

10 we started to begin with. It's kind of circular.

11 So I appreciate the fact that the Company

12 has proposed to file this information, and we can go

13 forward at this point, but, Mr. ffitch, you had

14 something you wanted to add.

15 MR. FFITCH: Yes. Thank you, Your Honor.

16 I guess our view of that issue is that the

17 statement by a company in any given rate case, that the

18 cost of capital to be employed going forward for the new

19 rate effective year is X has to be proven by current

20 valid evidence. And if X is their existing cost of

21 capital, they still have to prove that that's still the

22 cost of capital. Because as the Commission has said,

23 cost of capital is dynamic, so there's no legal

24 presumption that the cost of capital that was set a year

25 ago or two years ago is correct, and there's a reduced

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1 burden of proof on that.
 2 If the Company wishes to retain -- because
 3 it may well be too high -- so if the Company wishes to
 4 retain a preexisting cost of capital, we've got to prove
 5 that that's now still a fair, just and reasonable cost
 6 of capital.
 7 JUDGE FRIEDLANDER: Fair enough. I wasn't
 8 referring to the merits of the Company's position. I'm
 9 simply saying that the Court is requiring some kind of
 10 testimony on ROE. If there is no change proposed, it's
 11 hard for me to say that testimony is inadequate when all
 12 it says is, we don't propose any change to ROE. And
 13 so -- inadequate as far as the motion to dismiss, I
 14 should say.
 15 Again, not getting into the merits of the
 16 case, are you all comfortable with me stepping out and
 17 you working on a procedural schedule?
 18 MS. CAMERON-RULKOWSKI: Your Honor, I could
 19 jump in -- and stop me, other parties, if I'm going too
 20 far -- but we have tried to work out a schedule before
 21 this, and we have not come to a consensus. I would say
 22 maybe we have a couple of factions, and perhaps it would
 23 be -- perhaps we could present proposed schedules to you
 24 at this point, and --
 25 JUDGE FRIEDLANDER: Enter into discussion

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1 about the dates?
 2 MS. CAMERON-RULKOWSKI: We could go ahead
 3 and go on the record and talk about those proposed
 4 schedules if the other parties wanted to do that.
 5 MS. McDOWELL: I have no objection to
 6 proceeding in that way. We have had discussions leading
 7 up to the prehearing conference about scheduling.
 8 JUDGE FRIEDLANDER: Okay. Excellent.
 9 Who wants to go first as far as proposing
 10 the schedules, Ms. Cameron-Rulkowski?
 11 MS. CAMERON-RULKOWSKI: I'd be happy to.
 12 May I pass out Staff's proposed schedule?
 13 JUDGE FRIEDLANDER: Yes, yes, please.
 14 MR. FFITCH: And, Your Honor, just for the
 15 record, Simon ffitich, other parties also prepared and
 16 circulated a proposed schedule, and I'll be happy to
 17 hand you a copy of that.
 18 JUDGE FRIEDLANDER: Absolutely. Thank you.
 19 MR. FFITCH: This is a proposal from Public
 20 Counsel, Boise and Sierra Club.
 21 JUDGE FRIEDLANDER: Are there any other
 22 proposals I should be looking at? Energy Project?
 23 MR. PURDY: No. The Energy Project has no
 24 particular schedule in mind yet, Your Honor. Thank you.
 25 JUDGE FRIEDLANDER: All right. Well, just

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1 speak up if any of these dates conflict with something
 2 you have going on I guess.
 3 MR. PURDY: Yes.
 4 MS. McDOWELL: Your Honor, if I can just
 5 interject.
 6 JUDGE FRIEDLANDER: Yes.
 7 MS. McDOWELL: The Company's petition had
 8 requested an order with a rate effective date of May
 9 1st, and you'll notice that this schedule is a June 1st
 10 effective date. We have discussed this schedule with
 11 Staff and can support the June 1st alternative proposed
 12 by Staff, in lieu of our original request for a May 1st
 13 effective date. We have not proposed our independent
 14 schedule because we have discussed the June 1st
 15 alternative with Staff and support that schedule.
 16 JUDGE FRIEDLANDER: Okay. Thank you.
 17 MS. CAMERON-RULKOWSKI: And then as far as
 18 Staff is concerned, Staff has proposed, I can do June 1,
 19 but the July 1 would probably be more reasonable for
 20 Staff. But Staff does strongly support moving this
 21 forward on an expedited schedule and so has proposed
 22 both of these.
 23 JUDGE FRIEDLANDER: Okay. Thank you.
 24 I don't see settlement conferences on here,
 25 though.

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1 MS. CAMERON-RULKOWSKI: No, Your Honor.
 2 These were just the bare bones dates, and this wasn't
 3 intended to exclude other elements of a procedural
 4 schedule.
 5 JUDGE FRIEDLANDER: Okay. I see. So
 6 somewhere in that mix, we would also employ settlement
 7 conferences as needed or as available?
 8 MS. CAMERON-RULKOWSKI: Absolutely.
 9 Absolutely, Your Honor.
 10 JUDGE FRIEDLANDER: Okay. So why don't you
 11 walk me through the schedule first,
 12 Ms. Cameron-Rulkowski, and then I'll give to you,
 13 Mr. ffitich.
 14 MS. CAMERON-RULKOWSKI: So essentially,
 15 Staff looked at trying to get this done by a certain
 16 date and then backed out dates from there, in terms of
 17 what we thought would be a reasonable -- what we thought
 18 would be a reasonable turnaround time.
 19 JUDGE FRIEDLANDER: Okay. And so this would
 20 offer Staff enough time to conduct discovery and file
 21 both a response and cross-answering -- cross-answering
 22 testimony?
 23 MS. CAMERON-RULKOWSKI: That's our hope,
 24 Your Honor.
 25 JUDGE FRIEDLANDER: Okay. And as you

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1 mentioned, we do have until October 8th, so I suppose if
 2 that proved unworkable, we could mess with some -- we
 3 could modify some dates.
 4 Mr. ffitch, do you want to walk me through
 5 your proposed schedule?
 6 MR. FFITCH: Thank you, Your Honor.
 7 The overview is that Public Counsel, Boise
 8 and Sierra Club did agree with an effort to expedite the
 9 schedule somewhat over the -- a full ten-month schedule.
 10 And so we have, essentially working off of a nine-month
 11 timeline, a target final order date of September 8th, to
 12 try to shorten the schedule somewhat commensurate with
 13 the major issues that we see.
 14 The -- we also did include we think most of
 15 the intermediate dates that would normally be needed in
 16 the schedule. We have settlement -- initial settlement
 17 conference before testimony, you'll see on March 11th,
 18 and then subsequent to the filing of testimony on March
 19 29th.
 20 With respect to public comment hearings,
 21 Your Honor, in the Pacific Power rate cases, typically
 22 the Commission -- or frequently the Commission has
 23 scheduled a hearing in Walla Walla and in Yakima on sort
 24 of a combined road trip, and so we would request the
 25 Commission consider doing that again. Obviously meeting

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1 the Commission's needs in terms of scheduling
 2 convenience and so on, but we believe it's best to do
 3 that after the responsive party testimony is filed, as
 4 is shown here.
 5 JUDGE FRIEDLANDER: Before we move on, did
 6 the Commission schedule any public comment hearings in
 7 the PSE ERF?
 8 MR. FFITCH: I don't recall, Your Honor.
 9 JUDGE FRIEDLANDER: Okay.
 10 MR. FFITCH: I think that whether or not
 11 that occurred, I would say that if -- here we're looking
 12 at after many years of rate -- you know, annual rate
 13 increases for this population, the Company is again
 14 proposing two more, I would think the public would like
 15 to be heard on the request, if possible.
 16 JUDGE FRIEDLANDER: And you're recommending
 17 two of those; is that correct?
 18 MR. FFITCH: Well, the Commission has often
 19 done a sort of a two-day perhaps -- I believe they've
 20 done sort of a midday in Walla Walla, and then -- or
 21 evening in Walla Walla and then midday the next day in
 22 Yakima or vice versa. Those seem to be workable in a
 23 number of cases, so...
 24 JUDGE FRIEDLANDER: Okay.
 25 MR. FFITCH: We would support that kind of

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1 approach if the Commission would like to do that.
 2 JUDGE FRIEDLANDER: Okay.
 3 MR. FFITCH: We have proposed, similar to
 4 the other parties, simultaneous posthearing briefs, just
 5 one round to help expedite the schedule.
 6 And I would note that our schedule, you
 7 know, as compared with the other proposal from Staff and
 8 the Company, obviously the second proposal, the July 1st
 9 effective date is closer to ours and does allow more
 10 time for the complicated issues in the case. We're
 11 about 30 days apart from that in our proposal. Ours is
 12 only 30 days later than that. Actually, we prefer our
 13 schedule, but there seems to be a little bit of room for
 14 discussion there perhaps. I haven't talked to my other
 15 counsel about that, but big picture, we're 30 days apart
 16 from that July 1st effective date schedule.
 17 JUDGE FRIEDLANDER: You are, except for when
 18 you start getting into the evidentiary hearing, which
 19 looks to be about two months' difference.
 20 MR. FFITCH: Oh. Sorry, I was perhaps
 21 looking at --
 22 JUDGE FRIEDLANDER: Well, the response
 23 testimony is a month, and then it looks like rebuttal
 24 goes to about five weeks, and then we're looking at two
 25 months when it comes to the hearing.

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1 MR. FFITCH: I stand corrected. You're
 2 correct, Your Honor. I was looking at the testimony
 3 date.
 4 JUDGE FRIEDLANDER: Okay. So given that,
 5 the fact that the testimony dates are about a month off,
 6 would you find it adequate to conduct discovery in the
 7 amount of time it would necessarily be given you in the
 8 July 1st effective date?
 9 MS. CAMERON-RULKOWSKI: Your Honor, while
 10 they're considering that, I'd like to mention that
 11 Mr. Kouchi of Commission Staff just informed me that in
 12 the PSE case, there was one public comment hearing
 13 scheduled, and that took place in Olympia.
 14 JUDGE FRIEDLANDER: Okay. Thank you. I
 15 appreciate that.
 16 MR. COWELL: Your Honor?
 17 JUDGE FRIEDLANDER: Yes.
 18 MR. COWELL: Can I offer an opinion on that?
 19 JUDGE FRIEDLANDER: Absolutely.
 20 MR. COWELL: So in just speaking with
 21 Boise's analyst, again, we've joined with Public Counsel
 22 and Sierra Club and do support this as a compromise from
 23 a full general rate case, size, schedule. But if we
 24 were to try to reach an effective compromise even
 25 further, we believe that at the bare minimum, we would

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1 need at least until an effective date of August 1st to
 2 extend the current Staff's second proposal here, the
 3 July 1st effective date, that those are a bit too
 4 ambitious and accelerated from our point of view.
 5 JUDGE FRIEDLANDER: Okay. And so when would
 6 you be suggesting response and rebuttal testimony come
 7 in?
 8 MR. COWELL: Your Honor, while -- so for the
 9 initial Staff, Public Counsel intervenor response
 10 testimony, just sticking with the originally -- the
 11 proposed date of Public Counsel and Sierra Club of April
 12 14, which is slightly less than a month beyond Staff's
 13 proposal.
 14 JUDGE FRIEDLANDER: Okay. And then for
 15 rebuttal testimony, May -- actually they have Public
 16 Counsel -- the Public Counsel schedule is May 13th for
 17 rebuttal, cross-answering testimony. Is that what
 18 you're also suggesting?
 19 MR. COWELL: Yeah, effectively, Your Honor.
 20 More so looking to shorten maybe the tail end.
 21 Also I wanted to point out in the Public
 22 Counsel and Boise, Sierra Club proposal, we had a couple
 23 footnotes there, and regardless of what eventually will
 24 be agreed on in the schedule, we've proposed some
 25 accelerated response times of data requests to try to

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1 fit this whole thing within an expedited process if
 2 that's the direction we're going.
 3 JUDGE FRIEDLANDER: So I'm really concerned
 4 about whether or not parties have the opportunity -- a
 5 reasonable opportunity to conduct discovery, and from
 6 your schedule, Mr. ffitch, I have that discovery ends
 7 May 30th. From Staff's two schedules, I'm unclear, so
 8 maybe Ms. Cameron-Rulkowski can tell me where discovery
 9 cutoff would be on the June 1st and July 1st dates.
 10 MS. CAMERON-RULKOWSKI: We don't have a
 11 discovery cutoff, but I think we'd anticipate that
 12 discovery would go on until we needed to prepare for
 13 hearing.
 14 JUDGE FRIEDLANDER: Okay. It typically does
 15 end approximately a week or two prior to hearing, so...
 16 MS. CAMERON-RULKOWSKI: And that would be
 17 acceptable to Staff.
 18 JUDGE FRIEDLANDER: Okay. And is that
 19 enough time for Boise, Public Counsel and the Energy
 20 Project, as well as Sierra Club, to conduct discovery?
 21 MR. PURDY: For the Energy Project, Your
 22 Honor, yes.
 23 MR. COWELL: Sorry, Your Honor, what date
 24 are we looking at?
 25 JUDGE FRIEDLANDER: We're looking at one or

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1 two weeks prior to -- if we were on the July 1st
 2 schedule, which is the most liberal, shall we say, of
 3 Staff's and the Company's, that would be hearing set for
 4 the 25th and 26th of April. A week or two before that,
 5 we would cut off discovery. Would that allow enough
 6 time for the intervenors to have conducted adequate
 7 discovery for hearing? So we're looking at around
 8 mid-April cutting off discovery, as opposed to May 30th
 9 in the alternative schedule.
 10 MR. FFITCH: I think conceptually, from our
 11 perspective, that's reasonable. I think that if we run
 12 into a problem at that point, a party could ask for
 13 leave to propound additional discovery if there was a
 14 special problem.
 15 I would say that with regard to your overall
 16 question about maybe an alternative schedule or how much
 17 time do we need for discovery, I would support the
 18 proposal from Boise to think about an August 1st date as
 19 sort of a compromise between our proposal and Staff's
 20 July 1st proposal. I really am concerned that we have
 21 the Bridger issues in the case. We have depreciation
 22 issues. We have the sort of special issues raised by
 23 the two-step rate plan. We have got cost of capital.
 24 This company has been filing every year for many --
 25 quite a few years. I don't think there's an intrinsic

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1 need for -- need for speed for the sake of it here. We
 2 are willing to work on a shorter schedule than ten
 3 months, but I don't think there's any prejudice to the
 4 parties if we work with an August 1st final order date.
 5 MS. McDOWELL: So, Your Honor, if I might.
 6 We do not support the July 1st effective date, so I just
 7 want to be clear.
 8 JUDGE FRIEDLANDER: Okay.
 9 MS. McDOWELL: That's not our -- we have
 10 agreed to the June 1st effective date schedule --
 11 JUDGE FRIEDLANDER: I see.
 12 MS. McDOWELL: -- which is a compromise from
 13 where we began, which was May 1st. So just to be clear
 14 where the bookends are, we have not agreed to the July
 15 1st effective date schedule, so I just want to be clear
 16 that any move to August, we would strongly object to. I
 17 mean, at this point right now, a July 1 effective date
 18 takes us six months out and -- or seven months out,
 19 excuse me, so the June 1st schedule we were looking at
 20 is a schedule that gives parties six months from the
 21 time of filing. And we think for a limited issue,
 22 expedited rate filing, a six-month schedule is as long
 23 as the Commission has ever looked at.
 24 I mean, both the PSE ERF was conducted in
 25 less time and the other case that people tend to point

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1 to, which is the PSE gas-only case, that was cited I
 2 think in the context of the Cascade rate case as a
 3 model. That was I think a five-month schedule. So
 4 we've cited those cases in Footnote 17 of our petition
 5 in support of what we had proposed, the May 1st date,
 6 which was a five-month schedule. We can agree to a
 7 six-month schedule. Staff has proposed it. We think
 8 it's a reasonable compromise.
 9 We do not agree to a July 1st schedule
 10 because we think that's too far out, and we certainly
 11 don't agree to an August schedule. We think, you know,
 12 as a part of limiting the issues in this case, the
 13 Company proposed to have the case proceed in an
 14 expedited fashion, and that was part of I think the
 15 public policy concerns that the Commission is trying to
 16 get at more limited cases, expedited and resolved more
 17 quickly to get us out of, you know, 11 months, 11
 18 months, 11 months.
 19 So anyway, that's our proposal, June 1st,
 20 which is a six-month schedule, and we think that's
 21 reasonable in this case.
 22 JUDGE FRIEDLANDER: Okay. Thank you.
 23 MS. SMITH: Your Honor, this is Gloria
 24 Smith. Can I weigh in?
 25 JUDGE FRIEDLANDER: Yes, please.

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1 MS. SMITH: Thank you.
 2 I think one of Sierra Club's main
 3 concerns -- well, we have several, but the first one is
 4 making sure that there is adequate time for discovery.
 5 We are also interested in meaningful settlement
 6 discussions, and we strongly support a public hearing in
 7 this case.
 8 The Company is proposing rate recovery for
 9 hundreds of millions of dollars to retrofit a
 10 controversial coal plant. I think on that issue alone,
 11 a public hearing is in order.
 12 There may be a few issues in this case, but
 13 they're all fairly complicated. In our experience
 14 dealing with the (inaudible) of over a year ago, there
 15 was a lot of discovery back and forth because sometimes
 16 the Company's responses just raise additional questions,
 17 so we had a number of rounds of discovery. We feel like
 18 there's no countervailing need for the Company's benefit
 19 that would require us to, you know, sort of do the close
 20 range of trying to meet all these deadlines, you know,
 21 without being able to fully develop our case.
 22 So with the discovery that we're concerned
 23 about, we honestly believe a meaningful settlement is an
 24 important component here, and then the public hearing.
 25 So we absolutely can't agree to the June 1st day.

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1 The July date is approaching something that
 2 we might be able to support, but as I think the Company
 3 mentioned, to start with an end date and then try to
 4 work backwards, all the important pieces don't
 5 necessarily fit in. August might be workable.
 6 JUDGE FRIEDLANDER: Okay. So Mr. Cowell had
 7 proposed the potential for the August 1st date, I
 8 believe, and you would be amenable to that or Sierra
 9 Club would be amenable to that?
 10 MS. SMITH: Sierra Club would. It will
 11 certainly help to set up the August 1st dates as well.
 12 JUDGE FRIEDLANDER: Mr. ffitich, what do you
 13 think about the August 1st date?
 14 MR. FFITCH: Your Honor, we would support
 15 that. We think that's a fair compromise between the
 16 full ten months, and it is a shorter schedule,
 17 substantially shorter than ten months, and I think it
 18 appropriately allows time for these issues to get
 19 explored in discovery and adequately supported for the
 20 Commission.
 21 JUDGE FRIEDLANDER: Does anyone else wish to
 22 comment? Mr. Cowell?
 23 MR. PURDY: Your Honor, this is Brad Purdy.
 24 Unfortunately you're cutting out. I'm hearing part of
 25 this. Are you stating that the -- we're talking about

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1 an August 1st effective date?
 2 JUDGE FRIEDLANDER: No, not an effective
 3 date. The effective date remains in October. This
 4 would be a projected or a proposed date for a final
 5 order.
 6 MR. PURDY: Oh, okay.
 7 JUDGE FRIEDLANDER: For a decision of
 8 resolution in the case, and of course all of this will
 9 also have some impact maybe made by whatever decision
 10 the Courts make as well if we get one during the
 11 pendency of this case.
 12 So, Mr. Cowell, you were going to speak?
 13 MR. COWELL: Yeah. I was just going to
 14 clarify. I mean, I think it's appropriate for the
 15 Company to try to paint the big broad picture and where
 16 they stand and whether they're agreeable to compromise,
 17 and I would say likewise for us, and even discussing an
 18 August 1st effective date, we're on our second run of
 19 compromise here because we're trying to be reasonable
 20 there. And as I'm just hearing from our consultant, I
 21 mean, this is -- that August itself may create tension
 22 for us, but again, we're trying to reach a fair middle
 23 ground.
 24 JUDGE FRIEDLANDER: Thank you. Does anyone
 25 else wish to add more perspective?

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1 MS. CAMERON-RULKOWSKI: Yes, Your Honor.
 2 Staff has already reviewed this filing, and Staff did
 3 propose these dates believing that we reasonably can
 4 work through these issues and that they are not so
 5 incredibly complex that we will need some of the spans
 6 of time that the other parties are proposing, and so we
 7 think the July 1 order date is quite doable and would be
 8 a good compromise.
 9 JUDGE FRIEDLANDER: Okay. Let me just let
 10 you all know right now, I'm going to take this under
 11 consideration, and I will get back to you in the
 12 prehearing conference order with a schedule. I
 13 appreciate all of your comments. However, what I really
 14 want is for Staff especially and all of the rest of the
 15 parties to let me know a proposed -- or at least one
 16 proposed settlement date because I don't know all of
 17 your schedules for the June 1st effective -- June 1st
 18 order date and a July 1st order date. So if you can
 19 come up with and email me some proposed settlement
 20 dates, just so that I have them in case I go with either
 21 of those schedules, that would be helpful.
 22 I do want to build in some dates for that
 23 for settlement.
 24 MS. CAMERON-RULKOWSKI: I'd be happy to do
 25 that, Your Honor. And if I may, if we -- if we do go

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1 with the June 1 and July 1 effective date, there is
 2 something that Staff used very favorably from Public
 3 Counsel's proposed schedule, and that would be to
 4 expedite the response time to data requests.
 5 JUDGE FRIEDLANDER: Okay.
 6 MS. McDOWELL: Your Honor, we don't have
 7 objection to expediting responses, assuming that the
 8 schedule is reasonably expedited, and so we're open to
 9 that.
 10 I do want to just be clear here that we are
 11 talking as the end dates, the effective dates, the
 12 Company's compliance process is usually expedited.
 13 JUDGE FRIEDLANDER: Sure.
 14 MS. McDOWELL: And we can do it quickly.
 15 We've done it in three or four days previously.
 16 JUDGE FRIEDLANDER: Right.
 17 MS. McDOWELL: Typically there's about a
 18 week built into the schedule for Staff review, but I
 19 just want to be clear that we're not to confuse final
 20 order dates, which is what is in the public counsel
 21 schedule with order effective dates. I think the
 22 effective date is the date that we tie it to, you know,
 23 the end of the suspension period. That's normally what
 24 we look at. But to get the final order, you have to
 25 back out, you know, at least a few days to allow for the

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1 particular compliance process.
 2 JUDGE FRIEDLANDER: Right. Understood.
 3 Thank you. I will build that into the schedule as well.
 4 MS. McDOWELL: Thank you.
 5 JUDGE FRIEDLANDER: Is there anything else
 6 before we adjourn?
 7 MS. CAMERON-RULKOWSKI: Your Honor, from
 8 Staff, one point if I may. The Commission has scheduled
 9 its spring forum for the week of April 11 through the
 10 15th, so we would greatly appreciate if we didn't have
 11 response due at that time or a hearing or something else
 12 where Staff and possibly the Administrative Law Division
 13 is involved.
 14 JUDGE FRIEDLANDER: Thank you for reminding
 15 me about that.
 16 MR. FFITCH: Your Honor, too -- I'm sorry to
 17 interrupt.
 18 JUDGE FRIEDLANDER: No, that's fine.
 19 MR. FFITCH: Two smaller administrative
 20 points. We do have a public notice report item on our
 21 proposed schedule.
 22 JUDGE FRIEDLANDER: Yes.
 23 MR. FFITCH: That is simply to -- there's
 24 normally a consultation process between the Commission
 25 Staff and the Company and Public Counsel about the

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1 format of the public notice, and then often that's
 2 worked out mostly pretty amicably, but this is sort of a
 3 report back if there are any issues to bring back to the
 4 Commission.
 5 JUDGE FRIEDLANDER: Okay.
 6 MR. FFITCH: And then the other matter was
 7 the request that we could send Your Honor names for our
 8 administrative staff to be included on the electronic
 9 service list.
 10 JUDGE FRIEDLANDER: Absolutely. If you can
 11 send those to me by email, if you can by the end of
 12 today, if not by tomorrow sometime, that would be
 13 beneficial, and I will include those in the service list
 14 at the end of the order.
 15 MR. FFITCH: Thank you, Your Honor.
 16 JUDGE FRIEDLANDER: Yes. Is there anything
 17 else before we adjourn? All right. Thank you very
 18 much. And I will get this prehearing conference out
 19 shortly. Thank you.
 20 MS. McDOWELL: Thank you.
 21 MR. PURDY: Thank you, Your Honor.
 22 JUDGE FRIEDLANDER: We are adjourned.
 23 (Prehearing conference concluded at 10:55 a.m.)
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C E R T I F I C A T E

STATE OF WASHINGTON
COUNTY OF KING

I, Lisa Buell, a Certified Shorthand Reporter and
Notary Public in and for the State of Washington, do
hereby certify that the foregoing transcript of the
prehearing conference on December 22, 2015, is true and
accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand
and seal this 6th day of January, 2016.

LISA BUELL, RPR, CRR, CCR

My commission expires:
DECEMBER 2018