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

2 JUDGE MOSS: Good afternoon, everyone. My
3 name is Dennis Moss. I'm an administrative law judge
4 with the Washington Utilities and Transportation
5 Commission. I've been designated as the presiding
6 officer in this proceeding to assist the commissioners,
7 who are on the Bench with me; Chairman Sidran to my
8 immediate right, Commissioner Oshie to his right, and
9 Commissioner Jones to Commissioner Oshie's right.

10 We have a panel of witnesses today to present
11 testimony concerning a settlement stipulation filed by
12 all parties to the proceeding in the proposed
13 resolution of all issues in the proceeding. We've had
14 an opportunity to review that document along with the
15 joint testimony of the witnesses who are sponsoring the
16 stipulation, and, of course, the other materials in the
17 record, which I ascertained yesterday the parties had
18 agreed to stipulate in, and that would consist of the
19 prefiled testimonies and exhibits by the various
20 Company witnesses that were filed at the time of the
21 tariff filing itself, and I have marked those on an
22 exhibit list, which I distributed electronically to the
23 parties yesterday and which we will finalize today by
24 marking all the exhibits on that list as admitted into
25 the record as of this date, with the exception of

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1 Exhibit No. 1, which is the compilation of written
2 comments received from members of the public, and
3 Mr. ffitch, I'm going to indicate the acceptance of
4 that exhibit as of October 1st. I'm going to close the
5 written comment period as of the last day of September,
6 and if it takes you another day or so to get that
7 together, that's all right. I will mark it then.

8 MR. FFITCH: Thank you, Your Honor.

9 JUDGE MOSS: With those remarks, I think
10 there is nothing more preliminary to appearances that i
11 have, so let me begin with the Company.

12 MS. MCDOWELL: Katherine McDowell on behalf
13 of PacifiCorp.

14 MS. EDMONDS: Sarah Edmonds also on behalf of
15 PacifiCorp.

16 MS. DAVISON: Melinda Davison for the
17 Industrial Customers of Northwest Utilities.

18 MR. FFITCH: Simon ffitch for Public Counsel.

19 MR. CEDARBAUM: Robert Cedarbaum for
20 Commission staff.

21 JUDGE MOSS: Mr. Purdy?

22 MR. PURDY: Brad Purdy representing The
23 Energy Project.

24 JUDGE MOSS: If you have occasion to speak
25 today, and Mr. Eberdt, the witness for The Energy

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1 Project, do speak distinctly into the phone, and, of
2 course, at a reasonable pace for the benefit of our
3 court reporter. Is there anyone else who wishes to
4 enter an appearance today? Apparently not, and we do
5 have representatives from all parties present of those
6 that have indicated their appearance today.

7 I've mentioned that we have a stipulated
8 record in this proceeding consisting of the prefiled
9 testimony and exhibits and the materials submitted with
10 the settlement. Are there any other preliminary
11 matters we need to take up before we get to the witness
12 panel? All right. I'll have the witnesses introduce
13 themselves here momentarily, but prior to that, it's
14 necessary that we swear you in, and those who are on
15 the phone who may appear as witnesses, Mr. Eberdt and
16 Mr. Falkenberg, if you would also rise, and in
17 recognition of the solemnity of the oath, raise your
18 right hands.

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21 Whereupon,

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THE PANEL,

23 having been first duly sworn, were called as witnesses
24 herein and examined and testified as follows:

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1 JUDGE MOSS: Thank you very much.

2 Mr. Schooley, why don't we start with you and introduce
3 yourself, and Mr. Falkenberg, are you on the line?

4 MR. FALKENBERG: Yes, I am.

5 JUDGE MOSS: Of course, those of you on the
6 phone, when you speak if you speak, please identify
7 yourself by name so the court reporter will know who is
8 speaking. Mr. Schooley?

9 MR. SCHOOLEY: Thomas Schooley for Commission
10 staff.

11 MS. KELLY: Andrea Kelly, PacifiCorp.

12 MR. SPINKS: Tom Spinks representing Public
13 Counsel.

14 JUDGE MOSS: Mr. Watkins was your witness; is
15 that right, Mr. Ffitch? He actually submitted the
16 portion of the testimony.

17 MR. FFITCH: That's correct, Your Honor.

18 JUDGE MOSS: I've asked the parties off the
19 record whether there would be any preliminary
20 statements by counsel or a member of the panel, and I
21 was told no, so we can launch directly into the
22 comments or inquiry from the Bench.

23 COMMISSIONER OSHIE: I guess I'll start off,
24 judge, thank you. I would like to refer the parties to
25 Page 6 of the Stipulation, and it's under Paragraph F,

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1 Sub 2, and I want to make sure I understand what the
2 parties are intending the Commission to do as a result
3 of this agreement and what you are intending to do as
4 the parties here.

5 I think I understand it, but I would like
6 some explanation of when the parties here agreed to
7 explore and consider an increase to the Company's
8 allocation of funding, and it states in parenthesis,
9 "Currently at 50 percent of the cost of cost-effective
10 measures," closed paren, but below income
11 weatherization program, exactly what that means?

12 MS. KELLY: Our current low-income
13 weatherization tariff provides for 50 percent of the
14 funding of lenders with 50 percent being matched by
15 state or federal funds, and The Energy Project has
16 raised questions and concerns about whether that
17 funding level should increase above the 50 percent of
18 funding measures, and so we've agreed to take that. We
19 have a meeting scheduled on October 7th with the DSM
20 and low-income advisory boards, and we will take that
21 to them to explore the pros and cons of increasing
22 that, and it will be collaboratively presented with The
23 Energy Project.

24 COMMISSIONER OSHIE: Maybe I don't expect you
25 to know this, Ms. Kelly, but perhaps Staff or Public

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1 Counsel can respond. The matching program that
2 PacifiCorp employs, is that similar to programs that
3 are employed by both PSE and Avista, or is it something
4 unique, if you will, to PacifiCorp? Perhaps Mr. Eberdt
5 is on the line and he can respond.

6 MR. EBERDT: I would be glad to Commissioner
7 Oshie. The situation with PacifiCorp in terms of
8 matching funds is basically similar to what happens
9 with the other utilities. The agency used whatever
10 funds they have that are available, so they will
11 combine PacifiCorp funds with the state funds from the
12 energy matchmaker program, if they are available, or
13 with DOE funds, if that's what's required, or with
14 funds from the HSS funding source or things like that.

15 One of the reasons that we are arguing that
16 this should increase is that 50 percent payment rate is
17 actually the lowest of all the utilities that we are
18 working with. We feel that it puts the agencies in a
19 situation where they have to draw down their other
20 funds in order to support the utility program instead
21 of being able to use those funds -- and in the case of
22 the matchmaker program specifically, as you may recall,
23 the energy matchmaker program was set up to encourage
24 utilities to match funds, to contribute more funds to
25 low-income weatherization services, and what has

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1 developed over the last ten years is that the utility
2 fund outpaid funds that were available from the
3 matchmaker program. So as an agency, they can't send
4 out the gratuity money. They can't access the energy
5 match, and it's happened in a couple of cases in
6 PacifiCorp service territory.

7 COMMISSIONER OSHIE: When you say that this
8 50 percent matching is the lowest of the utility rates
9 that you've worked with, how much lower? What kind of
10 difference are we talking about here?

11 MR. EBERDT: It depends. It varies from
12 utility to utility, but for example the newest program
13 we have in terms of low-income weatherization is
14 Cascade Natural Gas, and they pay agencies for the full
15 cost. They are not paying a 50 percent rate. They are
16 paying at a 100 percent rate. With Puget, the funding
17 rate really depends upon the measure. I should be a
18 little clearer. It's usually the full weighted cost or
19 the cost of the measure, whichever is more. So in
20 PacifiCorp's case, 50 percent of the cost effective is
21 pretty low.

22 When we look at utility conservation programs
23 when they provide incentive, I'm well aware that the
24 utility is trying to get confirmation as to the least
25 possible cause. As with an ordinary conservation

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1 program for an ordinary customer who has funds to match
2 and contribute to the program, that make makes sense,
3 but when it's a low-income customer who doesn't have
4 any funds.

5 COMMISSIONER OSHIE: Thank you, Mr. Eberdt.
6 I want to follow-up on a question because they are
7 identified by a certain title or interest, but
8 specifically the groups that you plan to collaborate
9 with, Ms. Kelly. It says the low-income and
10 demand-side advisory groups. I'm sure once you
11 identify who those groups are or what they are that
12 they will be familiar under the agreement. At least
13 can you identify who you believe you will be
14 collaborating with as a utility to spend time working
15 on this subject?

16 MS. KELLY: Sure. Those with are existing
17 groups of our key stakeholders. So it's the Industrial
18 Customers of Northwest Utilities, Public Counsel. It's
19 the Northwest --

20 COMMISSIONER OSHIE: Energy Project?

21 MS. KELLY: What used to be NCAC.

22 MR. EBERDT: Northwest Energy Coalition.

23 MS. KELLY: That's right. Northwest Energy
24 Coalition staff, and The Energy Project. So it's our
25 key core stakeholders that we work with, and we've

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1 already sent out and contacted them and have scheduled
2 a meeting for the 7th of October, and one of the things
3 we are going to put in the presentation to the advisory
4 groups is what all the other utilities are doing. So
5 that's part of what we are going to be looking at with
6 the groups in trying to reach an agreement on how best
7 to go forward.

8 COMMISSIONER OSHIE: So this is apparently
9 something that the Company wants to be engaged in and
10 is interested in pursuing, perhaps more, to making a
11 more of a contribution to these programs. It's
12 something that couldn't be perhaps perfected before the
13 filing of the settlement and you need more time to do
14 it?

15 MS. KELLY: That's right. The funding is
16 outside of the rate case. It's done through our DSM
17 tariff, so as a company, we are looking for ways that
18 we can work with our low-income groups, given where we
19 are with the economy and rising prices, so we are
20 looking at whatever we are doing to help the low-income
21 part of our service territory.

22 So yes, it's something that we are committed
23 to doing, and we are committed to making a filing with
24 the Commission by November 15th. It's our hope that
25 that filing will be uncontested and it will be able to

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1 go in front of a public meeting and be adopted before
2 the end of the year.

3 COMMISSIONER OSHIE: I guess when you say a
4 filing, it would be some type of program modification
5 which would include a tariff change, perhaps, to --

6 MS. KELLY: That's right. It would be a
7 tariff filing that would come in under the normal
8 processes, but we will propose specific language
9 changes to the tariff and changes to the funding
10 levels.

11 COMMISSIONER OSHIE: Thank you, Ms. Kelly. I
12 don't have any other questions, judge.

13 COMMISSIONER JONES: I would like to
14 follow-up on Commissioner Oshie's question on that same
15 paragraph, low-income weatherization, where the Company
16 and the Energy Project are -- you talk about a process
17 for a collaborative to develop a joint kind of a
18 unanimous recommendation on that issue and with a
19 filing to be done with the Commission by November 15th,
20 2008.

21 So my question, number one, is what do you
22 mean by "that issue"? Is it just the issues you've
23 been talking about with Commissioner Oshie, or is it
24 broader than that?

25 MS. KELLY: It's around the low-income

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1 weatherization program and the funding for that. We
2 don't anticipate that it will cover any other issues,
3 but if they come up and they make sense for us to
4 address, we are always open to addressing them, but
5 specifically, the filing for November 15th is targeted
6 at the low-income weatherization funding.

7 COMMISSIONER JONES: Ms. Kelly, what if you
8 are not able to make a consensus recommendation? What
9 happens then? What will the Company and The Energy
10 Project do? Mr. Eberdt, I would like you to respond
11 too.

12 MR. EBERDT: Commissioner Jones, I would like
13 to address the previous question, if that's okay.

14 COMMISSIONER JONES: That's fine.

15 MR. EBERDT: The issue we raised in the rate
16 case was the percentage payment, the percentage of
17 cost-effectiveness payment. We did not raise in the
18 rate case any question of the amount of funding or how
19 much funding is being developed into the program as we
20 have in other rate cases, as you are well aware. So
21 our intention was to specifically deal with this issue
22 which the Company had said to us previously with their
23 policy that they would only pay 50 percent -- so we
24 weren't using this to actually deal with any other
25 topic that we might in the long term want to have as

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1 part of the discussion. It's simply looking at that
2 issue.

3 COMMISSIONER JONES: Ms. Kelly or Mr. Eberdt,
4 what happens if a consensus recommendation cannot be
5 reached?

6 MS. KELLY: If a consensus recommendation
7 cannot be reached, then the Company has committed to
8 make that filing and to make a proposal and to tee the
9 issue up for Commission's determination, so that was
10 part of the commitment that we've made that
11 irrespective of -- then we would make a filing to tee
12 it off to the Commission to determine it.

13 COMMISSIONER JONES: Lastly, what sort of
14 filing would it be?

15 MS. KELLY: Tariff filing.

16 COMMISSIONER JONES: Going to the next page
17 on Paragraph 24, I think this is more directed to
18 Mr. Schooley and the Company. This calls for
19 consultation between the Company and Staff regarding,
20 quote, "accounting presentation, test period
21 conventions and appropriate documentation to
22 demonstrate the prudence of new resources." I'm in "J"
23 of the stipulation. What gives rise, Mr. Schooley, to
24 this stipulation and this need for consultation? Can
25 you give possible background about the deficiencies in

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1 the filing and what led to this?

2 MR. SCHOOLEY: The Company's filing in this
3 docket, their original filing was of a different format
4 than what they had done before and began with different
5 per-books numbers in order to derive Washington's
6 operations, and the Staff was spinning its wheels for
7 awhile to figure out what the Company's filing was.

8 So the Company has agreed to go through with
9 us how to improve their filing so that we can be more
10 efficient in our audits and analysis of the filing. So
11 we've been going through the Commission's procedural
12 rules on filings and will be presenting to the Company
13 and other parties how we would like to see rate cases
14 filed by PacifiCorp, and probably applicable to other
15 companies as well, to improve the efficiency of being
16 able to audit these, especially given the number of
17 cases that are in the near future.

18 COMMISSIONER JONES: I don't want to get into
19 the weeds on this one because obviously, these are very
20 complex filings, but is it fair to understand what he
21 just said as these issues deal more with the
22 presentation of the case rather than a specific
23 depreciation schedules, cost-of-capital methodologies,
24 and things like that? It's more in how the case is
25 presented to the Commission staff.

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1 MR. SCHOOLEY: How it's presented as well as
2 the work papers that back up the presentation and the
3 Company's ability to bear the burden of proof for what
4 they are requesting.

5 COMMISSIONER JONES: Ms. Kelly, could you
6 respond on this issue as well?

7 MS. KELLY: That's my understanding as well,
8 that the majority of this will be around the way that
9 we filed the case, the way that it's presented so that
10 it works with models that Staff has built to analyze
11 updates and to make sure that when we file it that it's
12 workable for Staff and the policy advisors.

13 I think one substantive place is on the test
14 period convention, and we are going to be working with
15 Staff to make sure that we are on the same page as far
16 as what the historical look is, what the per-books look
17 is, and then what it is that we will be showing as we
18 walk those forward for known and measurable changes. I
19 think if we look at the substantive piece, that is the
20 test period convention. The rest is really around
21 presentation and supportive work paper.

22 COMMISSIONER JONES: Ms. Kelly, it sounds
23 like you are going to be filing a rate case pretty soon
24 in 2009.

25 MS. KELLY: We anticipate filing rate cases

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1 in February of 2009.

2 COMMISSIONER JONES: As opposed to the
3 low-income weatherization issue, there is no specific
4 date. It's fairly informal, this consultation, but is
5 it fair to assume that you and the staff are going to
6 reach some resolution of this issue prior to February,
7 2009, and will inform the Commission of how this is
8 being resolved?

9 MS. KELLY: Yes. We will be meeting very
10 soon, probably later in October, to start this process,
11 and the commitment is that we will have those
12 consultations so that we can reflect the agreement in
13 the next rate case filing in February so that we don't
14 have the mix-up that we did in this case.

15 COMMISSIONER JONES: Thank you, judge.

16 MR. FFITCH: Your Honor, if I may be heard on
17 this point, Public Counsel is also tracking this issue
18 at the time of filing, and from our perspective, it
19 raised the question of whether the filing should be
20 rejected under the Commission's rules, which is an
21 option.

22 The ultimate approach we see before you,
23 which was an attempt by Staff to work with the Company
24 and work it through that way rather than rejecting, we
25 do feel that the Commission and its staff needs to keep

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1 that option readily available for rate case filings
2 that come in the door that are not in compliance for
3 two reasons. One is that the burden is then shifted,
4 effectively, to Staff and other parties if it finds
5 under compliance to essentially figure it out and hope
6 that the Company. Meanwhile, the clock may be ticking
7 in the process, and you end up with really a revised
8 filing coming in some period of time later.

9 We think the rules are very clear about
10 what's supposed to be in the filing; that if they are
11 not met, the Company needs to go away and get it right
12 and then come back in again and start the clock running
13 at that point. So this, I think, is a reasonable
14 outcome here, and hopefully we'll avoid the problem
15 next time, but that's our perspective on the history on
16 this issue.

17 JUDGE MOSS: Thank you. Chairman Sidran?

18 CHAIRMAN SIDRAN: I would just like to make a
19 comment, which is to commend the parties for bringing
20 this settlement to us. I realize it involves a lot of
21 work at your end and it involves compromising of your
22 positions, but as we are fond of saying, public policy
23 favors settlements, and we are particularly fond of
24 full settlements involving all parties and all issues,
25 and I would note that this benefits everyone, but most

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1 particularly the Commission, by giving us something
2 that we can act on expeditiously, and I think everyone
3 in the end is well served.

4 So I wanted to thank you for that, and I
5 believe that one of the benefits, at least for the
6 Company, is that this was filed on what, February 6th,
7 2008, and rather than a full 11 months, assuming that
8 this settlement is approved, it will take until October
9 15th, so I think that's expeditious, and as long as all
10 the parties are in agreement, I think the public
11 interest is served in that kind of process, so thank
12 you.

13 JUDGE MOSS: I do have a couple of questions
14 for you regarding Paragraph 27, also on Page 7 of the
15 stipulation, one of the major technical points I
16 suppose. Is the agreed net power cost figure that
17 appears in this paragraph an annual amount?

18 MS. KELLY: Yes.

19 JUDGE MOSS: From what period is it derived?
20 Was it the test period in this case or some other case?

21 MS. KELLY: It was from the test period in
22 this case with some adjustments.

23 JUDGE MOSS: With some adjustments, perhaps
24 you should mention, did that go outside the test period
25 somewhat?

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1 MS. KELLY: No. It was within the test
2 period, but this was a negotiated number. It was not
3 the filed number.

4 JUDGE MOSS: I understand. Thank you very
5 much. With that, are there any other matters while we
6 have the panel on the stand? Apparently not, so you
7 all can step down if you wish, and I will ask if there
8 is anything else from the parties, any other business
9 we need to conduct today?

10 The Commission will have its deliberations
11 and enter an order in due course. Thank you all for
12 being here today, and I'll add my note of appreciation
13 to that of Chairman Sidran. We are off the record.

14 (Settlement conference adjourned at 2:00 p.m.)

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