

BEFORE THE WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION

Bellingham Cold Storage Company and	)	
Georgia-Pacific West, Inc.,	)	
	)	
Complainants,	)	DOCKET NO. UE-001014
v.	)	
	)	PREHEARING CONFERENCE
Puget Sound Energy, Inc.	)	ORDER
	)	
Respondent.	)	
.....	)	

Georgia-Pacific West, Inc.,	)	
	)	
Complainant,	)	
v.	)	DOCKET NO. UE-000735
	)	
Puget Sound Energy, Inc.,	)	PREHEARING CONFERENCE
	)	ORDER
Respondent.	)	
.....	)	

1 **PREHEARING CONFERENCE:** The Commission convened a joint prehearing conference in these matters in Olympia, Washington, on July 19, 2000, before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, and Administrative Law Judge Dennis J. Moss.

2 **PARTIES: (In Docket No. UE-001014)** -- John A. Cameron, Davis Wright Tremaine LLP, Portland, Oregon, represents Bellingham Cold Storage Company (BCS); John Wiley Gould, Lane Powell Spears Lubersky LLP, Portland, Oregon, represents Georgia-Pacific West, Inc. (Georgia-Pacific); James M. Van Nostrand, Stoel Rives LLP, Seattle, Washington, Markham A. Quehm and Kirstin Dodge, Perkins Coie, Bellevue, Washington, represent Puget Sound Energy, Inc.; Carol S. Arnold and Douglas H. Rosenberg, Preston Gates & Ellis LLP, Seattle, Washington, represent Public Utility District No. 1 of Whatcom County (Whatcom PUD); Melinda Davison, Davison Van Cleve, P.C., Portland, Oregon, represents Air Liquide, The Boeing Company, Equilon Enterprises, Tesoro Northwest Company, and Air Products (Schedule 48 Customers); Michael Myers, attorney, Glendale, California, represents Atlantic Richfield Company (ARCO); Simon ffitich, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section, Office of Attorney General (Public Counsel); Robert D. Cedarbaum, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Staff).

3 **(In Docket No. UE-000735)** -- John Wiley Gould, Lane Powell Spears Lubersky LLP, Portland, Oregon, represents Georgia-Pacific West, Inc. (Georgia-Pacific); James M. Van Nostrand, Stoel Rives LLP, Seattle, Washington, Markham A. Quehm and Kirstin Dodge, Perkins Coie, Bellevue, Washington, represent Puget Sound Energy, Inc.; Simon ffitich, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section, Office of Attorney General (Public Counsel); Robert D. Cedarbaum, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Staff).

4 **PETITIONS TO INTERVENE:** The following entities filed petitions to intervene in Docket No. UE-001014:

1. Air Liquide, The Boeing Company, Equilon Enterprises, Tesoro Northwest Company, and Air Products presented a joint petition;
2. Public Utility District No. 1 of Whatcom County; and
3. Atlantic Richfield Company.

5 Respondent PSE objected to these petitions and was permitted an opportunity for oral argument. The Commission heard argument from the Schedule 48 Customers and ARCO. Whatcom County PUD was not present at the prehearing conference, but stated its interests via its written petition. Staff and Public Counsel also were given the opportunity to state their respective positions as to each petition.

6 The Schedule 48 Customers and ARCO stated their interests are limited to matters that may have direct implications for them under the tariffs that govern their service from PSE and committed that their participation would neither broaden the issues nor cause delay. The Commission determines that these petitioners demonstrate substantial interests in this proceeding and that participation by these petitioners is in the public interest. The petitions listed above are granted subject to the caveat that as issues narrow going forward, the Commission may determine that one or more of these intervenors no longer has a substantial interest, or that the public interest no longer is served by their continued participation. If such a determination is made, the Commission may dismiss one or more of these intervenors after notice and an opportunity to be heard. WAC 480-09-430 (3).

7 **DISCOVERY:** These proceedings are the type described in WAC 480-09-480(2)(b) and (c), and the parties request the opportunity for discovery. The discovery rule, WAC 480-09-480, is invoked. Discovery may commence immediately. Parties are required to limit discovery to that necessary to their respective cases, and parties should cooperate to facilitate discovery and resolve informally any disputes. Any discovery dispute referred to the Commission by motion must state what steps the parties have taken to resolve the dispute. Responses to data requests are required to be provided in-hand in accordance with the schedule set forth below.

8 **PROTECTIVE ORDER:** The parties anticipate that certain confidential information will be required and request a protective order. A protective order consistent in substance with the form typically used in Commission proceedings will be entered to protect the parties' interests in insulating confidential information from public disclosure.

9 **SCHEDULE:** Mr. Gould proposed a schedule for discussion that would have had the Commission enter a final order before the end of August, 2000. After discussion, the parties agreed that the proposal would not provide time to meet the minimum requirements of due process, an opportunity to prepare adequately.

10 The parties agreed to discuss schedule among themselves, considering their own best estimates of the time required for adequate preparation, in an effort to balance the need for a speedy decision with the need for considered and professional presentations. The parties agreed to a continued prehearing conference for the purpose of reviewing their scheduling agreements and resolving matters not agreed. The Commission convened that conference on July 20, 2000 at 2:45 p.m. before C. Robert Wallis, ALJ.

11 Parties were represented as follows: complainants, by John Gould; respondent, by James van Nostrand, Gerard Lutz and Philip Maurer; Intervenors Schedule 48 Customers by Melinda Davison, Intervenor ARCO by Michael Myers, Public Counsel by Simon ffitich, and Commission Staff by Robert Cedarbaum. The parties should be commended for their effective and productive efforts. Parties acknowledged that some circumstances could require either compression or extension of the schedule. Requests to amend the schedule should be supported with a showing of good cause, and should express the consent of any other parties from whom consent is obtained.

12 At the parties urging, the Commission agreed to conduct Docket No. UE-001014 in two phases. In Phase I, power pricing issues will be considered and resolved. In Phase II, transmission issues will be taken up. The schedule adopted for the power pricing phase of UE-001014 is the following:

**Dispositive Motions:** the last date to file motions that would dispose of the complaint or issues therein, in whole or in part: **July 31, 2000**. Matters that could be raised at this juncture but are not raised may not later be raised without leave from the Commission on a showing of good cause for failure of the party to timely present them. Complainants are expected to raise the issue of the earliest date the Commission's decision could have effect on prices, if the Commission were to find for the complainant. Answers are due four calendar days later, on August 4. The Commission will endeavor to enter an order within 7 to 14 days.

**Complainants' Direct Case:** Complainants will file their direct evidence on Power Pricing Issues: **August 10, 2000**. Complainants recognize that the order on dispositive motions will

likely not be served by then. Evidence in support of any issues that are stricken in the order on dispositive motions will be stricken.

**PSE Responsive evidence** must be filed no later than **August 21, 2000**.

**Intervenors' Responsive evidence** must also be filed by **August 21, 2000**.

**Staff and Public Counsel Responsive evidence** must be filed by **August 28, 2000**.

**Rebuttal and cross-rebuttal** (All parties' response to Points Not Yet Responded To) will be due **September 7, 2000**.

**Dispositive Motions** that could not have been filed by the prior July 31 deadline must be filed no later than **September 21, 2000**.

**The Hearing** will be convened on **October 5, 2000**. A second day will be reserved, in case it proves to be needed.

No later than **October 6, 2000**, the parties will propose an **outline for the order of briefs**, to assure that all briefing presentations are organized similarly.

**Simultaneous Opening Briefs** will be due on **October 19, 2000**.

**Simultaneous Answering Briefs** will be due on **October 25, 2000**.

**Oral Argument** will be held on **October 27, 2000**.

We anticipate that the Commission will be able to enter an order in Phase I during early November.

- 13 The response deadline for dispositive motions is four business days, and for any discovery request is three business days, unless extended by authorization from the ALJ. Parties must seek and fail to obtain among themselves an agreed extension of time before seeking an extension from the Commission. Responses to requests to the Commission for extensions of time are due in the Commission offices by the close of the first business day after the request is filed.
- 14 Phase II of UE-001014, the transmission case, and the Complaint in docket UE-000735, also remain pressing matters. The parties were unable to address those schedules in the time available. The Commission will initiate scheduling discussions in those matters by letter or by convening a further prehearing conference.
- 15 Additional procedural dates and requirements may be established by subsequent notice or order.

- 16 **WITNESS AND EXHIBITS LISTS:** A status conference will be scheduled shortly before the first hearing date in each phase of these proceedings to develop a list of witnesses in the order they will appear along with a list of exhibits sponsored by each witness. Parties also must identify exhibits expected to be used in cross-examination and provide copies to other parties and the bench (2 copies). These requirements facilitate case management and expedite the hearing.
- 17 Parties will be responsible for marking their own exhibit copies at hearing as the bench designates numbers. The bench will mark all originals and bench copies.
- 18 **FILING; COPIES OF MATERIALS:** Filing can be accomplished only by mail delivery to the Commission Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250, or by hand delivery to the Commission Secretary at the Commission's records center at the Washington Utilities and Transportation Commission, 1300 S. Evergreen Park Drive, S.W., Olympia, Washington, 98504. **Both the post office box and street address are required to expedite deliveries by U.S. Postal Service.** An original plus fourteen (14) copies of all pleadings, motions, briefs, and other prefiled materials must be filed with the Commission.
- 19 Parties must furnish separately a 3.5 inch diskette including the filed document(s) in WordPerfect 5.1 (or later) format, or may supplement their filing by sending an electronic copy via e-mail attachment to: <[records@wutc.wa.gov](mailto:records@wutc.wa.gov)>. **PLEASE NOTE: The Commission asks the parties to provide electronic copies no later than Thursday, July 27, 2000 of the complaints, answers, and any other pleadings not previously provided in electronic format.**
- 20 **ALTERNATIVE DISPUTE RESOLUTION; SETTLEMENT:** The parties' attention is directed to WAC 480-09-465, "Alternative dispute resolution," and WAC 480-09-466, "Settlement conferences." The Commission urges all parties to formal adjudications to include alternative methods to bring resolution to contested issues.
- 21 **NOTICE TO PARTIES:** Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this statement, pursuant to WAC 480-09-460(2).

Absent such objections, this prehearing conference order will control further proceedings in this matter, subject to Commission review.

DATED at Olympia, Washington, and effective this 21st day of July, 2000.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS,  
Administrative Law Judge