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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION
3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,) DOCKET NO. UG-040640
4) DOCKET NO. UE-040641
 Complainant,)
5)
 vs.) Volume I
6) Pages 1 to 64
PUGET SOUND ENERGY, INC.,)
7)
 Respondent.)
8)
 In the Matter of the Petition)
9) of PUGET SOUND ENERGY, INC.,)
For an Order Regarding the) DOCKET NO. UE-031471
10 Accounting Treatment For)
Certain Costs of the)
11 Company's Power Cost Only)
Rate Filing,)
12)
 In the Matter of the Petition)
13) of PUGET SOUND ENERGY, INC.,)
For an Accounting Order) DOCKET NO. UE-032043
14 Authorizing Deferral and)
Recovery of Investment and)
15 Costs Related to the White)
River Hydroelectric Project)
16)

17
18 A pre-hearing conference in the above matter
19 was held on May 17, 2004, from 1:30 p.m to 3:15 p.m., at
20 1300 South Evergreen Park Drive Southwest, Room 206,
21 Olympia, Washington, before Administrative Law Judge
22 DENNIS MOSS.

23 The parties were present as follows:
24
25 Joan E. Kinn, CCR, RPR
Court Reporter

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1 THE COMMISSION, by ROBERT D. CEDARBAUM,
Assistant Attorney General, 1400 South Evergreen Park
2 Drive Southwest, Post Office Box 40128, Olympia,
Washington, 98504, Telephone (360) 664-1188, Fax (360)
3 586-5522, E-Mail bcedarba@wutc.wa.gov.

4 THE PUBLIC, by SIMON J. FFITCH, Assistant
Attorney General, 900 Fourth Avenue, Suite 2000,
5 Seattle, Washington, 98164-1012, Telephone (206)
389-2055, Fax (206) 389-2058, E-Mail simonf@atg.wa.gov.

6 PUGET SOUND ENERGY, by KIRSTIN S. DODGE,
7 Attorney at Law, Perkins Coie, LLP, 10885 Northeast
Fourth Street, Suite 700, Bellevue, Washington 98004,
8 Telephone (425) 635-1407, Fax (425) 635-2407, E-Mail
kdodge@perkinscoie.com; and by JASON KUZMA, Attorney at
9 Law, Perkins Coie, LLP, 10885 Northeast Fourth Street,
Suite 700, Bellevue, Washington 98004, Telephone (425)
10 635-1407, Fax (425) 635-2407, E-Mail
jkuzma@perkinscoie.com

11 A W.I.S.H., A WORLD INSTITUTE FOR A
12 SUSTAINABLE HUMANITY, AND THE ENERGY PROJECT, by RONALD
L. ROSEMAN, Attorney at Law, 2011 - 14th Avenue East,
13 Seattle, Washington 98112, Telephone (206) 324-8792, Fax
(206) 568-0138, E-Mail ronaldroseman@comcast.net.

14 KROGER COMPANY, via bridge line, by KURT
15 BOEHM, Attorney at Law, Boehm, Kurtz & Lowry, 36 East
Seventh Street, Suite 2110, Cincinnati, Ohio 45202,
16 Telephone (513) 421-2255, Fax (513) 421-2764, E-Mail
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17 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,
18 by S. BRADLEY VAN CLEVE, Attorney at Law, Davison Van
Cleve, 1000 Southwest Broadway, Suite 2460, Portland,
19 Oregon, 97205, Telephone (503) 241-7242, Fax (503)
241-8160, E-Mail mail@dvclaw.com.

20 FEDERAL EXECUTIVE AGENCIES, by NORMAN J.
21 FURUTA, Attorney at Law, Department of the Navy, 2001
Junipero Serra Boulevard, Suite 600, Daly City,
22 California 94014-1976, Telephone (650) 746-7312, Fax
(650) 746-7372, E-Mail norman.furuta@navy.mil.

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1 AT&T WIRELESS SERVICES, INC. AND COST
2 MANAGEMENT SERVICES, INC., by JOHN A. CAMERON, Attorney
3 at Law, Davis Wright Tremaine LLP, 1300 Southwest Fifth
4 Avenue, Suite 2300, Portland, Oregon 97201, Telephone
5 (503) 778-5206, Fax (503) 778-5299, E-Mail
6 johncameron@dwt.com.

7 NORTHWEST INDUSTRIAL GAS USERS, by EDWARD A.
8 FINKLEA, Attorney at Law, Cable Huston Benedict
9 Haagensen & Lloyd LLP, 1001 Southwest Fifth Avenue,
10 Suite 2000, Portland, Oregon 97204, Telephone (503)
11 224-3092, Fax (503) 224-3176, E-mail efinklea@chbh.com.

12 CITIZENS' UTILITY ALLIANCE OF WASHINGTON, via
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17 NORTHWEST ENERGY COALITION, by DANIELLE
18 DIXON, Attorney at Law, Northwest Energy Coalition, 219
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22 SEATTLE STEAM, by ELAINE SPENCER, Attorney at
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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 for
4 the Washington Utilities and Transportation Commission.
5 We are convened this afternoon in the Commission's
6 hearing room to take up a pre-hearing conference in the
7 matter styled Washington Utilities and Transportation
8 Commission against Puget Sound Energy, Inc., Docket
9 Numbers UG-040640, UE-040641, UE-031471, and UE-032043,
10 these proceedings having been consolidated by prior
11 order. The first two dockets are general rate
12 proceedings on the gas and electric side of PSE's
13 business operations, and I have indicated the style for
14 those cases. The other two dockets are petitions for
15 accounting orders. I won't go into the details of that,
16 I think all counsel and other interested persons and
17 petitioners are familiar with the proceedings.

18 We'll take appearances today, then we'll take
19 up the petitions to intervene. We have a, well, we will
20 talk briefly about discovery. We do have a motion for a
21 protective order with highly confidential provisions. I
22 did have one response in opposition, and I also
23 established by prior notice that parties would have the
24 opportunity today to respond orally, and hopefully we
25 can work through all that without too much difficulty.

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1 Then we'll turn our discussion to our process and
2 procedural schedule, and I do have a proposed schedule
3 that was prepared I believe by Staff, Public Counsel,
4 and the company, and perhaps others have had an
5 opportunity to look at that. I have some points with
6 respect to that considering the Commissioners' calendar.
7 We'll take up any other business, I will have a few
8 closing remarks, and that will conclude our day.

9 I will just mention that I also noticed for
10 this afternoon an order conference with respect to a
11 recently completed in the sense of a final order having
12 been entered proceeding, again WUTC against PSE, Docket
13 Number 031725, so we will take that up, we will probably
14 conduct that off the record. There may be some
15 interplay, I'm not sure. To the extent there is, I may
16 need to take it up, and then we'll certainly discuss
17 that today too, so the parties can tell me perhaps at
18 the concluding phases of our pre-hearing whether there
19 will be any need to ask others to remain for any
20 subsequent discussion.

21 All right, with that let's take our
22 appearances, and we'll start with the company.

23 MS. DODGE: Thank you, Your Honor, Kirstin
24 Dodge with Perkins Coie for Puget Sound Energy. With me
25 today is Jason Kuzma, K-U-Z-M-A. We're at 10885

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1 Northeast Fourth Street, Suite 700, Bellevue, Washington
2 98004, phone is (425) 635-1400.

3 JUDGE MOSS: 07 is what I have.

4 MS. DODGE: 07 is my direct line.

5 JUDGE MOSS: That's the one I want.

6 MS. DODGE: All right. Fax is (425)
7 635-2407, E-mail kdodge@perkinscoie.com and Mr. Kuzma's
8 is jkuzma@perkinscoie.com.

9 JUDGE MOSS: Mr. Kuzma, are you counsel?

10 MR. KUZMA: Yes, I am.

11 JUDGE MOSS: Welcome.

12 All right, to make things simple we'll start
13 with Mr. Furuta and work our way around the room.

14 MR. FURUTA: Thank you, Your Honor. My name
15 is Norman Furuta appearing today on behalf of the
16 consumer interest of the Federal Executive Agencies. I
17 am an associate counsel at the Department of the Navy.
18 My address is 2001 Junipero Serra Boulevard, Suite 600,
19 in Daly City, California 94014, telephone is (650)
20 746-7312, fax is (650) 746-7372, and my E-mail address
21 is norman.furuta@navy.mil.

22 JUDGE MOSS: All right, norman.furuta@navy?

23 MR. FURUTA: That's correct.

24 JUDGE MOSS: Dot something else, mil?

25 MR. FURUTA: Mil, M-I-L, yes.

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1 JUDGE MOSS: All right, that's slightly
2 different. We have had trouble with your E-mail in the
3 past.

4 MR. FURUTA: Yes, hopefully this simple one
5 will be easier.

6 JUDGE MOSS: Hopefully we'll get it this
7 time, if I can read my writing. And you will give your
8 business card information to the reporter so that she
9 can spell Junipero Serra correctly.

10 MR. FURUTA: Yes, Your Honor.

11 JUDGE MOSS: All right, let's go ahead,
12 Mr. Van Cleve.

13 MR. VAN CLEVE: Thank you, Your Honor. Brad
14 Van Cleve on behalf of the Industrial Customers of
15 Northwest Utilities. I'm with the law firm of Davison
16 Van Cleve PC. My address is 1000 Southwest Broadway,
17 Suite 2460, Portland, Oregon 97205. My telephone number
18 is (503) 241-7242, my fax number is (503) 241-8160, and
19 my E-mail is mail@dvclaw.com.

20 JUDGE MOSS: All right, and I believe
21 Mr. Perkins also entered his appearance for your firm.

22 MR. VAN CLEVE: That's correct, Your Honor.

23 JUDGE MOSS: Thank you.

24 Ms. Dixon.

25 MS. DIXON: Thank you, Your Honor. My name

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1 is Danielle Dixon. I'm here with the Northwest Energy
2 Coalition. The address is 219 First Avenue South, Suite
3 100, Seattle, Washington 98104. Phone number is (206)
4 621-0094, fax is (206) 621-0097, and E-mail is
5 danielle@nwenergy.org.

6 JUDGE MOSS: Thank you.

7 Mr. Cameron.

8 MR. CAMERON: Hello, Your Honor. John
9 Cameron here for two clients, Cost Management Services,
10 Incorporated and AT&T Wireless. I'm with the law firm
11 of Davis Wright Tremaine, 1300 Southwest Fifth Avenue,
12 Suite 2300, Portland, Oregon 97201, voice number (503)
13 778-5206, fax (503) 778-5299, and E-mail is
14 johncameron@dwt.com.

15 JUDGE MOSS: Thank you.

16 Mr. Finklea.

17 MR. FINKLEA: Thank you, Your Honor. I am
18 Edward Finklea representing the Northwest Industrial Gas
19 Users. My law firm is Cable Huston Benedict Haagensen &
20 Lloyd. Our address is 1001 Southwest Fifth Avenue,
21 Suite 2000, that's Portland, Oregon 97204. Our phone is
22 (503) 224-3092, and the fax is (503) 224-3176. My
23 E-mail address is efinklea@chbh.com. And Mr. Chad
24 Stokes has also entered an appearance in this
25 proceeding.

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1 JUDGE MOSS: And for the record his E-mail is
2 cstokes@chbh.com.

3 MR. FINKLEA: That's correct.

4 JUDGE MOSS: Thank you.

5 Mr. Roseman.

6 MR. ROSEMAN: Good afternoon, my name is
7 Ronald L. Roseman, Attorney at Law, appearing on behalf
8 of The Energy Project and A W.I.S.H. My address is 2011
9 - 14th Avenue East, Seattle 98112. My phone number is
10 area code (206) 324-8792. My fax is area code (206)
11 568-0138. My E-mail address is
12 ronaldroseman@comcast.net.

13 JUDGE MOSS: Okay. And just for the clarity
14 of our transcript, A W.I.S.H. is an acronym for A World
15 Institute for a Sustainable Humanity, did I get that
16 correct?

17 MR. ROSEMAN: That's correct.

18 JUDGE MOSS: Thank you.

19 All right, Ms. Spencer.

20 MS. SPENCER: Thank you, Your Honor, my name
21 is Elaine Spencer, I'm here on behalf of Seattle Steam.
22 My address is 2801 Alaskan Way, Suite 300, Seattle,
23 Washington 98121-1128. My phone number is (206)
24 340-9638, fax (206) 340-9599, and my E-mail is
25 espencer@grahamdunn.com.

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1 JUDGE MOSS: I seem to have the wrong phone
2 number for you on my checklist. Would you repeat it,
3 please.

4 MS. SPENCER: (206) 340-9638.

5 JUDGE MOSS: Thank you.

6 All right, let's go ahead with those in the
7 room, so we will take Mr. ffitich.

8 MR. FFITCH: Good afternoon, Your Honor.
9 Simon ffitich, Assistant Attorney General, Public Counsel
10 Section of the Washington Attorney General's Office, 900
11 Fourth Avenue, Suite 2000, Seattle, Washington 98164.
12 Phone number is (206) 389-2055, fax is (206) 389-2058,
13 E-mail is simonf@atg.wa.gov.

14 JUDGE MOSS: Thank you.

15 Mr. Cedarbaum.

16 MR. CEDARBAUM: Thank you, Robert Cedarbaum,
17 Assistant Attorney General for Commission Staff. My
18 business address is the Heritage Plaza Building, 1400
19 South Evergreen Park Drive Southwest, Olympia,
20 Washington 98504. My telephone is area code (360)
21 664-1188, fax is area code (360) 586-5522, and my E-mail
22 is bcedarba@wutc.wa.gov.

23 JUDGE MOSS: Was that first letter B?

24 MR. CEDARBAUM: Yes.

25 JUDGE MOSS: Okay, thank you.

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1 MR. CEDARBAUM: Bob Cedarbaum.

2 JUDGE MOSS: I always get it R, you never get
3 my E-mails.

4 All right, now I know that we have someone on
5 the line for Kroger.

6 MR. BOEHM: Thank you, Your Honor, this is
7 Kurt Boehm representing the Kroger Company.

8 JUDGE MOSS: Can you please spell your name.

9 MR. BOEHM: It's B-O --

10 JUDGE MOSS: We had an interference there,
11 Mr. Boehm, go ahead.

12 MR. BOEHM: It's B-O-E-H-M, and that's Kurt
13 with a K-U.

14 JUDGE MOSS: K-U-R-T, all right, thank you.
15 Go ahead with your address, please.

16 MR. BOEHM: I'm with Boehm Kurtz and Lowry,
17 that's 36 East Seventh Street, Suite 2110, Cincinnati,
18 Ohio 45202, and our phone is (513) 421-2255, and the fax
19 is (513) 421-2764, and my E-mail is kboehmlaw@aol.com.

20 JUDGE MOSS: And I believe I had an
21 appearance form from Mr. Kurtz; is that correct?

22 MR. BOEHM: Right, his E-mail is
23 mkurtzlaw@aol.

24 JUDGE MOSS: All right, and that's Mike Kurtz
25 for the record.

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1 MR. BOEHM: Right.

2 JUDGE MOSS: All right, is there anyone on
3 the line for the Citizens' Utility Alliance?

4 MR. O'ROURKE: Yes, Your Honor, good
5 afternoon. This is John O'Rourke, I am the Director of
6 the Citizens' Utility Alliance. My address is 212 West
7 Second Avenue, Spokane, Washington 99201. Phone number
8 (509) 744-3370, Extension 247, fax is (509) 744-3374,
9 and E-mail is that's orourke@snapwa.org, that's
10 S-N-A-P-W-A .org.

11 JUDGE MOSS: Thank you.

12 Now that completes the list that I have
13 including the principals and the ten petitioners to
14 intervene that I received in writing. Have I missed
15 anyone who either through inadvertence or who wishes to
16 enter an oral appearance and petition to intervene
17 today?

18 Apparently not.

19 MR. FURUTA: Your Honor, I did not submit a
20 written petition to intervene, but I wish to make an
21 oral motion to intervene today, and I have a written
22 information that I can pass out if that would make it
23 easier for the parties.

24 JUDGE MOSS: I had you on my list. Are you
25 sure you didn't file a petition to intervene?

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1 MR. FURUTA: I'm pretty sure I didn't. I may
2 have entered an appearance form.

3 JUDGE MOSS: That may have been it. I got
4 the name somewhere, so if you entered an appearance
5 form, I probably just assumed you would be here today to
6 make an oral petition. Well, let me ask you to make
7 your oral petition, and then we'll have all the
8 petitions to intervene before us, and we can determine
9 whether there is an objection to any of them. So go
10 ahead and state your interest.

11 MR. FURUTA: Your Honor, Norman Furuta
12 appearing on behalf of the Secretary of Defense for the
13 consumer interest of the Federal Executive Agencies.
14 The Federal Executive Agencies maintains military
15 installations and civilian activities within the state
16 of Washington and receives electric service from, among
17 other providers, the Respondent in this proceeding. And
18 as a large user of electric service provided by the
19 Respondent, the FEA has a significant interest in this
20 proceeding and would be substantially affected by its
21 outcome. We anticipate that we can assist in the
22 development of a sound record and do not expect to
23 unduly broaden the issues or delay the proceedings. And
24 I would request that my name appear as well as our
25 Washington D.C. Office of Rate Intervention, whose

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1 address I have, I can pass out, and the name as well as
2 the one witness we anticipate to call.

3 JUDGE MOSS: Okay, that will be fine. Do you
4 have something in writing that has that information?

5 MR. FURUTA: Yes, I do. How many copies
6 would you like?

7 JUDGE MOSS: We have quite a few in this
8 proceeding, why don't we just hold that until the end,
9 and we'll see what we need. I think probably we're
10 going to need 20 some copies.

11 MR. FURUTA: I think I brought 20 copies.

12 JUDGE MOSS: Do you have that many?

13 MR. FURUTA: I believe I --

14 JUDGE MOSS: Just pass out what you have, and
15 keep one for yourself, of course.

16 MR. FURUTA: Thank you, Your Honor.

17 JUDGE MOSS: You're welcome.

18 Those who have identified themselves by way
19 of appearances will be indicated on the party
20 representative list and will be indicated as the primary
21 persons for service. Now, of course, we also have
22 company representatives who we serve with orders, and
23 parties may make arrangements among themselves for
24 broader distribution. Sometimes company executives or
25 expert witnesses or what have you need to receive things

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1 in a timely way, and the parties have always succeeded
2 in making a cooperative effort. And if they can't
3 cooperate, then I can succeed in helping them, so I'm
4 confident that they won't need my help.

5 All right, with that then we have I think ten
6 petitions to intervene. I will just quickly list them
7 off: Kroger Company on behalf of Fred Meyer Stores and
8 Quality Food Centers, Seattle Steam Company, Industrial
9 Customers of Northwest Utilities, Federal Executive
10 Agencies, AT&T Wireless Services, Inc., Cost Management
11 Services, Inc., Northwest Industrial Gas Users,
12 Northwest Energy Coalition, Citizens' Utility Alliance,
13 and Energy Project, and A World Institute for a
14 Sustainable Humanity. I think that completes the list.

15 Let me just ask, Ms. Dodge, whether there are
16 objections from the company to any of these petitions?

17 MS. DODGE: I have a couple of questions.
18 One is, is Northwest Agency, Northwest, not the
19 Northwest Energy Project, but the --

20 JUDGE MOSS: Northwest Energy Coalition?

21 MS. DODGE: Yes, was that part of Ms. Dixon's
22 intervention?

23 JUDGE MOSS: That is Ms. Dixon's
24 intervention, yes.

25 MS. DODGE: That's fine.

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1 And then on the Citizens' Utility Alliance,
2 the company had a question on that. This is a new
3 intervener with respect to Puget Sound Energy rate
4 cases, and we wanted to hear a little more about that
5 just with some questions about duplicativeness in terms
6 of Public Counsel's representation, Energy Project as
7 well, who are both consumer advocacy and low income
8 advocates.

9 JUDGE MOSS: Well, when you say you have a
10 question, do you actually have a question about the
11 organization that you would like to direct to
12 Mr. O'Rourke?

13 MS. DODGE: Yes.

14 JUDGE MOSS: Or do you just question their
15 role in the case?

16 MS. DODGE: I'm interested in hearing a
17 little more about their proposed role in the case. It
18 may just be a question of mechanics later, but we do
19 start to worry about having numerous groups involved
20 that may be essentially advocating the same position.

21 JUDGE MOSS: All right, Mr. O'Rourke.

22 MR. O'ROURKE: Thank you, Your Honor. We are
23 a membership organization. We have quite a few members
24 that are customers, and we're developing a track record
25 with the Commission, and I don't think there has been

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1 any accusations that we have been duplicative or we have
2 drawn the process out or are making people squander
3 their resources. We feel that we should be there in
4 these cases to the greatest extent possible to the level
5 that our resources will allow. So I think our members
6 have a right to be represented in this case.

7 JUDGE MOSS: Ms. Dodge.

8 MS. DODGE: We won't object.

9 JUDGE MOSS: Okay, fine.

10 I have just determined why I'm having
11 difficulties finding my petitions and so forth, I picked
12 up the wrong notebook. But that's all right, I have
13 them all well in mind.

14 Is there any other party with an objection to
15 any petition to intervene?

16 All right, having the petitions well in mind
17 and hearing no objections, I am well satisfied that
18 those petitioning to intervene have established that
19 they do have a substantial interest in the proceeding
20 and that they will not unduly broaden the issues and
21 that otherwise that their participation will be in the
22 public interest, therefore the petitions are granted.

23 MR. CAMERON: Thank you, Your Honor.

24 JUDGE MOSS: You're welcome.

25 All right, now discovery, I assume, I will

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1 turn to Mr. Cedarbaum, has discovery commenced on the
2 part of Staff?

3 MR. CEDARBAUM: It has but only on an
4 informal basis since the rule hasn't been triggered.

5 JUDGE MOSS: Okay, well, we will trigger the
6 rule then, or the rules actually now. We no longer get
7 to say just the rule because we broke 480-09-480 up into
8 several rules that begin at 480-07-400 and carry through
9 several numbers, I forget where they end exactly, 425 I
10 think. In any event, the Commission's discovery rules
11 are in force, and we will expect everyone to participate
12 cooperatively in the discovery efforts, as I know you
13 all will from past experience, but that does bring us to
14 the matter of the protective order.

15 MR. CEDARBAUM: Your Honor.

16 JUDGE MOSS: Yes.

17 MR. CEDARBAUM: Just before we go by the
18 discovery issue.

19 JUDGE MOSS: Yes.

20 MR. CEDARBAUM: There were a couple of
21 refinements that we would like to get on the record.

22 JUDGE MOSS: All right, we're going to
23 shorten some response periods or something?

24 MR. CEDARBAUM: That was a discussion I had
25 with Ms. Dodge before we went on the record this

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1 morning. I didn't have a chance to talk about it with
2 anyone else. It was just our informal idea.

3 JUDGE MOSS: Okay.

4 MR. CEDARBAUM: And, of course, this may
5 depend on -- this assumes the schedule that we submitted
6 for the Commission to consider, although I think in
7 concept even if these dates were changed probably the
8 concept of this discovery issue would remain. We're
9 assuming we would like to have the normal ten business
10 day turn around time be in effect between now and when
11 the next pre-filing date is for testimony, which would
12 be the Staff, Public Counsel, Intervener filing of their
13 direct cases. After that point in time and, you know,
14 again assuming that we've got generally about the right
15 -- the same time frames in between the rest of the case
16 as set forth in the proposed schedule, Ms. Dodge and I
17 discussed having the turn around time then reduced to
18 seven business days after that next pre-filing date.
19 And then the next pre-filing date after that would be
20 for filing of the company rebuttal, and we are proposing
21 cross answering testimony from remaining parties, and at
22 that point in time the discovery turn around time would
23 be reduced further to five business days. And again,
24 that assumes, you know, roughly this time lag that we're
25 presenting.

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1 JUDGE MOSS: Okay.

2 MR. CEDARBAUM: So it would go ten, seven,
3 five days.

4 JUDGE MOSS: All right, anybody else need to
5 be heard on this?

6 All right, well, I will set that forth in the
7 pre-hearing order, and we'll follow the schedule you
8 suggested. Just to jump ahead a little bit, I think
9 we're going to be able to stay pretty close to your
10 schedule. I'm going to have to offer out a few dates
11 that we can not meet for hearing purposes, but I think
12 we can certainly work closely with your schedule, with
13 the proposed schedule. And that's assuming, of course,
14 other parties do not show some irreconcilable conflicts
15 that cause us to change something.

16 MR. CEDARBAUM: The only other discovery
17 issue that is not reflected on the schedule that we
18 proposed but we have not -- we wanted to reserve the
19 ability, but we haven't done so, we haven't set a
20 schedule yet for depositions.

21 JUDGE MOSS: Oh.

22 MR. CEDARBAUM: It may be that Staff and
23 other parties want to do and the company want to do
24 depositions of each others' witnesses, and we haven't
25 factored that into a schedule yet, but that is usually a

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1 discovery issue which would normally be set forth in the
2 schedule, so we're letting you know about -- it will be
3 -- we will operate on an informal basis I think on that
4 and then come to you if we need your help.

5 JUDGE MOSS: Yeah, do try to, if you're going
6 to take that path, then be sure to try to get something
7 firmed up early enough so that if there is some
8 difficulty or dispute we can get it resolved without
9 having to continue our proceedings or something, best
10 not to wait until the last minute.

11 Okay, anything else on discovery then?

12 MS. DODGE: Yes, Your Honor, I have a couple
13 of things.

14 JUDGE MOSS: Sure.

15 MS. DODGE: One is that we have as in the
16 last case established a special E-mail address for data
17 requests. It's psedrs@perkinscoie.com, and we would ask
18 that all data requests be provided electronically to
19 that E-mail address and that a hard copy also be then
20 mailed to me and Mr. Kuzma. Parties sometimes fax
21 requests as well, but if it comes in electronically to
22 that address, there's really no reason to fax as well.

23 JUDGE MOSS: Okay.

24 MR. FFITCH: Your Honor, just a question for
25 counsel.

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1 JUDGE MOSS: Sure.

2 MR. FFITCH: That's requests and responses;
3 is that what you intend that address for?

4 MS. DODGE: Yes.

5 MR. FFITCH: Thank you.

6 MS. DODGE: And I wondered if it would be
7 worth having some discussion about, and we could do it
8 off line if you prefer, but sometimes just the
9 technicalities. These days we typically are providing
10 responses, full responses electronically, and then the
11 question arises, you know, we would prefer to mail hard
12 copies and save a lot of money potentially on overnight
13 mailing, and I didn't know if people were comfortable
14 with proceeding in that way.

15 JUDGE MOSS: Okay, does anybody have any
16 objection to receiving their responses electronically
17 followed by U.S. Mail delivery as opposed to overnight
18 delivery; does anybody want to speak to that? It's
19 always best to preserve resources if we can.

20 MR. CEDARBAUM: I guess I understand the
21 expense involved, but I think my preference is to
22 continue with the overnight mail. It's just to have the
23 hard copy with any attachments that perhaps couldn't be
24 E-mailed just helps out quite a bit. And waiting, you
25 know, another day or two for the mail to run its course

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1 may slow us down.

2 JUDGE MOSS: Mr. ffitch is nodding his head
3 in agreement.

4 MR. FFITCH: I concur, Your Honor, I think
5 that there is just actually a pretty significant
6 sometimes logistical value to having the hard copies
7 there very quickly even though the electronic's
8 obviously useful too, but I would second the comments of
9 Staff.

10 JUDGE MOSS: Mr. Van Cleve, did you wish to
11 comment on this?

12 MR. VAN CLEVE: I think my point's moot, Your
13 Honor, but I just wanted to point out that sometimes the
14 E-mail responses have attachments that can't be sent by
15 E-mail, and at the least those should be sent by
16 overnight mail.

17 JUDGE MOSS: Okay, well, I think we'll have
18 to -- I think it would be best if we stay with the
19 default for the overnight, but you could make
20 arrangements with individual counsel perhaps who don't
21 require the overnight. Maybe some parties will be less
22 active than others in terms of not having an expert
23 employed and that sort of thing, and so perhaps that
24 way, but I think hearing from three parties that they
25 need that service I think we better stay with it.

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1 Anything else, Ms. Dodge?

2 MS. DODGE: That's all on discovery.

3 JUDGE MOSS: Okay.

4 All right, then with that, I think we can
5 move on to the related question of the protective order.
6 Now I received fairly early on I guess a motion for a
7 protective order with highly confidential provisions
8 sort of more or less in the standard form that the
9 Commission has been using as tweaked from case to case
10 it seems, and then later there was a supplemental motion
11 for PSE.

12 My understanding is, Ms. Dodge, that that was
13 the product of discussions with Staff and Public
14 Counsel.

15 MS. DODGE: That's correct.

16 JUDGE MOSS: And so other parties have not,
17 of course, who just became parties today, have not been
18 involved in that discussion, and I know that the
19 Industrial Customers at least had an objection to the
20 motion. I see that PSE has at least to me distributed
21 today some amended language that seems to address at
22 least one of the issues raised in your pleading, Mr. Van
23 Cleve, and there may be others who wish to be heard on
24 the question of the protective order. So while Mr. Van
25 Cleve is reading and absorbing that proposed amendment,

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1 let me ask if others would like to be heard on the
2 question of the protective order? And let me preface
3 that by saying let us be mindful that the purpose of a
4 protective order in Commission proceedings, at least
5 this type of protective order, is to facilitate the
6 exchange of information, not to limit it, and so that is
7 our goal.

8 And so with that, Mr. Finklea, I see you
9 pulling your microphone.

10 MR. FINKLEA: Yes, Your Honor. The Northwest
11 Industrial Gas Users support the arguments that the
12 Industrial Customers of Northwest Utilities have made in
13 their written pleading objecting to the use of the
14 highly confidential designation. It's our belief that
15 the standard protective order provides the company with
16 sufficient protection unless there is a very unique
17 showing of some level of information that needs this
18 highly confidential protection level.

19 We note for the record that the first time
20 that we saw this level of protection used in a
21 proceeding here was when Puget Sound Energy acquired
22 Washington Natural, and in that proceeding because of
23 the nature of the acquisition there was highly
24 confidential information that was given this level of
25 protection. It also was certainly the case that because

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1 that proceeding went to hearing we saw how cumbersome it
2 can be at times to have to address information this way.

3 So we think that the Commission needs to very
4 carefully weigh when it uses a highly confidential
5 designation, and we don't believe that a standard rate
6 case in and of itself without a further showing that
7 there is some level of information that is so sensitive
8 that it requires this level of protection should trigger
9 this highly confidential designation. We think that
10 should be preserved for very unique circumstances like
11 merger proceedings and not be used in a proceeding like
12 this short of some very, very specific information that
13 would be up to the company to make a showing that that
14 information and that information alone would be subject
15 to this kind of designation.

16 JUDGE MOSS: Just so to be sure I can
17 understand, Mr. Finklea, my recollection is that
18 Ms. Ryan filed an affidavit as a part of either the
19 original or the supplemental motion. Do I have that
20 right, Ms. Dodge?

21 MS. DODGE: That's correct.

22 JUDGE MOSS: And I believe she identified
23 some specific information at least by way of example
24 that the company would regard as highly confidential?

25 MS. DODGE: Yes.

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1 JUDGE MOSS: Does that fit within the sort of
2 thing you have in mind, Mr. Finklea; have you read that?

3 MR. FINKLEA: I have given a quick reading to
4 Ms. Ryan's affidavit. I am not prepared today to say
5 whether the specific things that she is mentioning
6 should rise to this level. So I think that the better
7 way to proceed would be to enter a standard protective
8 order and leave it to the company as the case proceeds
9 to identify specific items that will be given this
10 highly confidential treatment.

11 JUDGE MOSS: Mr. Van Cleve, you also
12 mentioned in your response, you made some specific
13 reference to Ms. Ryan's affidavit, and it wasn't clear
14 to me that you were saying, well, that would or would
15 not qualify in your general sense of understanding of
16 how this ought to operate, so I wanted to put the same
17 question to you, whether the sort of thing Ms. Ryan
18 describes is something that you think or is that sort of
19 an approach whereby the company makes some affirmative
20 and to give some affirmative indication of the nature of
21 the material, if that's the sort of thing that would
22 satisfy ICNU's concern over this.

23 MR. VAN CLEVE: I think, Your Honor, the
24 problem -- well, to answer your question, I think that
25 the very specific information about counterparties and

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1 credit information arguably should be entitled to this
2 designation. The problem is using one specific example
3 to create a very broad, not well defined category of
4 information that the company could designate as highly
5 confidential.

6 And the experience in the recent PCORC case
7 was I believe as far as documents I had three 3-ring
8 binders completely full of highly confidential
9 information. There were eight CD's full of computer
10 data that were designated highly confidential, including
11 the entire Aurora power cost model data set, and it was
12 the kind of information that had been produced in rate
13 cases many, many times without having that designation.

14 And I would just like to reinforce that this
15 designation creates a definite burden for the parties.
16 For example, my not being able to talk to another lawyer
17 in my office about three binders full of information is
18 a big burden. In addition, the production of testimony
19 and briefs that involve this information creates a lot
20 of complexity also.

21 So while I appreciate the company's attempts
22 to accommodate some of our concerns, I think it's the
23 giving them the ability to broadly designate eight CD's
24 full of data without some specific justification that
25 creates the problem. And I know that the protective

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1 order does provide the ability for people to come in and
2 challenge, but it's a little impractical for us to put
3 that much data before the Commission and try to work
4 through it.

5 JUDGE MOSS: Anybody else want to be heard on
6 this subject before I hear a word from the company?

7 MR. FFITCH: Your Honor, Simon ffitich for
8 Public Counsel, we have reached an agreement previously
9 with the company and Staff that this form of order was
10 acceptable to Public Counsel, but I just wanted to
11 comment on our view. Public Counsel in general shares
12 the thematic concerns that we're hearing from the
13 Industrial Customers about overdesignation of highly
14 confidential information in Commission proceedings. In
15 this case because of our consultations with company
16 counsel, it was our understanding that the use of the
17 order in this case was going to be, of the highly
18 confidential designation, was going to be very narrow,
19 and so we had a comfort level with that. But I would
20 agree that there is a sort of a generic problem or
21 concern that we also share with overdesignation, and
22 that does put a lot of burden on parties later on down
23 the road if that were to happen in this case and we were
24 to see a very, very large amount of highly confidential
25 information designated, that would be, you know, not

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1 what we have been expecting and should put a lot of
2 burden on all of us that sort of, you know, in the way
3 that we're litigating the case.

4 JUDGE MOSS: Thank you.

5 MR. CEDARBAUM: Thank you, Your Honor. I
6 guess I would just echo Mr. ffitch's comments for
7 Commission Staff, that was essentially our outlook or
8 our thinking. We are concerned about the use of this
9 type of protective order, but on balance given our
10 understanding of how it would be used in this case, we
11 felt comfortable. Also because the protective order
12 that the company is proposing with the highly
13 confidential provisions does not include the affidavit
14 type language that has appeared in other protective
15 orders of highly confidential information, so it goes to
16 the kind of the care of confidential information, how
17 it's used or how it's protected in people's offices, the
18 physical protection of it. So not having those
19 affidavit type concerns also raised our comfort level.

20 JUDGE MOSS: We're making progress.

21 Anybody else?

22 All right, Ms. Dodge, do you have some
23 comments on this?

24 MS. DODGE: Yes, I do, Your Honor, thank you.
25 It is I think a little newer in the energy industry to

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1 be looking at information as highly confidential, but I
2 think that that's to be expected given that the industry
3 has changed and there's a lot more competitive wholesale
4 market activity going on. In the power cost only rate
5 case you had a resource acquisition that involved a lot
6 of highly sensitive business information of third
7 parties that the companies had entrusted Puget Sound
8 Energy with, and that is not the case here. I think we
9 are not expecting much, if any, of that sort of
10 information to be called for in this case. So we do
11 believe that the use of the highly confidential
12 protection will be very narrow and quite limited in this
13 proceeding. Nevertheless, our initial filing does
14 contain a single page of information that is highly
15 confidential, and Ms. Ryan speaks to that in her
16 declaration, and we believe that there may well be some
17 additional information that deserves that protection and
18 would rather have an order in place than put everybody
19 to the effort of coming down, you know, every single
20 time a piece of paper pops up that may deserve that
21 definition.

22 I would also just point out a couple of
23 things about the proposed order. I believe that the
24 proposed order as submitted in the supplemental motion
25 is much easier for other parties to live with than maybe

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1 some other orders. It provides much less protection of
2 the highly confidential material than even the
3 Commission's standard highly confidential protective
4 order. It doesn't have the employment restrictions on
5 consultants who see the material. It essentially is
6 limited to how a piece of highly confidential
7 information is handled in terms of essentially
8 protecting it, a little extra protection from
9 inadvertent disclosure.

10 And in response to ICNU's comments that they
11 would just have some trouble, you know, coping
12 administratively with the language in Paragraph 14, the
13 paper that I handed out earlier, and I have E-mailed it
14 I believe to everyone, if someone doesn't have it I've
15 got a copy here, it essentially addresses all of ICNU's
16 concerns, it's just drafted slightly differently I
17 thought to get at what ICNU wanted, which is to be able
18 to have their consultant, have the highly confidential
19 material physically in their office, but yet it also
20 then just applies the same restrictions to the
21 consultant as are applied to the attorneys, specifically
22 that a bunch of copies aren't made and so forth, that
23 essentially copies are only made as required, as may be
24 required for hearing. It also permits their staffs to
25 do that rather than having attorneys have to stand at

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1 the copy machine.

2 And I have not seen, by the way, these kinds
3 of revisions in any other Commission highly confidential
4 protective order. You know, I'm not a fan of doing
5 something the way it's always been done without looking
6 at it closely. I think these are appropriate, you know,
7 and good suggestions from ICNU, and we are trying to
8 meet everybody's concerns. But at the end of the day I
9 think we have made a showing that the highly
10 confidential designation is necessary right now in the
11 case and that there's a good chance that it will be
12 needed and that it ought to just be entered now so that
13 we can go forward without having to come down in the
14 future.

15 JUDGE MOSS: Does your draft with the amended
16 Paragraph 14 address Mr. Van Cleve's concern about being
17 able to work with other counsel in his office, or does
18 it still require that only a single counsel be
19 designated?

20 MS. DODGE: I didn't -- actually, this was
21 the first I have heard about concern about working with
22 other counsel. That had not been a proposal in ICNU's
23 response.

24 JUDGE MOSS: Well, perhaps not, but in any
25 event we have had other cases where this is one area

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1 that we have made some adjustments to accommodate the
2 needs of particular parties, and what we found is that
3 usually there are one or two parties where this is a
4 situation that has to be addressed simply because
5 they're basically co-leads in the case or something like
6 that and with mixed responsibilities. So let me put the
7 question this way, is the company amenable to language
8 in the protective order that would allow for say two
9 counsel to be designated for specific persons who assert
10 a need for that type of treatment?

11 MS. DODGE: I think so.

12 JUDGE MOSS: Okay.

13 Anything else on this before I comment on it?

14 MR. VAN CLEVE: Just one question.

15 JUDGE MOSS: Yes, Mr. Van Cleve.

16 MR. VAN CLEVE: One question, Your Honor, and
17 this is more directed to the company, we had also
18 proposed a small amendment to Paragraph 16.

19 MS. DODGE: Right, and the company doesn't
20 object to that change.

21 JUDGE MOSS: Okay.

22 Well, as I mentioned in connection with
23 Mr. Cedarbaum's comments, we're making progress. This
24 has been a matter that has come before me and other
25 administrative law judges repeatedly over the course of

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1 the last couple of years, and we have struggled to a
2 greater or lesser degree with it. We're still hopeful
3 that at some point in time this year we will be able to
4 have a benchmark conference, and perhaps this will be
5 the principal subject matter. We would love to have a
6 single form of order that would meet everyone's needs,
7 but at the same time I think it perhaps is inevitable
8 that we'll have to tweak them a little bit in individual
9 cases to meet individual needs, so I regard that as the
10 process that we're involved in here today.

11 I think the basic order is satisfactory, at
12 least to the extent that it does mirror the practices
13 that have evolved over the course of the past couple of
14 years, that the parties seem to be more comfortable
15 with, that have overcome some of the imaginative but
16 perhaps ineffective paragraphs that I and others have
17 come up with over the years, so I do feel like we're
18 pretty close to a very effective order. And so what I'm
19 going to do on this is I'm going to ask the parties to
20 take a few minutes this afternoon after we finish and
21 see if we, you know, have some minor tweaking that we
22 can do and then get that to me in the next day or so in
23 a form that's acceptable. And that way we won't have to
24 go through the iterations of motions for reconsideration
25 and what have you that we have sometimes gone through.

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1 A lot of paperwork there. So let's do that. I think it
2 sounds to me that the concerns can be accommodated.

3 Now having said that, the overriding concern
4 that no order and no language I think, within the bounds
5 of reasonableness at least, can address is the careful
6 use of the protective order. I do not disagree with the
7 comments that there has been in some cases an overuse of
8 confidential designation, highly confidential
9 designation. I hear Ms. Dodge telling me that the
10 company's intention is to make a very narrow use of this
11 designation protocol, and particularly with respect to
12 the highly confidential, and I take that at face value.
13 I believe that the company will proceed in good faith to
14 do that.

15 However, having said that and having
16 experience with many companies who have appeared before
17 this Commission over the course of the past several
18 years, there sometimes is a problem with
19 overdesignation, and we do have the means to enforce
20 that. And so it is up to the parties to bring it
21 forward for enforcement. Well, and that's not strictly
22 true anymore either, because we have made clear in our
23 procedural rules that the Commission may challenge the
24 confidential designation of a document on its own
25 motion, and I may choose this proceeding as a model case

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1 in which I will devote my undivided attention to the
2 question of confidential information and decide to take
3 some of this on.

4 So let's do be careful, and I'm not expecting
5 any problem because of the representations you have
6 made, Ms. Dodge. And I was frankly pleased with respect
7 to the fact that you filed Ms. Ryan's affidavit with I
8 believe it was your original motion. That did I think
9 give a good description of something that is entitled to
10 a highly confidential designation. It is
11 contemporaneous commercially sensitive information.
12 That's what that designation is for, contemporaneous
13 commercially sensitive information. Clearly information
14 concerning a pending transaction in the marketplace
15 falls into that category, and I think we all recognize
16 the need to give that sort of protection. We might even
17 put the company at threat of legal action if this
18 information was not closely guarded, not to mention
19 potential commercial disadvantage.

20 So there is certainly a class of documents
21 that fits, and I think particularly since the company's
22 intention is to take the appropriately narrow view of
23 this tool that it might be worthwhile, I would go so far
24 as to say it would be worthwhile to support the
25 designation of documents as highly confidential with

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1 something along the lines of what Ms. Ryan provided
2 before. That may obviate the necessity for further
3 proceedings when somebody then comes forward and
4 challenges, in other words, if you make a brief
5 affirmative declaration with the designation. And I
6 realize the pressures of time may not make that possible
7 in every case, but it is a good idea. It will be a good
8 practice that may evolve and develop here at the
9 Commission to have parties do that, and it will perhaps
10 lower the level of contentiousness and the necessity to
11 hold proceedings in camera or what have you, so let's
12 try that.

13 And I think with respect to ordinary
14 confidentiality, I want to comment too that I think the
15 major problem there, to a lesser extent it's a problem
16 with the highly confidential, but with the ordinary
17 confidentiality I will call it, there is sometimes a
18 tendency to designate whole documents, and in general
19 that's a little suspect given the way we define what
20 constitutes confidential information, and so be careful
21 about doing that. Now there are certain types of
22 documents that fall into that category. Certainly a
23 whole contract that's pending or that's part of a
24 pending transaction, well, yes, that would make sense.
25 Or if we just redacted certain portions it would make no

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1 sense to us, so. Certain types of studies that might be
2 ongoing that involve contemporaneous situations in the
3 marketplace or what have you, in that case it might be
4 appropriate to designate an entire study. But in
5 general, remember that we're looking at numbers and that
6 type of planning details, I forget the exact
7 phraseology, and that's the sort of stuff we want to
8 protect. So it takes more effort, it takes more time,
9 and it does slow the discovery process, but you will
10 need to be looking at that sort of thing. We don't want
11 to slow things even more by having a lot of challenges
12 and having to go through that, so.

13 And, of course, all of this I'm saying goes
14 for all parties. I'm focused on the company simply
15 because it's the company that provides the bulk of
16 information in all of these dockets, so of course you
17 get to be the target of everybody's ire. But others, of
18 course, it's the same situation if you're called upon to
19 provide responses and you need to be careful as well.

20 I want to remind parties too and particularly
21 with respect to testimonies and exhibits that are filed
22 with confidential information that it is very important
23 to indicate exactly where the confidential information
24 is. Our procedural rules require this. You not only
25 must file these materials on colored paper, but you must

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1 also highlight the confidential information on the
2 individual pages so that we know what we're dealing
3 with. Somebody mentioned the difficulties of briefing,
4 for example, in using this material. Well, I can tell
5 you it is also a challenge to write orders in cases that
6 have a lot of highly confidential or even confidential
7 information. I sometimes agonize over whether it's
8 actually confidential or not, so can I publish that in
9 an order. See, we want to avoid those types of
10 questions, and highlighting the material makes it clear
11 to us, that's a confidential number, and so that helps.

12 I'm going to jump ahead here too, because we
13 had a -- we did have a difficulty arise not terribly
14 long ago with respect to the redacted versions of
15 documents. If you file confidential or a document that
16 has confidential information, you must, of course, file
17 the confidential version with the information revealed,
18 and that is very tightly controlled here at the
19 Commission so that only a few of us have access to that.
20 It's never posted to the web site or anything like that.
21 But when you redact information for the so-called
22 redacted or public version of the document, the
23 nonconfidential version, it's very important that you
24 follow software protocols that do, in fact, keep that
25 information protected. And so what we are saying now,

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1 and I'm going to put this in the pre-hearing order, is
2 file those redacted versions in PDF read only format.
3 And I'm going to add a caveat and say, you know, I don't
4 really understand this computer stuff very well, and I'm
5 thinking that works, but if you know something that
6 works even better, you can do that. But I think if it's
7 PDF read only then there's no way to cut and paste it,
8 there's no way it can be revealed through the software
9 machinations that some people sometimes discover either
10 intentionally or inadvertently.

11 Yes.

12 MR. VAN CLEVE: Your Honor, does that mean
13 there's no longer a requirement to file a Word version
14 of redacted documents?

15 JUDGE MOSS: Redacted documents PDF read
16 only. I don't think you should file them in Word. We
17 have discovered that the wonderful world of Microsoft is
18 full of vulnerabilities, and we don't want anyone in a
19 position to be able to exploit them. So no, no redacted
20 versions in Word. And I say assume the same would go
21 for Word Perfect, although I don't know that anybody
22 uses Word Perfect anymore, a point on which I will
23 resist comment.

24 All right, well, then I think the parties are
25 going to be able to work out acceptable language on

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1 this. I think, Mr. Van Cleve, you mentioned something
2 with Paragraph 16, you can talk to the company
3 afterwards, and I will hang around for a little bit
4 after today, and you let me know if there is a problem,
5 and we'll see if we can just work it out informally.
6 But I would like to just get the order out in the next
7 couple of days. Actually, the order can't go out I
8 think before next week as a practical matter. I will
9 try to get it out sooner than that. But in any event,
10 the company can proceed with providing responses that
11 are nonconfidential or on the basis of trust and faith
12 in its longstanding adversaries in these proceedings.
13 However, obviously you don't have to proceed on that
14 confidential stuff until you've got the order, but you
15 can count on one coming that will be very much like what
16 you've got.

17 All right, are there any other motions or
18 requests that we need to take up before we get on to
19 talking about process and procedural schedule?

20 Hearing nothing, let's do take that -- oh,
21 Mr. Cedarbaum, did you have something?

22 MR. CEDARBAUM: It just may -- if you want to
23 reserve this for the last item, that's fine.

24 JUDGE MOSS: Sure.

25 MR. CEDARBAUM: But it does relate to the

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1 company's filing that we will talk about in the order
2 conference in the PCORC case this afternoon, but the
3 impact of that would be felt in this proceeding. That's
4 why I thought I would raise it here.

5 JUDGE MOSS: Sure, go ahead.

6 MR. CEDARBAUM: And that's just to discuss
7 and find out the company's intentions on how and when or
8 whether they would expect to provide revisions to their
9 pre-filed testimony and exhibits, everything,
10 workpapers, to reflect the Commission's Order Number 14
11 in the PCORC case.

12 JUDGE MOSS: Ms. Dodge.

13 MS. DODGE: Yes, we do anticipate the need to
14 file some revisions, but at present it appears that
15 those will be quite minor with respect to the rate case.
16 And really it would be more to possibly a piece of
17 supplemental testimony that would simply walk through
18 how the company has applied the PCORC order to the rate
19 filing, if nothing else just to -- so that we're
20 spelling it out for the Commissioners and the other
21 parties. And you can, you know, then challenge that if
22 you want or not. There's a slight impact on the revenue
23 requirement. We've got a different direction on how to
24 -- on the power, the going forward power cost
25 calculation, but again these are limited I think

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1 exhibits or testimonies. It will be quite minor.

2 In terms of the timing -- and that's assuming
3 I should say that -- that's based on the preliminary
4 look at how, for example, Wall Street is reacting to the
5 order and things like that, so I mean if things change a
6 lot in a couple of weeks, it may be different. But we
7 need to also just know for sure what the final form of
8 the order is before we go to the trouble of revision and
9 then maybe have to redo it, so the timing would
10 anticipate first a final final order in the PCORC and
11 then filing those revisions.

12 MR. FFITCH: Your Honor, I have a question
13 for the company, which is whether they anticipate filing
14 revisions to the tariffs that are filed in connection
15 with the general rate case.

16 MS. DODGE: I'm not sure at this point. I
17 mean we can always ask, get, you know, less than we have
18 asked for, right, without a refiling, so, you know, we
19 have to see how everything -- how all the calculations
20 work through to the tariff sheets.

21 MR. CEDARBAUM: Your Honor, I guess I would
22 like just to respond to Ms. Dodge's indication of the
23 plan on my question. And it may very well be true that
24 reflecting the PCORC order in the company's current
25 filing is an easy thing to do and understand. I

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1 personally don't know. I have had some indications from
2 Staff that it may not be as easy as that. Again, I
3 don't know. My concern is though if that filing waits
4 until a petition for reconsideration or clarification is
5 filed and the Commission may entertain responses to that
6 and then an order comes out later where next week, sort
7 of however far down the road, and then a filing is made
8 that does impact the case and other parties' ability to
9 process and how that might affect the schedule.

10 So I guess I'm wondering why we can't or why
11 we shouldn't set a time line now if this is an easy
12 thing to do based upon the Commission's order that was
13 issued to get those materials filed and the workpapers
14 behind them. And if that needs to change again, if it's
15 an easy thing to do then I guess it can be done. And my
16 concern is the longer we wait to get that, the growing
17 concern there is about how we fold it into the case if
18 it's not as easy as represented. And it may be, I just,
19 again, I don't know. Maybe this is something that an
20 off line discussion with the discussions on the PCORC on
21 the protective order we can have this afternoon, can
22 clear up.

23 JUDGE MOSS: Well, I'm contemplating going
24 off the record to have some of those discussions now.
25 Let's do, let's be off the record.

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1 (Discussion off the record.)

2 JUDGE MOSS: We have had some off the record
3 discussion concerning the interplay of the recently
4 completed PCORC proceeding and the currently pending
5 general rate proceeding. My understanding is, and the
6 parties will correct me if I'm wrong, that the company
7 will make some supplemental filing within the next two
8 weeks that will indicate and explain the
9 interrelationship and the impact, if any, that the one
10 proceeding may have on the other. The company does not
11 have a current intention to file any revised tariff
12 sheets in the context of the general rate proceeding.
13 If that should change, then we will have to cross that
14 bridge when we come to it, and the parties, of course,
15 can file motions, responses, and whatever might need to
16 happen in connection with something like that. So I
17 think that my understanding is that a two week time
18 frame is one that's acceptable to Staff in terms of its
19 analytical needs.

20 And I will just mention in that connection
21 that the persons responsible at PSE and one of our own
22 case analysts at the Commission Staff have had some
23 opportunity to discuss the matter between themselves and
24 seem to be satisfied with that time frame. So I think
25 we're in good shape on that point. The two weeks, I

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1 don't see making the two weeks part of the formal
2 procedural schedule. You all can work cooperatively
3 together on that, it's sort of a discovery matter as
4 much as anything else, but if you're going to do a
5 supplemental filing if that's necessary, then please do
6 go ahead and get that in in that two week time frame.

7 Ms. Dodge?

8 MS. DODGE: Yes.

9 JUDGE MOSS: All right, Mr. ffitch, you said
10 you had a I'm not sure if it was a related matter or
11 another matter you wanted to mention on the record
12 before we moved on.

13 MR. FFITCH: Thank you, Your Honor, yes, it
14 is the matter of customer notice in the case, and I just
15 wanted to note for the record that I have had a
16 discussion with Ms. Dodge about the company's plans for
17 customer notice and I guess offer her a chance to relate
18 what's expected to occur there. We would, of course,
19 request that customers be provided notice under the
20 Commission's rules. My understanding is there has not
21 been a customer notice to date.

22 MS. DODGE: The company is working on that
23 and typically does so in conjunction with Commission
24 Staff and Public Counsel representatives and plans to do
25 so and typically also waits until we know when public

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1 hearings are scheduled.

2 JUDGE MOSS: We'll get to that problematic
3 question here momentarily.

4 All right, anything else?

5 All right, I wanted to talk about the
6 proposed procedural schedule that Staff, company, and
7 Public Counsel put forward. Do other parties have that,
8 does everybody have that? Okay, it appears everyone
9 does. Basically the schedule looks fine to me, the
10 caveats being that we can not have evidentiary hearings
11 on the 6th, 7th, or 8th of December because we have one
12 or more commissioners unavailable on each of those days.
13 In fact, we have two unavailable on each of those days,
14 which means we can't even conduct the hearings. We can
15 get by sometimes with one absent, but we can't with two,
16 so those dates are out. I have discussed this with the
17 Chair, and as much as we were both reluctant to suggest
18 it, it appears that the best thing we can do is to begin
19 on the Monday the 13th of December and plan to proceed
20 if we need to to the 23rd, which is the day before the
21 traditional holiday.

22 MR. CEDARBAUM: Are the 9th and 10th open of
23 that first week?

24 JUDGE MOSS: Not as a practical matter. We
25 have an open meeting on the 10th. We might be able to

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1 do a public hearing on the evening of the 9th. In past
2 cases, Thursday has been a preferred evening for the
3 Commissioners for reasons that elude me, and I have not
4 gotten any commitment from them on that, but that's a
5 possibility. There was something else on the 9th that
6 was interfering. And the week before that, the last
7 week of November and the first week, first few days of
8 December, we also have commissioner availability issues.
9 So I think we're going to -- we've got a pretty tight
10 frame here, and I think we're going to have to try to
11 set that. I have actually put those dates on hold, 13
12 through 23.

13 Now this brings us to the question, of
14 course, of whether we're actually going to need that
15 many hearing days. How many witnesses did PSE put on in
16 its direct case?

17 MS. DODGE: 12.

18 JUDGE MOSS: Yeah, I thought it was a large
19 number.

20 Staff's going to do six?

21 MR. CEDARBAUM: I would think anywhere from
22 five to seven.

23 JUDGE MOSS: We'll call the average six,
24 okay.

25 And, Mr. ffitich, just one or maybe two?

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1 MR. FFITCH: Up to 12, Your Honor.

2 JUDGE MOSS: Oh, no, there aren't that many
3 in the Western United States.

4 MR. FFITCH: No, Your Honor, I don't know how
5 many we're going to have.

6 JUDGE MOSS: Typically it's one or two,
7 right?

8 MR. FFITCH: Well, actually, in a case of
9 this size, and in the last Puget general I think we had
10 three or four witnesses as I recall. I may -- I would
11 have to double check but --

12 JUDGE MOSS: Cost of capital witness, for
13 example, something like that that you might not
14 ordinarily have?

15 MR. FFITCH: Right.

16 JUDGE MOSS: Okay.

17 MR. FFITCH: So probably three or four
18 perhaps.

19 JUDGE MOSS: Okay, so we're up to about
20 potentially 20.

21 What about other parties, are other parties
22 planning on putting on a witness, Mr. Van Cleve?

23 MR. VAN CLEVE: Probably two.

24 JUDGE MOSS: You typically put on one or two.

25 Mr. Furuta, are you going to put a witness

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1 on? I think you said you were.

2 MR. FURUTA: We think one, yes.

3 JUDGE MOSS: One.

4 MR. FINKLEA: One or two.

5 JUDGE MOSS: Let the record reflect everybody
6 said one or two.

7 All right, well, we're up to a lot of
8 witnesses. It does look at this juncture -- now, of
9 course, we're early in the case. Issues may settle,
10 issues may be stipulated, who knows what may happen, but
11 we have to go with what we know today. I'm thinking
12 it's going to take a couple of weeks, I'm thinking
13 Saturday, I'm pessimistic about these sorts of things.
14 Personally I don't care all that much about Christmas,
15 but I suspect others will disagree with me, so we'll
16 just have to do the best we can. I may try to push back
17 on the 9th and 10th, Mr. Cedarbaum, because I am
18 pessimistic, as I said, but I can't see us getting
19 anything done earlier than that given what I see in
20 front of me in the way of calendar. And we might have
21 to push into the time between Christmas day, and I see
22 my birthday is fortunately on a Sunday this year, so
23 none of you are in threat of ruining my birthday,
24 although age itself has a way of doing that these days,
25 but we do have a few days before the New Year holiday.

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1 And I don't think that would interfere with your
2 proposed briefing schedule, which calls for initial
3 briefs by January 24th, we might have to expedite
4 transcripts or something. So I think we will be able to
5 fit it in there, so but what I'm proposing then in terms
6 of making marks on your calendars for purposes of today
7 let's go ahead and block out that December 13 through 23
8 time frame, and we may add a few days on either side as
9 a precautionary measure.

10 Yes, Mr. ffitch.

11 MR. FFITCH: I would like to address public
12 comment hearings when you're ready, Your Honor.

13 JUDGE MOSS: Sure.

14 MR. FFITCH: But I thought I heard you say
15 that the 9th was a possible evening hearing time.

16 JUDGE MOSS: Yeah, the 9th was a possibility,
17 and that was within the time frames you had identified,
18 well, I assume it was you who identified them,
19 Mr. ffitch, in our proposed schedule. We also could
20 think about doing something during the time of the
21 evidentiary hearing, particularly if we're going to hold
22 one in Olympia that sometimes is convenient to do. And
23 then, let's see --

24 MR. FFITCH: Perhaps I can tell you what
25 we're proposing, and now there are additional consumer

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1 interveners that may well have some additional ideas.
2 But the concept here was that there would be an Olympia
3 hearing held in the evening of one of the evidentiary
4 hearing days, and that's the December dates that are
5 listed there, except not a Monday or a Friday because
6 those are very difficult days for the average citizen to
7 come to a hearing. The week of November 15th is a week
8 we thought earlier in the case, not tangled up with
9 Thanksgiving, where hearings could be held in other
10 parts of the company's service territory, one or more
11 additional hearings. Potential locations would be the
12 metropolitan area on the east side somewhere, Bellevue
13 or some other location, possibly Woodinville in the
14 metropolitan area. Bellingham would be another possible
15 area where we would ask for a hearing. And then there
16 is some service territory actually in Kittitas County on
17 the other side of the mountains that is a possibility.
18 So I think what we're asking for is an evening hearing
19 in Olympia and then at least two other hearings in the
20 service territory. I guess we could talk a little bit
21 with other folks about locations, they have not really
22 had a chance to weigh in on that if there are other
23 people who have ideas.

24 JUDGE MOSS: Okay, I will tell you that I
25 have not discussed this specific topic with the

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1 commissioners, so I can give you less guidance than
2 would be the case had I had that conversation. What I
3 suggest based on what I hear you saying is that you have
4 that conversation with others, and perhaps you could
5 simply file a letter indicating your preferences with
6 these constraints in mind. The week of November 15 or
7 the dates November 15 through 18 are not available.
8 There is other business that will I believe have the
9 commissioners out of town, yes, during that period. You
10 might consider, well, of course, during the hearing you
11 mentioned for the Olympia, so that will be the -- oh,
12 wait a minute, I'm sorry, I'm in the wrong month,
13 November, the week of November 22nd, although I see that
14 Thanksgiving is that week, but the first three days.

15 MR. FFITCH: That's why we had not --

16 JUDGE MOSS: Yeah, that's a bad week I
17 suspect for the public honestly, but it looks pretty
18 good in terms of the Commission's calendar. Let's see,
19 December 9th as I mentioned is a possibility. December
20 23rd through 30, and of course I'm really thinking there
21 about the week after Christmas. Again, it's an awkward
22 time, a bad week, I realize people take off and so on
23 and so forth. On the other hand, people will take off
24 and they can come to the public hearing.

25 MR. FFITCH: Before the 15th, Your Honor, are

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1 there any --

2 JUDGE MOSS: Before November 15th?

3 MR. FFITCH: -- earlier in November, any
4 possible dates?

5 JUDGE MOSS: We could think about doing
6 something, yeah, the week of the 8th looks like it has
7 some possibilities early in the week.

8 MR. FFITCH: Can I ask which parties want to
9 be included in talking about public comment hearings?

10 MS. DIXON: The Coalition certainly would.

11 MR. FFITCH: I'm sure the company would.

12 MR. BOEHM: The Utility Alliance would.

13 MS. DODGE: Could we do it today, just go off
14 the record and try to nail it down?

15 JUDGE MOSS: Yeah, we should have some time.
16 We're about to wrap up our pre-hearing, so there will be
17 a little time before our order conference. And maybe,
18 you know, send me a joint letter if you can reach some
19 -- and, you know, try to give us a range of options
20 within these constraints, because these things are not
21 easy, especially the ones that are in distant locations
22 require us to set aside travel time and so forth in
23 addition to the meeting time, and so we have to think
24 about a half a day type of deal just to get there and
25 back.

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1 In terms of later dates, Mr. ffitch, you
2 asked me about the earlier ones, I think I answered
3 that, I have mentioned the end of the very last week of
4 December as a possibility at least, and then the January
5 3 through 7 looks like a possibility at least based on
6 the information I have available to me today. And so
7 that's just after the holidays, I think people are
8 getting back in the stream of things at that point in
9 time, but that's still well in advance of the first
10 brief, so.

11 MR. CEDARBAUM: I just wanted to advise you
12 of one other scheduling matter that wasn't on the
13 written schedule that we passed out. When we were
14 creating this proposed schedule, we also talked about
15 the possibility of the parties, all parties, getting
16 together at certain points in time for status checks or
17 settlement conferences, we weren't sure what to call it
18 yet since we're just getting into the case. This wasn't
19 something we wanted to have necessarily on the schedule
20 at this point in time but just wanted to inform you of
21 this --

22 JUDGE MOSS: All right, and I appreciate
23 you --

24 MR. CEDARBAUM: -- concept. We had talked,
25 just for the parties' sake, we had talked about sometime

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1 in early August, sometime in early September time frame
2 for having some of these discussions, so we can try to
3 get things whittled down if possible prior to the
4 September pre-filing date.

5 JUDGE MOSS: All right, I appreciate you
6 raising that to my attention today, and I will ask that
7 the parties make an effort to keep me informed if things
8 are moving in that direction so that we can be sensitive
9 to the need to perhaps make some scheduling adjustments
10 or what have you. So use your best judgment consistent
11 with what the new procedural rules have to say about
12 stipulations and settlements and what have you so that
13 we don't find ourselves too crowded for time.

14 And I personally see nothing wrong with you
15 keeping me informed so long as it's consistent with your
16 agreed principles for discussion. So if, for example,
17 you have a mediator, the mediator will no doubt
18 establish with you all some ground rules in terms of
19 disclosure and one thing and another, and there's no
20 reason that those can't include the mediator informing
21 me from time to time with respect to just generic
22 points, nothing substantive of course, but, oh, the
23 parties are making progress, working on this hard, so be
24 thinking about setting some time aside. So you all get
25 the drift, okay.

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1 All right, other than the adjustments that I
2 have suggested on the hearing dates and the fact that we
3 will need to do some further work to set up the public
4 comment hearing dates, the dates that are proposed,
5 September 23rd for Staff, Public Counsel, and intervener
6 pre-filed testimony works fine for me. November 3rd for
7 the company's rebuttal and any cross answering
8 testimony, I find that acceptable. We have talked about
9 the evidentiary hearings, the public comment hearings.
10 Initial briefs January 24th, reply briefs February 2nd.
11 And I'm assuming you counted the days correctly so that
12 the suspension period ends on March 5th, 2005. I'm not
13 hearing that somebody miscounted, so that does allow
14 sufficient room. It's about the minimum I like to have
15 to feel comfortable with for the commissioners, but it's
16 doable. So I would, unless I hear something --

17 Mr. Cameron, any of those dates problematic?

18 MR. CAMERON: No dates problematic, but there
19 is a short time period between initial and reply briefs.
20 I would hope that at the very least we would receive the
21 brief on the 24th and not just have it be a mailing
22 date.

23 JUDGE MOSS: I would like to add this point,
24 and it's good, I'm glad you raised that, let's call for
25 electronic courtesy copies to me and all parties by noon

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1 on the dates for briefs. That shouldn't be a problem.
2 If it is, tell me now. That also helps us in terms of
3 internal distribution, because we have to copy these
4 things and distribute them and so forth. So I will
5 include in the schedule that I will publish as part of
6 the pre-hearing conference order that that will be --
7 now what that also means is that if we set an electronic
8 courtesy filing time, then you actually have until the
9 next morning to get your paper copies delivered, so in
10 terms of your briefing time, it actually probably gives
11 you half a day rather than takes half a day away, so
12 depending on how you proceed. But as long as we get
13 them electronically, we're in good shape for the first
14 day at least.

15 Okay, anything else on process, procedural
16 schedule, are we missing anything? I think it's too
17 early to talk about expedited transcripts and that sort
18 of thing, we'll get to that later.

19 I will -- well, let me go ahead and raise
20 with the parties now, some of you know that we have been
21 experimenting as time has gone on with ways to
22 streamline the process just prior to hearing, and so in
23 a recently completed case with multiple parties we
24 decided to eliminate the pre-hearing conference that we
25 would normally have two or three days prior to hearing

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1 and exchange everything by mail in terms of cross
2 exhibits. And I sent out all sorts of detailed and
3 panic ridden E-mails with excruciating instructions
4 about how to do this, and so I will attribute the
5 success of this endeavor to my E-mails. In any event,
6 it worked very well I thought, and it does save
7 everybody coming in.

8 So later in the proceeding I will poll the
9 parties, and the reason I'm going to wait until later in
10 the proceeding is there may be other business that would
11 make it sensible for us to come together a few days
12 before the hearing. But in the absence of that and with
13 the agreement of the parties, we can do this by mail.
14 We've got a system, and it works, unlike most. So if
15 anybody has a comment on that, particularly anybody who
16 has participated in it and found it to be horrid, this
17 would probably be a good time to say so.

18 Mr. Cedarbaum, you participated in that, did
19 it work out pretty well for Staff?

20 MR. CEDARBAUM: It worked out fine, Your
21 Honor. The only clarification I would say is that when
22 we -- the day that we distributed our cross exhibits, we
23 actually just distributed an E-mail list of what they
24 were, because since they were primarily responses to
25 data requests, everybody knows where to get them.

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1 JUDGE MOSS: Right.

2 MR. CEDARBAUM: And then receipt of the
3 actual copy of the exhibit came the next day.

4 JUDGE MOSS: Yeah.

5 MR. CEDARBAUM: So that didn't cut off a day
6 of preparation time.

7 JUDGE MOSS: Yeah, we did learn from the
8 process, of course, and that's one thing Mr. Cedarbaum
9 brought to the table there was a pointing out that many
10 of the exhibits are indeed data responses that you all
11 already have, and so there's no need for you to get
12 another box full of them, and so that was a good
13 efficiency gaining contribution that came from Staff
14 last time we did this. We started in a simple case with
15 two parties and then tried it with multiple parties,
16 it's working.

17 Okay, so again, I will poll the parties on
18 that through an all parties E-mail, oh, probably a week
19 or ten days before the hearing.

20 Okay, any other business before I make my
21 closing remarks?

22 All right, on paper filings I did check with
23 our records center, and while our new procedural rules
24 have tried to cut down from the old 19 standard to 12, I
25 find that in this proceeding we need the original plus

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1 19. There are a lot of parties, there are a lot of
2 issues because we've got the gas side and the electric
3 side, so there are a lot of Staff requirements, so I
4 apologize for the large number, but there it is.

5 We do require that filings of substance be
6 supplemented at least by electronic filing, and you can
7 do that by either submitting a three and a half inch
8 diskette with the relevant document, appropriate
9 document, or by sending an E-mail attachment, which most
10 parties do. We like to have things in PDF format
11 supplemented by MS Word 6 or later or Word Perfect 5 or
12 later. I did mention earlier as far as documents that
13 include confidential information that has been redacted,
14 you should file those in PDF read only format so as to
15 ensure that they are absolutely protected within the
16 knowledge of, well, I will just say myself I think it
17 works. Tell me if you find out it doesn't, and we'll
18 have to do something different. I think it does.

19 Service on all parties must be simultaneous
20 with the filing. And I encourage the use of electronic
21 courtesy copies of everything in terms of filings, and
22 that includes me. Also parties may waive forms of
23 service other than electronic. You have to
24 affirmatively do that. If you only want electronic
25 service, then you may say so by filing a letter in this

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1 docket. I don't think anybody has ever done it, but the
2 option is available to you. Some day we're going to
3 actually move into the current century, but we're not
4 there yet.

5 I will, of course, enter a pre-hearing
6 conference order within the next day or two that will
7 capture much of our discussion today. We may or may not
8 have a final pre-hearing conference just before the
9 hearing. Keep me apprised of any needs that you have in
10 the case in terms of any problems in the discovery
11 process or if you have scheduling needs with respect to
12 stipulations or other matters, then give me as much
13 advance notice as you can, I will do my best to
14 accommodate you. If there are any discovery disputes, I
15 will typically handle those either by a telephonic
16 conference on short notice, or we may have a conference
17 here on short notice. But I do like to handle those on
18 very short notice, so I will get you some notice but not
19 a whole lot. I think it's important to keep that
20 process moving, and usually only the principals care
21 anyway. So again, you all know how to reach me.

22 If there is no other business, then I think
23 that concludes the business I have for us today, and
24 with that we will adjourn our pre-hearing conference.

25 Now I will stay on the record momentarily and

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1 say that we are about to have an order conference in the
2 PCORC matter. That is going to be, unless I hear some
3 strong urging to the contrary, off the record. It's
4 going to be in the nature of a technical discussion.
5 Parties are welcome to stick around if they want. I
6 don't see that it's going to have any implications for
7 what we just did. Do you think so, Ms. Dodge?

8 MS. DODGE: No.

9 JUDGE MOSS: I don't think so. So with that,
10 we're off the record. Thank you.

11 (Hearing adjourned at 3:15 p.m.)

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