

**WUTC v. Puget Sound Energy / In the Matter of the
Petition of Puget Sound Energy**

**Docket Nos. UE-220066, UG-22067 and UG-210918
(Consolidated) - Vol V**

September 29, 2023



206.287.9066 | 800.846.6989

1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101

www.buellrealtime.com

email: audio@buellrealtime.com



BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	DOCKETS UE-220066,
)	UG-22067, and
vs.)	UG-210918
)	(Consolidated)
PUGET SOUND ENERGY,)	
)	
Respondent.)	
)	

PREHEARING CONFERENCE
SEPTEMBER 26, 2023 - VOL. V
PAGES 260-273

ADMINISTRATIVE LAW JUDGE MICHAEL HOWARD
(All participants appeared via videoconference)

TRANSCRIBED BY: ELIZABETH PATTERSON HARVEY, RPR, CCR 2731

1 A P P E A R A N C E S :

2 ADMINISTRATIVE LAW JUDGE:

3 MICHAEL HOWARD

4
5 FOR COMMISSION STAFF

6 Jeff Roberson
7 jeff.roberson@utc.wa.gov
8 Attorney General of Washington
9 PO Box 40128
10 Olympia, Washington 98504
11 360.664.1186

12
13 FOR PUGET SOUND ENERGY:

14 Donna Barnett
15 dbarnett@perkinscoie.com
16 Perkins Coie LLP
17 10885 Northeast Fourth Street
18 Suite 700
19 Bellevue, Washington 98004
20 425.635.1400

21 FOR PUBLIC COUNSEL:

22 Lisa W. Gafken
23 lisa.gafken@atg.wa.gov
24 Attorney General of Washington
25 Public Counsel Unit
800 Fifth Avenue, Suite 2000
Seattle, Washington 98104
206.464.6595

FOR THE ALLIANCE OF WESTERN ENERGY CONSUMERS:

21 Sommer Moser
22 sjm@dvclaw.com
23 Davison Van Cleve
24 1750 Southwest Harbor Way
25 Suite 450
Portland, Oregon 97201
971.710.1154

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S :

FOR THE ENERGY PROJECT:

Yochanan Zakai
Yzakai@smwlaw.com
Shute Mihaly & Weinberger
396 Hayes Street
San Francisco, California 94102
415.552.7272

FOR FEDERAL EXECUTIVE AGENCIES:

Rita Liotta
rita.m.liotta.civ@us.navy.mil
Attorney at Law
1 Avenue of the Palms
Suite 161, Room 8F
San Francisco, California 94130
415.743.4718

FOR THE JOINT ENVIRONMENTAL ADVOCATES:

Jan Hasselman
jhasselman@earthjustice.org
Earthjustice
810 Third Avenue
Suite 610
Seattle, Washington 98104
206.343.7340

* * * * *

1 Lacey, Washington | September 29, 2023

2 1:30 p.m.

3 -o0o-

4

5 JUDGE HOWARD: We are recording the Zoom
6 call. If you are sitting on the call, you're presumed to
7 consent to that recording.

8 I'm just giving the court reporter another
9 minute to show up. But if not, then we will just rely on
10 the recording for the present time.

11 All right. Well, in the interest of time,
12 let's begin. And we have a recording going. And we can
13 have this transcribed later. So I would normally say
14 let's be on the record, but we're being recorded right
15 now.

16 Good afternoon. We're here today for a
17 prehearing conference in Dockets UE-220066, UG-220067,
18 and UG-210918. This case is captioned Washington
19 Utilities and Transportation Commission versus Puget
20 Sound Energy.

21 And we are here today following PSE's
22 petition to amend the final order and the Commission's
23 subsequent notice (inaudible) to amend the final order.

24 And if you are listening in, you may want
25 to mute your line.

1 My name is Michael Howard. I'm an
2 administrative law judge with the Commission, and I am
3 co-presiding in this matter along the commissioners. The
4 commissioners will not be joining us today, though.

5 Let's start by taking appearances,
6 beginning with the company.

7 MS. BARNETT: Good afternoon, and thank
8 you. Donna Barnett with Perkins Coie on behalf of Puget
9 Sound Energy.

10 JUDGE HOWARD: Thank you.
11 Could we hear from staff?

12 MR. ROBERSON: Good afternoon. On behalf
13 of staff, Jeff Roberson from the AGO.

14 JUDGE HOWARD: Thank you.
15 And public counsel?

16 MS. GAFKEN: Good afternoon. This is Lisa
17 Gafken, appearing on behalf of public counsel. My
18 co-counsel, Ann Paisner, is also on the line.

19 JUDGE HOWARD: And could we hear from
20 Alliance of Western Energy Consumers, or AWEC?

21 MS. MOSER: Thank you, your Honor. Sommer
22 Moser on behalf of AWEC. Thank you.

23 JUDGE HOWARD: Thank you.
24 Could we hear from The Energy Project?

25 MR. ZAKAI: Good afternoon. Yochanan

1 Zakai. I go by Yoki, and use he/him pronouns, on behalf
2 of The Energy Project.

3 JUDGE HOWARD: Thank you.

4 Federal Executive Agencies? Ms. Liotta,
5 if you are talking, I believe you are muted. I think I
6 saw you on the call.

7 MS. LIOTTA: I'm sorry, your Honor. I
8 thought I had taken the mute button off. This is Rita
9 Liotta with the Federal Executive Agencies.

10 JUDGE HOWARD: Thank you. And no problem.

11 Could we hear from Nucor Steel? All
12 right. I'm not hearing an appearance from Nucor Steel.

13 Moving on, could we hear from
14 Walmart? All right. I'm not hearing from Walmart. I'm
15 not seeing their counsel on the line from what I'm seeing
16 here in the participants list. That's fine.

17 Could we hear from the joint environmental
18 advocates, which is Sierra Club, NWEA, and Front and
19 Centered?

20 MR. HASSELMAN: Yes, Jan Hasselman for the
21 joint environmental advocates.

22 JUDGE HOWARD: Thank you. Do we have an
23 appearance for King County?

24 All right. Hearing none, do we have an
25 appearance for Coalition of Eastside Neighborhoods for

1 Sensible Energy, or SENSE?

2 All right. Hearing none, do we have an
3 appearance for Puyallup Tribe?

4 All right. Hearing none, are there any
5 other organizations on the call that wish to give a
6 verbal notice of appearance here?

7 All right. I'm not hearing any.

8 So as I noted, we are here today following
9 the petition to amend the final order. And we're here to
10 provide further process for the parties pursuant to WAC
11 480-07-875 and Section 870, paragraph 4, of the same WAC
12 chapter.

13 As we indicated in our notice, the
14 Commission will provide an expedited procedural schedule.
15 That includes a settlement conference and a hearing in
16 the event the parties are not able to solve this issue
17 through settlement.

18 By default, my normal plan would be to
19 include formal discovery, opportunities for written
20 testimony, a settlement conference, and an evidentiary
21 hearing. A public comment hearing may be warranted in
22 that, and that may be a valid point for the parties to
23 discuss.

24 But even with an expedited schedule and
25 shorter timelines, this would likely place the hearing in

1 December or possibly even January of the following year.
2 If we're looking at December, Monday, December 18, may be
3 the best day of that month for the commissioners.
4 Thursday, December 14, may also work for the
5 Commissioners.

6 Another option I'd like to float for the
7 parties would be to allow a period of discovery, a
8 settlement conference; and then to omit any prefiled
9 testimony, to skip any prefiled testimony and have a
10 single hearing day or a day and a half of hearings, and
11 provide live testimony; and treat this more like a brief
12 adjudicatory proceeding or something like an arbitration.
13 Monday, November 20, may work for a hearing in that case.
14 And that would potentially allow for an earlier
15 disposition.

16 So with that, I'd like to hear from the
17 parties about the procedural schedule. Have the parties
18 already conferred, or do the parties need an opportunity
19 to confer? Ms. Barnett?

20 MS. BARNETT: The parties have not
21 conferred. We haven't presented anything. We've talked
22 internally, and we have wide availability. And we do,
23 you know, prefer a faster track. So holding a hearing on
24 as if it were a brief adjudicated proceeding, I think
25 would be the company's preference. But we haven't issued

1 anything or circulated any schedule.

2 JUDGE HOWARD All right. Thank you.

3 In that case, I would plan to follow our
4 normal process, where the ALJ leaves the call and allows
5 the parties to discuss the schedule. Are there any
6 questions or things we should discuss before I exit the
7 call to allow that discussion?

8 MS. BARNETT: I just have a personal
9 question. I haven't talked about this with my client,
10 but I am wondering about the parties who are interested,
11 if we -- are all parties going to be invited to
12 participate in a settlement hearing if they are neither
13 on the call today nor filed any position regarding the
14 petition?

15 JUDGE HOWARD: I see Sommer Moser has
16 raised her hand. Please go ahead.

17 MS. MOSER: Thank you. I just wanted to
18 briefly state AWEC did not file a petition, but we are
19 interested in participating in this process. So I just
20 wanted to clarify that. Thanks.

21 JUDGE HOWARD: My normal interpretation is
22 that although we would be entering a new prehearing
23 conference order following our meeting today, that the
24 findings about who is allowed to intervene in this
25 proceeding that we found in the earlier order would still

1 be controlling. And I went back and checked, and we
2 don't necessarily have any intervenors that jump out as
3 failing to participate so far that would justify
4 dismissing them. This could be an issue though, to
5 consider.

6 Are there any other questions?

7 All right. Hearing none, Mr. Roberson,
8 would you mind sending me an e-mail or Teams message when
9 the parties conclude?

10 All right. All right. Great. In that
11 case, I will exit the call and wait for staff's message
12 to rejoin. And I'll tell our records center to stop
13 recording the call while the parties are having their
14 discussion.

15 MR. ROBERSON: Thank you.

16 (Pause in proceedings.)

17 JUDGE HOWARD: Prior to rejoining the
18 call, staff counsel e-mailed letting me know that you
19 were ready to rejoin.

20 Did the parties come to an agreement about
21 the schedule?

22 MR. ROBERTSON: We did, Judge Howard.

23 JUDGE HOWARD: All right. What is the
24 proposed schedule right now?

25 MR. ROBERSON: So the first date is

1 effectively tomorrow, which is PSE will make best efforts
2 to answer all discovery on a three-day turnaround.

3 The next date is the settlement
4 conference, which will be October 20.

5 JUDGE HOWARD: Okay

6 MR. ROBERSON: Depending on how that goes,
7 the parties will either file testimony supporting the
8 settlement on November 17 or PSE will file its direct
9 testimony supporting its petition on the 17th of
10 November.

11 JUDGE HOWARD: Okay.

12 MR. ROBERSON: Response testimony would be
13 due December 8, or opposition testimony to the
14 settlement, whichever.

15 JUDGE HOWARD: Okay.

16 MR. ROBERSON: Cross answering rebuttal
17 testimony would be due December 22.

18 JUDGE HOWARD: Okay.

19 MR. ROBERSON: And then the hearing would
20 be on January 18. And in order to expedite resolution of
21 this matter, the parties would provide oral summations at
22 that hearing rather than briefing.

23 JUDGE HOWARD: All right. Great. Thank
24 you.

25 So the three-day best efforts turnaround

1 on discovery is from tomorrow forward?

2 MR. ROBERSON: Yes.

3 JUDGE HOWARD: All right. All right. I
4 believe this schedule will work for the commissioners. I
5 will confirm that. It does appear to work for their
6 calendars.

7 You know, in more complex proceedings
8 where it involves more intensive review from policy
9 advisors, I would be very hesitant to agree to cross
10 answering rebuttal testimony being due on December 22,
11 shortly before winter holidays. But I think for this
12 docket, it's a fairly narrow issue. So I think that is
13 workable. And that won't involve policy advisors working
14 over their holidays.

15 MR. ROBERSON: I will say there was a lot
16 of give and take and some delicate negotiation. So the
17 less we mess with the schedule, the more likely it is
18 there will be buy-in by all the parties.

19 JUDGE HOWARD: All right. I should not
20 throw a wrench in it. All right.

21 Well, thank you all, then. I appreciate
22 the parties coming to an agreement. Does any party wish
23 to seek participatory funding for this docket?

24 MR. ZAKAI: Yes, I believe The Energy
25 Project would like to seek participatory funding.

1 MS. MOSER: This is Summer on behalf of
2 AWEC. I'm sorry. I haven't conferred internally on
3 that, so I'm not sure yet.

4 JUDGE HOWARD: All right. Well, I have
5 not had the situation yet where we've had a second
6 prehearing conference in a docket since we began the
7 participatory funding program. But I would imagine the
8 case certifications, both The Energy Project and AWEC are
9 already case certified for this proceeding. The notice
10 of intent to seek funding would be due 14 days from
11 today. I'm indicating that right now.

12 And our prehearing conference order
13 following our meeting today will give a subsequent
14 deadline for proposed budgets, but of course they both
15 can be filed at the same time.

16 And I believe there's already a protective
17 order in this docket available to the parties.

18 Is there anything else that we should
19 address today before we adjourn?

20 All right. Hearing nothing, we'll issue
21 an order shortly reflecting the procedural schedule for
22 handling this petition and other guidelines for the
23 disposition of this case.

24 We are adjourned. Thank you.

25 (Hearing concluded.)

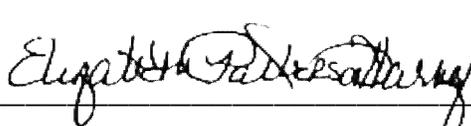
C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I, Elizabeth Patterson Harvey, a Certified Court Reporter and Registered Professional Reporter within and for the State of Washington, do hereby certify that the foregoing proceedings were taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of October, 2023.





ELIZABETH PATTERSON HARVEY, RPR, CCR 2731