

0001

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)

4)

5 Complainant,)

6 vs.)

7) DOCKET NO. UE-070565

8) Volume I

9 PUGET SOUND ENERGY, INC.,) Pages 1 - 22

10)

11 Respondent.)

12 -----

13

14 A prehearing conference in the above matter
15 was held on April 11, 2007, at 1:30 p.m., at 1300 South
16 Evergreen Park Drive Southwest, Olympia, Washington,
17 before Administrative Law Judge DENNIS MOSS.

18

19 The parties were present as follows:

20 WASHINGTON UTILITIES AND TRANSPORTATION
21 COMMISSION, by ROBERT D. CEDARBAUM, Assistant Attorney
22 General, 1400 South Evergreen Park Drive Southwest,
23 Post Office Box 40128, Olympia, Washington 98504-0128;
24 telephone, (360) 664-1188.

25 PUGET SOUND ENERGY, INC., by SHEREE STROM
CARSON, Attorney at Law, Perkins Coie, 10885 Northeast
Fourth Street, Suite 700, Bellevue, Washington
98004-5579; telephone, (425) 635-1422.

26

27 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,
28 by S. BRADLEY VAN CLEVE, Attorney at Law, Davison Van
29 Cleve, 333 Southwest Taylor, Suite 400, Portland,
30 Oregon 97204; telephone, (503) 241-7242.

31

32 Kathryn T. Wilson, CCR

0002

1 FEDERAL EXECUTIVE AGENCIES, by NORMAN J.
2 FURUTA, Associate Counsel, 1455 Market Street, Suite
3 1744, San Francisco, California 94103-1399; telephone,
4 (415) 503-6994.

5 PUBLIC COUNSEL, by SIMON J. FFITCH (via
6 bridge line), Assistant Attorney General, 800 Fifth
7 Avenue, Suite 2000, Seattle, Washington 98104-3188;
8 telephone, (206) 389-2055.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

0003

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

2

3 JUDGE MOSS: Let's begin. Good afternoon,
4 everyone. My name is Dennis Moss. I'm an
5 administrative law judge with the Washington Utilities
6 and Transportation Commission presiding today in the
7 first prehearing conference in the matter styled
8 Washington Utilities and Transportation Commission
9 versus Puget Sound Energy, Inc, Docket UE-070565. The
10 first order of business will be to take appearances,
11 and let's start with the Company.

12 MS. CARSON: Thank you, Your Honor. I'm
13 Sheree Strom Carson with Perkins Coie. I represent
14 Puget Sound Energy, and also with me are Jason Kuzma
15 and Tom DeBoer from the Company. My address is 10885
16 Northeast Fourth Street, Suite 700, Bellevue,
17 Washington, 98004-5579. Phone number is (425)
18 635-1400; fax, (425) 635-2400, and my e-mail is
19 scarson@perkinscoie.com. Mr. Kuzma's e-mail is
20 jkuzma@perkinscoie.com.

21 MR. VAN CLEVE: Good afternoon, Your Honor.
22 I'm Brad Van Cleve appearing on behalf of the
23 Industrial Customers of Northwest Utilities. Also
24 appearing will be Matthew Perkins from our firm. The
25 firm is Davison Van Cleve, PC. We are at 333 Southwest

0004

1 Taylor Street, Suite 400, Portland Oregon, 97204. The
2 telephone number is (503) 241-7242. The fax number is
3 (503) 241-8160, and my e-mail address is
4 mail@dvclaw.com.

5 MR. FURUTA: Your Honor, first of all, I
6 would like to apologize for not prefiling a petition to
7 intervene, but I just changed addresses recently and
8 mail has been delayed. At the appropriate time, I will
9 make an oral request. I'm representing the Federal
10 Executive Agencies, and the address is 1455 Market
11 Street, Suite 1744, and that's in San Francisco,
12 California, 94103. Telephone is (415) 503-6994. Fax
13 is (415) 503-6688, and the e-mail address is
14 norman.furuta@navy.net. Thank you.

15 JUDGE MOSS: And I'll get a copy of your
16 business card at the end of the proceeding.

17 MR. FURUTA: Yes, Your Honor.

18 JUDGE MOSS: Mr. Cedarbaum?

19 MR. CEDARBAUM: Thank you, Your Honor.
20 Robert Cedarbaum, assistant attorney general appearing
21 for the Commission staff. My business address is the
22 Heritage Plaza building, 1400 South Evergreen Park
23 Drive Southwest, Olympia, Washington, 98504. My
24 direct-dial telephone number is area code (360)
25 664-1188. Fax is area code (360) 586-5522, and my

0005

1 e-mail is bcedarba@wutc.wa.gov.

2 JUDGE MOSS: Thank you. Mr. ffitch, are you
3 on the conference bridge line?

4 MR. FFITCH: Yes. Thank you, Your Honor.
5 Simon ffitch, assistant attorney general for the Public
6 Counsel section. Street address is 800 Fifth Avenue,
7 Suite 2000, Seattle, Washington, 98104-3188. The
8 e-mail is simonf@atg.wa.gov. Fax number is (206)
9 464-6451. That is a relatively new fax number. Phone
10 number is area code (206) 389-2055.

11 JUDGE MOSS: Thank you. Is there anyone else
12 on the conference bridge line who wishes to make an
13 appearance? Hearing nothing, I guess this all the
14 players in our game today.

15 Well, we do have the question of
16 interventions. I have two motions that were filed in
17 advance of today, one from the Industrial Customers of
18 Northwest Utilities and one from the Kroger Company.
19 Apparently, Mr. Kurtz and Mr. Boehm will not joining us
20 today, but they did file a written motion on behalf of
21 their client, Kroger Company representing a couple of
22 the food chains, Quality Foods and Fred Meyer, and then
23 Mr. Furuta has informed us of his intention to make an
24 oral motion, so why don't we dispense with ICNU and
25 Kroger first since we have written motions. Is there

0006

1 any objection?

2 MS. CARSON: The Company has no objection.

3 JUDGE MOSS: Mr. Furuta?

4 MR. FURUTA: Your Honor, on behalf of the
5 consumer interests of the Federal Executive Agencies,
6 we would request to intervene in this proceeding today.

7 JUDGE MOSS: And I'll just remark for the
8 record that the Federal Executive Agencies have on
9 previous occasions intervened in these types of
10 proceedings, and I think we are all familiar with their
11 interests. Is there any objection?

12 MR. FFITCH: No objection.

13 MS. CARSON: No objection.

14 JUDGE MOSS: There being no objections to any
15 of the three petitions to intervene, they will be
16 granted.

17 I have a couple of motions pending. First to
18 speak to the question of discovery, discovery should
19 continue pursuant to the Commission's discovery rules
20 480-07-400. I understand there is a request for
21 shortened response times. Is that a unanimous request;
22 Mr. Cedarbaum?

23 MR. CEDARBAUM: I believe it is, Your Honor.
24 As part of the proposed schedule I circulated, I think,
25 two days ago, which is also an agreed schedule,

0007

1 included in that proposal was a proposal to accelerate
2 data request response times after today to seven
3 business days down from ten business days, and after
4 June 15th from ten business days down to five business
5 days, so that's the parties' unanimous proposal if the
6 schedule is accepted by the Commission.

7 JUDGE MOSS: The parties are in agreement on
8 that point so I will reflect that in the prehearing
9 order. As far as the schedule, we can jump ahead to
10 that. Don't let me forget to come back to the
11 protective order though. It appears the schedule will
12 work. I will comment so it comes as no surprise that
13 the time for the Commission is a little tight there
14 with only 16 days after the simultaneous reply briefs.
15 We have been able to do that sort of thing in the past,
16 but obviously, the less time we have, the less able I
17 am to grant assurances that we will meet the request
18 that we get everything done. I don't see a problem,
19 but I just want to have everybody on alert that's a
20 pretty short turnaround.

21 One possibility is as we get to the end of
22 the case, things may have been simplified. Who knows
23 what happens between now and then. It may be that we
24 won't need the reply briefs, and that will make things
25 a little easier for me and for the commissioners.

0008

1 Anyway, with that comment, the rest of it looks fine.
2 I know it's awfully early, but I'm thinking a five-day
3 hearing is probably way more than we need. Anybody got
4 any preconceived notions about that?

5 MR. CEDARBAUM: Well, we can't predict the
6 future with certainty on that, but I would agree. I
7 think we just proposed five days as a block of time
8 that that would be reserved, but we didn't think we
9 would actually use all that time. Judging from the
10 one-day PacifiCorp rate case hearing a couple of weeks
11 ago, we will probably have some pressure to get it done
12 quicker than five days.

13 JUDGE MOSS: If we manage to maintain that
14 trend, I may be looking for work.

15 MS. CARSON: From the Company's perspective,
16 I agree that it seems likely we won't need all five
17 days.

18 JUDGE MOSS: But I think it's wise this far
19 in advance to block the full five days, and as we get
20 closer, they will start asking me, Can't we take
21 Thursday off, so we will have a little flexibility when
22 the time comes. So that takes care of the schedule.

23 Just for the record and to make sure I've got
24 it right -- of course, PSE has already filed its direct
25 case. You've got settlement conferences, issues,

0009

1 discussion May 21st and 30th; Staff, Public Counsel and
2 intervenor response testimony June 15th; PSE rebuttal
3 testimony June 29th; evidentiary hearing July 23rd
4 through July 27; simultaneous initial briefs August
5 8th; simultaneous reply briefs August 15th, and an
6 aspirational date of September 1, 2007, for an
7 effective date on any authorized tariff changes, which
8 I noticed is a Saturday, but that can happen, of
9 course.

10 All right. Now, let's return to another
11 pending motion, which is the motion for protective
12 order with the highly confidential amendment language
13 proposed. It's unclear to me at this time that this is
14 something that's satisfactory to everyone or whether we
15 need to discuss the terms of the order.

16 MR. CEDARBAUM: I understand that the
17 proposed order is the same language that's been used in
18 the most recent case, and that was acceptable to Staff
19 so it's acceptable in this case.

20 JUDGE MOSS: Anybody else?

21 MR. FURUTA: Your Honor, I believe if indeed
22 the language is the same as the language in the last
23 case that FEA had expressed to the Company some concern
24 about language specifically relating to instances where
25 if the federal government were to receive a Freedom of

0010

1 Information Act request that it automatically applied a
2 certain exemption standard for that request, and in the
3 previous case, I explained to the Company that we
4 probably couldn't sign such a provision and that we
5 would attempt to work out some alternative language,
6 but I don't know if that ever was done, so with that
7 reservation, we would have no other problems with the
8 protective order, but that's something we could work
9 out with the Company and other counsel.

10 JUDGE MOSS: This is the same language as in
11 the prior order?

12 MS. CARSON: Yes, it is.

13 JUDGE MOSS: This has worked before and there
14 were no problems, and if a problem should emerge and
15 the parties need some assistance in resolving it, I'm
16 always available to provide that assistance, so I think
17 we will just go with it then. I would ask, Ms. Strom
18 Carson, if you would please send me a copy of that
19 electronically.

20 MS. CARSON: Yes, I will.

21 JUDGE MOSS: And then I can process it and
22 get it out, perhaps even tomorrow. In the meantime,
23 the parties should conduct themselves as if -- Mr. Van
24 Cleve?

25 MR. VAN CLEVE: Yes, Your Honor. I wanted to

0011

1 state for the record that as you may know, we have some
2 problems with the restrictions on employment for
3 attorneys and consultants that are part of the highly
4 confidential provisions, and we have identified certain
5 documents that we think maybe should not be designated
6 highly confidential, but in accordance with past
7 guidance from the Bench, we are attempting to work
8 those issues out with the Company, so at this point, we
9 don't object to the entry of the protective order, but
10 if we can't resolve the issues, we want to reserve the
11 right to raise that with you by appropriate motion.

12 JUDGE MOSS: You certainly will have that
13 opportunity if you need it, Mr. Van Cleve, and I
14 appreciate the fact you are willing to work with the
15 Company and resolve these things. If we all do this
16 long enough, we can dispense of these prehearings all
17 together and just issue a schedule since we all know
18 how we play this game.

19 As far as the other motion that I'm aware of,
20 it is a motion to waive the three-month general rate
21 case filing requirement under the PCORC PCA. I'm going
22 to carry that motion. I'm not going to rule on that
23 motion today. We may have some discussion about that
24 motion. I'll reserve that for a time when the
25 commissioners can join me on the Bench. It does not

0012

1 appear to be something that needs to be resolved until
2 the end of the case, in any event.

3 MS. CARSON: Well, Your Honor, it does not
4 need to be decided today, but it would be helpful to
5 the Company the sooner it could be decided in terms of
6 planning acquisitions and planning future cases and
7 even planning vacations and things like that. For
8 people at the Company, it's helpful to know whether we
9 are going to turn around and file another general rate
10 case or not, and either way is fine with the Company.
11 We've been in quite a few times for general rate cases
12 and PCORC, but it's just helpful to know in advance.

13 JUDGE MOSS: Well, I'll take the matter up
14 with the commissioners and see if we can get a
15 determination. If they need argument, we will schedule
16 something. If they don't need argument, we will issue
17 a ruling.

18 MR. FFITCH: Your Honor, this is Simon ffitch
19 for Public Counsel. Will the Bench be calling for
20 written response from other parties to the motion? We
21 certainly don't have any objection to the motion being
22 carried. We agree that it's not something that needs
23 to be resolved right at this moment, but it would be, I
24 think, interested in commenting on it in writing or
25 orally at a time set by the Commission.

0013

1 JUDGE MOSS: I'll just comment first that the
2 motion was filed at the time the case was filed, and
3 the procedural rules provide for a response time to
4 motions. On the other hand, since I'm not going to
5 rule on it today, if you desire an opportunity, a few
6 days to file something, I suppose I should give it to
7 you. I think the Company has requested that we
8 determine this with some dispatch, and it would be my
9 intention to do so. So how much time do you think you
10 need, Mr. ffitch?

11 MR. FFITCH: I'm thinking of other filings.
12 Two weeks would be helpful.

13 MR. CEDARBAUM: Your Honor, if I could just
14 join this conversation. Commission staff also just
15 anticipated, and perhaps incorrectly, that the motion
16 would be addressed today or later. We also don't see
17 the reason why it has to be decided today, but just
18 like the motion for protective order would be addressed
19 at the prehearing conference, we just assumed the
20 motion on the delay of the general rate case would also
21 be addressed today or later, so we would also like to
22 respond. From Staff's perspective, I think a week to
23 ten days would be fine with Staff, but we would like
24 the opportunity to respond.

25 It would also be helpful in that response to

0014

1 know from the Company whether the Company, if the
2 motion were granted so that a general rate case wasn't
3 filed until, I think next April was the request,
4 whether or not the Company would reserve the right to
5 file additional PCORC's between now and the end of that
6 rate case because that certainly would have an impact
7 on Staff's thinking.

8 JUDGE MOSS: Do you have an answer to that?

9 MS. CARSON: I don't right now. What we have
10 requested is to file a general rate case no later than
11 April 15th, so it could be before that.

12 MR. CEDARBAUM: I apologize if I've misstated
13 the motion, but it would be important from Staff's
14 perspective to know what other types of filings in the
15 PCORC-related area the Company would anticipate or at
16 least not take off the table between now and the end of
17 that general rate case.

18 MS. CARSON: And I guess I can say now that
19 we don't anticipate another PCORC filing, but we are
20 not ruling it out. That's all I can say today.

21 MR. CEDARBAUM: Thank you.

22 JUDGE MOSS: This is only Wednesday. I think
23 I would like to have any written argument on this
24 matter by the end of next week. That will be April
25 20th, and that will work well for my own calendar and

0015

1 the commissioners. Are there any other motions I'm
2 unaware of? Very good.

3 We've already taken care of the procedural
4 schedule. Is there any other business before I make a
5 few closing remarks?

6 MR. FFITCH: Your Honor, this is related to
7 the schedule, but we have had some productive
8 conferences between the Company and the Public Affairs
9 staff regarding the notice and the public comment
10 hearing, and we have presented by e-mail with regard to
11 the public comment hearings a consensus recommendation
12 to the Bench by e-mail yesterday, and I can just recap
13 that.

14 JUDGE MOSS: That's all right. I've read it,
15 and I've taken it up with the commissioners. We will
16 have one public comment hearing in Olympia during the
17 evidentiary proceedings, okay? Is there anything else?

18 MR. FFITCH: And, Your Honor, also just to
19 report that both Public Counsel and, as I understand
20 it, Consumer Affairs or Public Affairs have had a
21 chance to review a proposed customer notice that was
22 prepared by the Company and provided feedback to the
23 Company, so I believe we are in a agreement on the
24 language of the notice.

25 Mr. Cupp, I believe, is in the hearing room,

0016

1 and if he had any follow-up with the Company, I'm sure
2 that they would be happy to talk to him there. I think
3 he had one outstanding question about the notice, but
4 in general, it's my understanding that that's also been
5 resolved, so that could go out informing customers of
6 the request and of the public comment hearing in
7 Olympia.

8 JUDGE MOSS: I suppose too you will want a
9 day certain for the public comment piece.

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

11 JUDGE MOSS: I seem to recall that one of
12 those days is actually an open meeting day, the 26th of
13 September, so --

14 MS. CARSON: July?

15 JUDGE MOSS: I'm sorry, wrong month. It is
16 the 25th then that's the open meeting day during the
17 time we have scheduled for the evidentiary hearing. I
18 think that afternoon is a sensible time to have the
19 public comment piece because an open meeting is the
20 type of thing that can attract people for other
21 reasons. It can be a convenient time for members of
22 the public to appear, so we will schedule that for that
23 afternoon.

24 MR. FFITCH: What time would that be, Your
25 Honor?

0017

1 JUDGE MOSS: What do the parties think in
2 terms of timing? My experience with these is that you
3 can't satisfy everyone. If we do it earlier in the
4 day, then people complain they had to work, and if we
5 do it later in the day, they complain they had to eat
6 dinner, so it's difficult to make everyone happy.

7 MR. FFITCH: Your Honor, the joint
8 recommendation was for seven p.m. I think a little bit
9 earlier, 6:30, would be fine, but if it's too early,
10 people don't have time to get off work and get to a
11 hearing, so the basic recommendation is seven p.m.

12 JUDGE MOSS: And you think 6:30 is too early,
13 do you?

14 MR. FFITCH: Well, it's acceptable. It's not
15 preferable over seven, but any earlier than 6:30 is
16 problematic, I think.

17 JUDGE MOSS: I think we will go ahead and set
18 it for 6:30, because there is enough preliminary things
19 and whatnot, and if people need a few more minutes to
20 get here and make their comments, and we can always
21 extend the time that the commissioners are available on
22 the Bench, if necessary, but I hesitate to start as
23 late as seven because that potentially runs us quite
24 late, so we will go ahead and say 6:30.

25 MR. FFITCH: Thank you, Your Honor.

0018

1 JUDGE MOSS: And we will be accommodating if
2 people straggle in at seven or so.

3 MR. FFITCH: 6:30 on July 25th, let's say.

4 JUDGE MOSS: That should work. As far as the
5 customer notice piece is concerned, is the Company
6 satisfied they can work out the remaining details to
7 the satisfaction of Staff and Public Counsel?

8 MS. CARSON: Yes, I think so. Both Staff and
9 Public Counsel have looked at the public notice, and I
10 thought we had agreement on it, but we will check.

11 JUDGE MOSS: I'm sure you can all work that
12 out. Anything else?

13 MS. CARSON: Your Honor, there is one other
14 point. We today filed some replacement pages to
15 testimony and an exhibit, and so I have copies that I'm
16 going to give to the parties, but they were improperly
17 marked so we are correcting that.

18 JUDGE MOSS: And you filed the requisite
19 number of copies with the records center?

20 MS. CARSON: We did.

21 JUDGE MOSS: And speaking of the requisite
22 number of copies, in this proceeding, we will need the
23 original and 15 copies for internal distribution needs.
24 You all know the practice for filings made through the
25 Commission secretary by mail or by hand through the

0019

1 records center address, and of course we want the
2 electronic copies in the usual formats. If anyone has
3 any questions about this, they can contact the records
4 center.

5 I will enter a prehearing conference order
6 either today or tomorrow, I imagine, and it will
7 include the shortened period of response and discovery
8 and the other matters that we have discussed today. I
9 would anticipate that in this case, as in many prior
10 cases, while we will schedule a final prehearing
11 conference, usually the Wednesday before the hearing,
12 that it will be unnecessary to have that prehearing
13 conference and we will be able to exchange our
14 cross-examination exhibits by courier or mail, unless
15 there is business pending at that time that we need to
16 resolve, such as an evidentiary motion, in which case
17 we will convene.

18 MR. FFITCH: One other matter, Your Honor.
19 Could we request as the practice has been in recent
20 cases that parties provide you with the e-mail
21 addresses of staff to be added as courtesy names on the
22 official service list for exchange of documents?

23 JUDGE MOSS: I don't think that's been a
24 problem in the past, has it?

25 MR. FFITCH: It has not been, but I just

0020

1 wanted to tee that up so that parties would know to
2 provide you with the names of support staff if they
3 wanted to have them on the electronic service list.

4 JUDGE MOSS: That would be fine. Do provide
5 those to me because we do maintain these list serves
6 for each case. Whoever wants to get stuff
7 electronically from here, I will need to have that
8 information, and other parties can work out the details
9 of their needs in that way.

10 MR. FFITCH: Thank you very much, Your Honor.

11 MR. CEDARBAUM: Just one question, Your
12 Honor. In prior cases, we've developed the practice
13 that on the dates that we are to serve testimony or
14 serve briefs, we can e-mail those to the parties with
15 hard copy delivery the following day by Fed Ex, and I
16 would like to make a request we be allowed to do that
17 in this case.

18 JUDGE MOSS: Anybody find that disagreeable?
19 Then the dates on the procedural schedule --
20 Ms. Carson?

21 MS. CARSON: We guess are okay with that. I
22 know that the Staff's response testimony is due on a
23 Friday. I'm just concerned if there is any problem
24 getting the e-mail, I would hate not to have it until
25 Monday. Hopefully there won't be a problem with the

0021

1 e-mail.

2 MR. CEDARBAUM: We will make sure the Company
3 gets it by e-mail that day and make an effort to have
4 it go out early in the afternoon so if there is a
5 kick-back message or some difficulties, we can try
6 again.

7 MS. CARSON: It's a two-week turnaround time,
8 so it's pretty critical that we get it right away.

9 JUDGE MOSS: We'll treat the dates on the
10 procedural schedule then as dates for the electronic
11 submission of the various documents with the official
12 documents coming here the following day for filing and
13 so forth, and of course when we do it this way, I
14 always ask the parties to send me a courtesy copy as
15 well. That way, I too can work through the weekend if
16 I choose to do so. It is actually very convenient for
17 me if you do that. I think you all have my e-mail
18 address.

19 I'm just going to pause here for a moment.
20 Okay. It would seem we have no further business this
21 afternoon. I thank you all for being here today and
22 for working together cooperatively prior to today to
23 expedite our prehearing with an agreed schedule and so
24 forth, so thank you very much, and look forward to
25 working with you, and we will get this case processed

0022

1 in due course.

2 (Prehearing adjourned at 2:00 p.m.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25