

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

2 -----)
 3 WASHINGTON UTILITIES AND)
 4 TRANSPORTATION COMMISSION,) DOCKET NO. UE-960299
 5)
 6 Complainant,) VOLUME 3
 7) Pages 59 - 76
 8 vs.)
 9)
 10 PUGET SOUND POWER & LIGHT)
 11 COMPANY,)
 12 Respondent.)
 13 -----)

14 A pre-hearing conference in the above
 15 matter was held on June 17, 1996 at 9:50 p.m. at 1300
 16 South Evergreen Park Drive Southwest before
 17 Administrative Law Judge MARJORIE SCHAER.

18 The parties were present as follows:

19 PUGET SOUND POWER & LIGHT COMPANY, by JAMES
 20 M. VAN NOSTRAND, Attorney at Law, 411 - 108th Avenue
 21 Northeast, Bellevue, Washington 98004.

22 WASHINGTON UTILITIES AND TRANSPORTATION
 23 COMMISSION STAFF, by SALLY G. JOHNSTON, Assistant
 24 Attorney General, 1400 South Evergreen Park Drive
 25 Southwest, Olympia, Washington 98504.

FOR THE PUBLIC, ROBERT F. MANIFOLD (via
 telephone), Assistant Attorney General, 900 Fourth
 Avenue, Suite 2000, Seattle, Washington 98164.

ICNU, by CLYDE H. MACIVER, (via telephone)
 Attorney at Law, 4400 Two Union Square, 601 Union
 Street, Seattle, Washington 98101.

MATSUSHITA SEMICONDUCTOR OF AMERICA, by
 RICHARD A. FINNIGAN, Attorney at Law, 2405 Evergreen
 Park Drive Southwest, Suite B-1, Olympia, Washington
 98502.

Cheryl Macdonald, Court Reporter

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

2 JUDGE SCHAER: The hearing will come to
3 order. This is a hearing in docket No. UE-960299,
4 which is a filing by Puget Sound Power and Light
5 Company seeking approval of a special contract to
6 provide electric service to Intel Corporation. This
7 is a pre-hearing conference that was set at a previous
8 pre-hearing conference. It's taking place on June 17,
9 1996 in Olympia, Washington. The hearing is being
10 held before Administrative Law Judge Marjorie R.
11 Schaer. Like to start with taking appearances
12 beginning with the appearance of the company, please.

13 MR. VAN NOSTRAND: On behalf of Puget Sound
14 Power and Light Company, James M. Van Nostrand.

15 JUDGE SCHAER: For the Commission staff,
16 please.

17 MS. JOHNSTON: Sally G. Johnston, assistant
18 attorney general.

19 JUDGE SCHAER: And for public counsel,
20 please.

21 The record should show that public counsel
22 has not appeared.

23 For King County, please.

24 Let the record show that counsel for King
25 County has not appeared.

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1 For ICNU, please.

2 MR. MACIVER: Clyde MacIver appearing for
3 ICNU.

4 JUDGE SCHAER: And for Matsushita, please.

5 MR. FINNIGAN: Richard Finnigan.

6 JUDGE SCHAER: Thank you. As a first order
7 of business, I would like to take up stock ownership
8 in Intel by commissioners. Commissioner Hemstad owns
9 stock in Intel. He purchased the stock long before he
10 became a commissioner and he would prefer not to sell
11 the stock and asked me to ask the parties if they were
12 willing to waive any objection to his stock ownership.
13 I have copies of the relevant pages of his PDC form
14 with me and have shown them to counsel present which
15 publicly disclosed the stock ownership and the dollar
16 code for its value. If any party is unwilling to
17 waive an objection he will sell the stock. If any
18 party does object, he has instructed me not to tell
19 him who the party is.

20 Do the parties need to have time to check
21 with their clients or are they able to tell me whether
22 or not they object at this point?

23 MR. FINNIGAN: Your Honor, this is not
24 something that I can do without consulting with my
25 client. My client is expected to be here later this

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1 morning, and so I can't respond until I've talked with
2 my client.

3 JUDGE SCHAER: Mr. Van Nostrand, do you
4 need to check with your client also?

5 MR. VAN NOSTRAND: I have checked with them
6 this morning, Your Honor. Puget has no objection.

7 JUDGE SCHAER: Mr. MacIver, do you need to
8 check with your client or are you able to --

9 MR. MACIVER: ICNU has no objection.

10 JUDGE SCHAER: All right. Well, then, we
11 will hold action on this until Mr. Finnigan has been
12 able to consult with his client.

13 MR. FINNIGAN: Thank you.

14 JUDGE SCHAER: Also Chairman Nelson's
15 husband owns some stock in IRA and Keough accounts.
16 He reports annually to the Public Disclosure
17 Commission on the content of the portfolio, and
18 Chairman Nelson recently learned that this portfolio
19 includes some Intel stock. Mr. Allison's firm also
20 represents Intel although Mr. Allison has nothing to
21 do with representation of Intel. Chairman Nelson has
22 asked me to ask the parties if they are willing to
23 waive any objection to this stock ownership. I also
24 have copies of the relevant pages of her PDC form with
25 me and have shown them to counsel in the room, and I

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1 would like to ask again, does any party object to
2 participation of Chairman Nelson in this matter?

3 MR. FINNIGAN: Your Honor, my response has
4 to be the same. I need to consult with my client.

5 JUDGE SCHAER: All right. And Mr. Van
6 Nostrand?

7 MR. VAN NOSTRAND: Puget does not object,
8 Your Honor.

9 JUDGE SCHAER: And Commission staff?

10 MS. JOHNSTON: No objection to either
11 commissioners.

12 JUDGE SCHAER: And ICNU, please.

13 MR. MACIVER: I have no objection, Your
14 Honor. By the way, I cannot -- you're the only voice
15 that I can hear.

16 JUDGE SCHAER: I'm going to ask counsel
17 again to pull your microphones right up in front of
18 you and speak directly into them so that Mr. MacIver
19 is able to hear you, if you would do so, please.

20 Thus far, Mr. MacIver, Commission staff
21 and company have indicated they have no objection, and
22 Mr. Finnigan has indicated that he must consult with
23 his client before he's able to respond but that he
24 will be able to do that later this morning and respond
25 within the time frame of this hearing.

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1 The next matter I would like to take up is
2 scheduling. We agreed at the previous pre-hearing
3 conference that any further scheduling would be taken
4 up at this hearing. It has been decided that a public
5 hearing will be held. The date for that hearing needs
6 to be determined today as well. I suggest at this
7 point that we go off the record to discuss scheduling
8 and then when we have come up with some kind of an
9 agreed schedule that we come back on the record and
10 reflect that on the record. Does any party have a
11 problem with that way of proceeding? Then let's go
12 off the record.

13 (Discussion off the record.)

14 JUDGE SCHAEER: Let's be back on the record.
15 While we were off the record we had a discussion of
16 the scheduling of this matter, and it was decided that
17 there will be no hearing for cross-examination of the
18 prefiled testimony and exhibits of company in this
19 matter, although there may be some questioning
20 regarding that testimony and those exhibits in
21 conjunction with questioning of the company's rebuttal
22 testimony in a later stage of the proceeding.

23 Staff and intervenor testimony will be
24 prefiled on August 15th. Puget's rebuttal will be
25 prefiled on September 5. There will be a third

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1 pre-hearing conference in this matter that will be
2 convened at 8 a.m. on September 24th and will last
3 from 8 to 9 at which time we will get all of the
4 exhibits in the case identified for the record. We
5 will take up witness scheduling and time estimates,
6 and we will schedule witnesses in such a way that we
7 can work around a conflict that Mr. Finnigan will have
8 between 10 and 12 that day.

9 We will have cross-examination hearing of
10 staff and intervenor cases in chief and Puget rebuttal
11 on September 24th and September 25th. We will have a
12 public hearing in this matter on September 25th and
13 briefs in this matter will be due on October 15th,
14 1996. Now, is there anything else that we discussed
15 while we were off the record that should be reflected
16 on the record at this time?

17 MR. FINNIGAN: Your Honor, I can now
18 respond to your question about Commissioners Hemstad
19 and Nelson. I've had a chance to talk with my client
20 and we will waive any objection that we might have.

21 JUDGE SCHAER: Thank you, Mr. Finnigan.
22 Hearing no additional comment on the scheduling, that
23 will be the schedule for the remainder of this
24 proceeding.

25 The next items that I would like to discuss

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1 are the agreed statement of facts and the statement of
2 issues which the parties were working upon between the
3 first pre-hearing conference and this conference. I
4 would like to have a report on your progress at this
5 time. Have the parties reached an agreed statement of
6 facts?

7 MR. VAN NOSTRAND: No.

8 MS. JOHNSTON: But we've been circulating
9 proposed facts to -- back and forth.

10 JUDGE SCHAEER: So where are we on that
11 process? Are we narrowing what's going to be in
12 dispute or are you making some good progress or --

13 MR. VAN NOSTRAND: I think we're making
14 some good progress.

15 MS. JOHNSTON: Yes, I would say so, and we
16 hope to confer more about the proposed stipulation
17 this morning at the conclusion of this pre-hearing
18 conference.

19 JUDGE SCHAEER: Okay. Would you like to use
20 this room so you can have Mr. MacIver on the
21 conference bridge for that?

22 MS. JOHNSTON: Yeah, that would be great.

23 JUDGE SCHAEER: How about a statement of
24 issues? I think even before you get all the facts
25 narrowed down you should have been able or should be

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1 able to put together a statement of all the issues
2 that you see that will be involved in this matter.
3 Has any agreed statement of issues been put together?

4 MS. JOHNSTON: No.

5 MR. VAN NOSTRAND: No.

6 JUDGE SCHAER: I would like the parties to
7 work together on an agreed statement of issues and to
8 report to the Commission by letter on that so that the
9 Commission has an opportunity to review the issues and
10 to let the parties know if there are other issues that
11 we perceive that are not on their list so that we can
12 be certain when we get to the September hearings that
13 all issues that need to be addressed for resolution of
14 this matter are included in the presentation before
15 us.

16 Do the parties have any problem with
17 proceeding in that manner? Let's go off the record
18 for just a moment and discuss a time line for that.

19 (Discussion off the record.)

20 JUDGE SCHAER: Let's go back on the record.
21 While we were off the record we discussed a date when
22 a list of issues could be provided to the Commission,
23 and the parties have agreed that such a list can be
24 provided to the Commission by July 5, and Commission
25 will review that list and will inform the parties if

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1 there are additional issues which Commission would
2 like to see addressed in the presentations made in
3 this matter.

4 There was also a discussion that there have
5 been -- there has been one proposal of statement of
6 facts shared with all parties by Puget and there have
7 been proposed changes to that made by the Commission
8 staff that have been shared with some parties and will
9 be shared with the rest of the parties by telefax this
10 morning. Is that a correct reflection of what we
11 discussed while we were off the record?

12 MS. JOHNSTON: Yes.

13 MR. VAN NOSTRAND: Yes.

14 JUDGE SCHAEER: And I've been informed that
15 Mr. Manifold is going to join us by conference bridge
16 in just a moment, so we will go through and review
17 portions of this discussion with him as well.

18 MR. MANIFOLD: Hello.

19 JUDGE SCHAEER: Good morning. Would you
20 like to make your appearance to start out, Mr.
21 Manifold?

22 MR. MANIFOLD: This is Rob Manifold,
23 assistant attorney general public counsel section.

24 JUDGE SCHAEER: Thank you. Has someone else
25 joined us?

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1 MR. MANIFOLD: Has Clyde MacIver already
2 appeared?

3 JUDGE SCHAER: Yes, he has. We have
4 present in the hearing room Mr. Van Nostrand for
5 Puget, Mr. Finnigan for Matsushita, Ms. Johnston for
6 Commission staff and we have appearing by conference
7 bridge Mr. MacIver for ICNU and now you for public
8 counsel.

9 Ms. Johnston received a call from Ms.
10 Richmond for King County late last week indicating
11 that she would be filing a motion to dismiss King
12 County from this proceeding. The bench has had no
13 contact from her nor have we received such a motion.
14 That's the status of the parties at this time.

15 We discussed scheduling and the following
16 schedule has been agreed to at this point. There will
17 be no cross-examination hearing of the company case in
18 chief. There will be prefiling of staff, public
19 counsel and intervenor testimony on August 15. There
20 will be prefiling of Puget rebuttal testimony and
21 exhibits on September 5th. There will be cross of
22 staff, intervenor and Puget rebuttal on September 24th
23 and 25th.

24 Beginning between 8 and 9 in the morning on
25 September 24th there will be a third pre-hearing

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1 conference at which time we will mark exhibits for
2 identification. We will discuss time estimates. We
3 will schedule witnesses. In doing so we are going to
4 seek to accommodate a conflict that Mr. Finnigan has
5 between 10 and 12 in the morning on September 24th in
6 scheduling witnesses during that time period that he
7 does not need to cross-examine. There will be a
8 public hearing on September 25th and briefs will be
9 due on October 15th.

10 Do you have any problems with any of that?

11 MR. MANIFOLD: Will the company's direct
12 case never be crossed or is that going to be included
13 in the shoot-out here in September?

14 JUDGE SCHAEER: Well, I've asked each party
15 whether they have a need to cross-examine company's
16 case in chief, and the response from staff and Mr.
17 Finnigan has been that they may have some questions
18 regarding the case in chief that they will ask in
19 conjunction with their questions regarding Puget
20 rebuttal on the 24th and 25th.

21 MR. MANIFOLD: And that would be fine with
22 us.

23 JUDGE SCHAEER: If you perceive a need for
24 an earlier hearing to cross-examine the case in chief,
25 I think one could be scheduled, but if not that's the

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1 plan that the others have wanted to proceed by.

2 MR. MANIFOLD: Is there a time set for the
3 public hearing on September 25th yet?

4 JUDGE SCHAER: No time has been set yet.
5 I'm guessing that probably a logical time would be to
6 set that for 1:30 in the afternoon.

7 MR. MANIFOLD: Sounds logical to me.

8 JUDGE SCHAER: That is a public meeting day
9 so there will be a meeting in the morning that day.

10 MR. MANIFOLD: This is Rob Manifold again,
11 and again my apologies for joining late. But I guess
12 a question I have is, given that the company has filed
13 schedule 48, I am curious as to what effect if any
14 that has upon proceeding with this case.

15 JUDGE SCHAER: Why don't you hold that for
16 just a moment and let me finish filling you in on
17 what we've done until now.

18 MS. JOHNSTON: Excuse me, Your Honor. I
19 don't really want to sit through this pre-hearing
20 conference again, and so what I propose is I leave for
21 10 minutes and that I fax our proposed statement
22 of facts again to Rob Manifold and Clyde MacIver and
23 then revisit this room. Is that acceptable to you?

24 JUDGE SCHAER: Yes. The next date that
25 we've talked about that the parties have agreed to put

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1 either the quantity or magnitude within his holdings?

2 JUDGE SCHAER: Looking at the PDC form the
3 stock ownership value is shown as E, which is \$50,000
4 or more according to the dollar code on the front
5 page, and the income from the stock is shown as code
6 A, which is one dollar to \$1,999 in the dollar code on
7 the front page.

8 MR. MANIFOLD: That's in Intel
9 specifically?

10 JUDGE SCHAER: Yes.

11 MR. MANIFOLD: I have no objection to him
12 participating.

13 JUDGE SCHAER: And then the other stock
14 ownership is by Chairman Nelson's husband and his
15 individual retirement account or Keough account. He
16 owns stock in Intel Corporation of code D which is
17 \$20,000 to \$49,999, and also the PDC form reflects
18 that Intel Corporation is a client of Preston Gates
19 and Ellis, although I've been informed that Mr.
20 Allison has nothing to do with representation of Intel
21 in the firm.

22 MR. MANIFOLD: I have no objection.

23 JUDGE SCHAER: Thank you. It's also been
24 discussed that Puget has shared with parties a copy of
25 a proposed statement of agreed facts and staff has

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1 made some suggested changes to that and I believe Ms.
2 Johnston left the room so that she could fax those
3 changes to you and Mr. MacIver so that you would have
4 them for some later-this-morning discussions of
5 possible agreed facts, and I see that she has rejoined
6 us so I believe that that has occurred.

7 MS. JOHNSTON: Yes.

8 JUDGE SCHAEER: So that brings you up to
9 date on what we've done thus far this morning. And is
10 there anything else that I should be telling Mr.
11 Manifold about that I haven't reflected? Did you want
12 to ask a question of Mr. Van Nostrand, Mr. Manifold?

13 MR. MANIFOLD: Yes, thank you. Do you
14 remember the question I asked before, Jamie?

15 MR. VAN NOSTRAND: Yes, I do, and the
16 answer is I don't believe it has any effect on this
17 proceeding as the Intel contract currently stands.

18 MR. FINNIGAN: Could I have some
19 clarification on that? From our perspective we would
20 like to see this case and the schedule 48 contract
21 sync up, but are you saying just because they're filed
22 independently from your perspective they don't have
23 any relationship?

24 MR. VAN NOSTRAND: Well, the special
25 contract with Intel is not structured the same way as

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1 schedule 48 was filed, and although they are very
2 similar in terms of impacts, it's not exactly the same
3 arrangement. (Inaudible) would be made to them under
4 schedule 48, so there's not an obvious link between
5 the two proceedings.

6 MR. MANIFOLD: So the company would not
7 expect that Intel would want to switch over to
8 schedule 48 making the Intel contract unnecessary?

9 MR. VAN NOSTRAND: Was that the company
10 would not expect?

11 MR. MANIFOLD: Right. Let me say, my
12 understanding is that schedule 48 allows any company
13 which has a special contract with the Commission to
14 switch over to the schedule 48 and allows customers
15 who don't have a special contract to opt on to
16 schedule 48. I don't know that -- I don't know how
17 the Intel contract (inaudible) price lines up with
18 schedule 48 or eligibility, so my question is whether
19 schedule 48 is what Intel would otherwise opt for if
20 it didn't have its special contract so that this
21 special contract case is moot as far as it's
22 concerned. That's the question I'm asking.

23 MR. VAN NOSTRAND: As I said, the economics
24 are similar, but I really can't speak as to Intel in
25 terms of whether or not it would prefer to be a

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1 schedule 48 customer or continue getting service under
2 this contract. The economics are similar.

3 MR. MANIFOLD: Okay.

4 JUDGE SCHAER: Is there anything else to
5 come before us this morning? Hearing nothing we will
6 reconvene for a third pre-hearing conference on
7 September 24, 1996 starting at 8 a.m. A notice of
8 hearing will be issued. This pre-hearing conference
9 is adjourned and we are off the record.

10 (Hearing adjourned at 10:30 a.m.)

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