

Docket No. UG-200994 - Vol. I

**WUTC v. Northwest Natural Gas Company dba NW
Natural**

January 19, 2021



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Page 1

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND) DOCKET NO. UG-200994
TRANSPORTATION COMMISSION,)
)
Complainant,)
)
v.)
)
NORTHWEST NATURAL GAS COMPANY,)
D/B/A NW NATURAL,)
)
Respondent.)

VIDEOCONFERENCE PRECONFERENCE HEARING BEFORE
ADMINISTRATIVE LAW JUDGES
SAMANTHA DOYLE AND RAYNE PEARSON

Volume I
Pages 1 - 18
January 19, 2021
1:34 P.M.

REPORTED BY: CRYSTAL R. McAULIFFE, RPR, CCR, #2121

Page 2

1 A P P E A R A N C E S
2 (All parties appeared via videoconference)
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Page 3

1 A P P E A R A N C E S
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15 Also Present: Eric W. Nelson, NW Natural
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Page 4

1 LACEY, WASHINGTON; JANUARY 19, 2021
2 1:34 P.M.
3 -o0o-
4
5 JUDGE DOYLE: All right. Good afternoon.
6 My name is Samantha Doyle. I'm co-presiding with
7 Administrative Law Judge Rayne Pearson over today's
8 preconference hearing -- or prehearing conference.
9 Pardon me.
10 Both of us will be presiding with the
11 Commissioners during the evidentiary hearing. I will do
12 appearances today, address motions for intervention and
13 discovery. Judge Pearson will address the procedural
14 schedule, and I will close this conference regarding
15 filing requirements.
16 This is Docket UG-200994, which is captioned
17 Washington Utilities and Transportation Commission v.
18 Northwest Natural Gas Company, doing business as
19 Northwest Natural.
20 Today is Tuesday, January 19th, and the time
21 is approximately 1:35 p.m.
22 On December 18th, 2020, Northwest Natural
23 filed a general rate case and requested a standard
24 protective order.
25 On January 7th, 2020, the Commission issued

Page 5

1 orders one and two suspending the proposed tariff
 2 revision and granting the standard protective order,
 3 respectively.
 4 This hearing conference is going to be a
 5 chance for the parties to discuss a procedural schedule
 6 and any other housekeeping matters.
 7 After today's conference, we will enter an
 8 order setting out the procedural schedule and setting
 9 the dates for the evidentiary hearing.
 10 Let's start by taking short appearances.
 11 And again, for the company?
 12 MR. FFITCH: Thank you, Your Honor. This is
 13 Jocelyn Pease with McDowell, Rackner & Gibson PC for
 14 Northwest Natural. And --
 15 JUDGE DOYLE: Thank you. And --
 16 MS. PEASE: My apologies. Would you like
 17 the appearances for other -- other representatives for
 18 the company as well?
 19 JUDGE DOYLE: Yes, please.
 20 MS. PEASE: Also with us is Lisa Rackner
 21 with McDowell, Rackner & Gibson PC, and Eric Nelson with
 22 Northwest Natural.
 23 JUDGE DOYLE: Thank you. And for Commission
 24 Staff.
 25 MR. CALLAGHAN: Good afternoon, Your Honor.

Page 6

1 Can you hear me?
 2 JUDGE DOYLE: Yes, we can hear you. Thank
 3 you.
 4 MR. CALLAGHAN: Thank you. This is Nash
 5 Callaghan, Assistant Attorney General for Commission
 6 Staff.
 7 JUDGE DOYLE: And Public Counsel?
 8 MS. GAFKEN: Hi. This is Lisa Gafken,
 9 Assistant Attorney General appearing on behalf of Public
 10 Counsel.
 11 JUDGE DOYLE: And a representative for The
 12 Energy Project.
 13 MR. FFITCH: Good afternoon, again, Your
 14 Honor, and Judge Pearson. This is Simon Ffitch
 15 appearing as counsel for The Energy Project.
 16 JUDGE DOYLE: And Alliance of Western Energy
 17 Consumers.
 18 MR. STOKES: Good afternoon. This is Chad
 19 Stokes with the Cable Huston law firm appearing for the
 20 Alliance of Western Energy Consumers. Also with me on
 21 the case will be Tommy Brooks, also with Cable Huston.
 22 JUDGE DOYLE: Thank you. And Northwest
 23 Energy Council.
 24 MR. FFITCH: Your Honor, this is Simon
 25 Ffitch again. I have been in communication with the

Page 7

1 Northwest Energy Coalition and have indicated to them
 2 that you were inquiring about their participation. And
 3 they are just confirming that matter right now. I -- I
 4 will say that when I reviewed the interventions in the
 5 case, I don't believe I saw a petition from the
 6 Northwest Energy Collision, but I might have missed it.
 7 In any event, there are -- I've advised them
 8 of your interest.
 9 JUDGE DOYLE: And --
 10 MR. FFITCH: So we may get more information.
 11 JUDGE DOYLE: Okay. Thank you. And, you
 12 know, that might have been my mistake. So let's move
 13 on.
 14 Is there any other party that wishes to
 15 enter an appearance?
 16 All right. Hearing nothing, let's move on
 17 and address the petitions to intervene.
 18 So The Energy Project and AWAC have filed
 19 petitions to intervene in advance. I'll have to check
 20 on Northwest Energy Council.
 21 Do we have anyone on the call who wishes to
 22 seek oral intervention?
 23 Okay. And hearing nothing, does any party
 24 object to the petitions to intervene filed by The Energy
 25 Project or AWEC?

Page 8

1 All right. And hearing none, those
 2 petitions are granted, and we'll move on to discovery.
 3 The discovery rules were made available to
 4 the parties in order one. During the proceedings of the
 5 Commission, parties often issue a first data request
 6 asking that any subsequent data request and responses
 7 are shared by every other party. It would make it
 8 easier on the parties if I include this requirement in
 9 the prehearing conference order.
 10 Is there any objection to my including that
 11 requirement?
 12 MS. GAFKEN: No objection from Public
 13 Counsel and we would support that.
 14 MS. PEASE: No objection from the company,
 15 either.
 16 MR. FFITCH: No objection --
 17 MR. CALLAHAN: -- from me as well.
 18 JUDGE DOYLE: Great. Discovery will
 19 otherwise be conducted according to the Commission's
 20 procedural rules. And Judge Pearson will now go over
 21 the procedural schedule.
 22 JUDGE PEARSON: Good afternoon. Thank you
 23 to the parties for working together in advance to submit
 24 the proposed procedural schedule.
 25 We find what was submitted mostly acceptable

Page 9

1 with a couple of adjustments. First, and -- Ms. Pease,
 2 actually, you addressed this in your subsequent e-mail
 3 this morning. Northwest Natural does request
 4 November 1st, 2021, effective date. But from the
 5 Commission's perspective, that's going to be difficult
 6 to meet if this case is fully litigated. And because we
 7 must operate as if that will be the outcome, the
 8 Commission will be setting a deadline to issue a final
 9 order that's in line with affecting a November 18th,
 10 2021, effective date, which is, of course, the statutory
 11 deadline by which the Commission must enter its final
 12 order.

13 Of course, if the case settles or even
 14 partially settles, there may be an opportunity to revise
 15 the procedural schedule to allow for the November 1st
 16 effective date, but at this juncture we are going to
 17 proceed as though that's not possible.

18 So, first and foremost, we need five to six
 19 weeks between the date that rebuttal and cross-answer
 20 testimony -- cross-answering testimony is filed and the
 21 date of the hearing so that policy staff, as well as ALD
 22 and the commissioners, have adequate time to prepare for
 23 the hearing in light of our competing workload demands.

24 So all of the dates up until the July 16,
 25 2021 date for filing rebuttal testimony are acceptable,

Page 10

1 but the hearing will need to be later than August 2nd.
 2 So working back from the November 18th suspension date,
 3 we're looking at a hearing date of Monday, August 23,
 4 2021, which would provide an adequate hearing
 5 preparation time between the July 16th rebuttal and
 6 cross-answering testimony deadline and the hearing date.

7 With that hearing date in mind, we would
 8 need all briefing concluded no later than September 24,
 9 2021. So the parties would either need to turn their
 10 briefs around more quickly or file only one round of
 11 post-hearing briefs. But we will, of course, leave that
 12 to the parties to decide. So with these caveats and
 13 directions in mind, I assume that the parties would like
 14 to take a brief recess to discuss.

15 MR. CALLAGHAN: Your Honor, this is Nash
 16 Callaghan. The Staff has no objection to a brief
 17 recess.

18 JUDGE PEARSON: Okay. So what we will do is
 19 that Judge Doyle and I will place ourselves on hold. So
 20 on our end, we will not be privy to the parties'
 21 conversations.

22 And then, Mr. Callaghan, if you could
 23 message us through the Teams app and let us know when
 24 the parties are done, then we can rejoin at that point
 25 in time.

Page 11

1 MR. CALLAGHAN: Yes, Your Honor.
 2 JUDGE PEARSON: Does that work for you?
 3 Okay. Then we are in recess, and Judge
 4 Doyle and I will place ourselves on hold.
 5 (A break was taken from 1:43 p.m. to 2:51 p.m.)
 6 JUDGE PEARSON: Let's go ahead and be back
 7 on the record. And during the break, the parties were
 8 discussing a procedural schedule.
 9 Is there an attorney who would like to speak
 10 on behalf of all of the parties to let me know what
 11 you've decided with respect to the procedural schedule?
 12 MS. PEASE: This is Jocelyn Pease for the
 13 company. I could do that, Your Honor. And if it would
 14 be helpful, we have an updated proposal that I could
 15 also e-mail to you and to counsel for all the parties.
 16 JUDGE PEARSON: That would be great.
 17 MS. PEASE: Okay. I can push "send on that
 18 right now, and then we can -- we can read that into the
 19 record if that's helpful. I think the other issue that
 20 I would preview for -- for Northwest Natural and I think
 21 also for -- for AWEC, we were still confirming the
 22 availability of our witnesses for the new hearing date,
 23 August 23rd and 24th. And so that is sort of a --
 24 something that we'd offer as a proposed schedule that is
 25 still subject to confirming on our end.

Page 12

1 JUDGE PEARSON: Okay. So I have the new
 2 proposed schedule in front of me, and it looks to be
 3 very similar to the previous schedule; however, the
 4 dates from July 16th have been adjusted forward.
 5 MS. PEASE: Yes. Those have all shifted.
 6 JUDGE PEARSON: Okay.
 7 MS. PEASE: Would it be helpful to read
 8 those into the record, or is that --
 9 JUDGE PEARSON: That's fine. I can just go
 10 ahead and do that since I have it in front of me now.
 11 So we would be looking at a discovery
 12 deadline of August 5th; Northwest Natural files joint
 13 issues matrix Friday, August 13th; exhibit list,
 14 cross-examination exhibits, witness list, time
 15 estimates, and exhibit errata would be due on
 16 August 16th; the evidentiary hearing set for Monday,
 17 August 23rd and Tuesday, August 24th. Initial post
 18 hearing briefs due Friday, September 24th and
 19 simultaneous reply briefs due Friday, October 8th.
 20 And those dates are all fine for the
 21 Commission.
 22 I did want to say that during the break I
 23 checked the Commissioners' schedules, and it looks like
 24 Commissioner Balasbas may have -- I don't yet know if
 25 it's nonnegotiable, but he has a hard stop time at

1 3 p.m. on the 23rd. So if we didn't finish, we would
 2 just pick up on the 24th and continue as needed.
 3 So, Ms. Pease, it sounds like you just need
 4 to confirm with a couple of more individuals about
 5 whether they are available?
 6 MS. PEASE: Yes. That's right.
 7 JUDGE PEARSON: Okay.
 8 MS. PEASE: We've been able to get in touch
 9 with most of the witnesses but not all of them.
 10 JUDGE PEARSON: Okay. And otherwise,
 11 everything looks good from the parties' perspectives?
 12 MR. STOKES: Your Honor, this is Chad Stokes
 13 for AWEC. We had the same issues. So I would just ask
 14 for 24 hours to confirm with our witness, and I can
 15 confirm by e-mail tomorrow.
 16 JUDGE PEARSON: Okay. That sounds --
 17 MR. STOKES: If that works?
 18 JUDGE PEARSON: -- good. And what I can say
 19 is that the Commission schedule, believe it or not, is
 20 very tight even as far out as the week of August 23rd.
 21 Those were hard dates to pin down. And so what we can
 22 do is, you know, work with -- if some witnesses have
 23 availability on the 23rd and some on the 24th, we can
 24 take them out of order, whatever we need to do to make
 25 sure that we can accommodate to the best of our ability

1 did have one last thing from staff. So in the Cascade
 2 GRC, we had proposed to the parties a method that was
 3 hoping to streamline the data request process, make it
 4 easier for everyone. And I've asked the parties if they
 5 would agree to something similar in this case.
 6 I believe I've heard a positive response
 7 from all the parties, and it's essentially that we would
 8 agree on categories for the data requests, organize the
 9 data requests by those categories, and then include them
 10 in the e-mail and the cover letters for data requests
 11 and responses. And the -- the language that we used for
 12 that is in Order 3, page 2, paragraph 9 in 200568.
 13 JUDGE PEARSON: Great.
 14 MR. CALLAGHAN: And I circulated that, a
 15 copy of that language to the parties.
 16 JUDGE PEARSON: Okay. That sounds good.
 17 Is there anything else that we need to
 18 discuss while we're here today?
 19 MS. GAFKEN: Yes. There's one more thing
 20 that I wanted to raise, Your Honor.
 21 JUDGE PEARSON: Sure.
 22 MS. GAFKEN: So I just wanted to bring up
 23 the idea of the public comment hearing, and that is
 24 already included in the schedule. But I wanted to
 25 discuss it just a bit.

1 between those two dates.
 2 And there may be other dates that week where
 3 there's an afternoon available. So if it comes down to
 4 that and the parties need to propose that, we can work
 5 with it within the dates of that week, even if it gets a
 6 little unconventional.
 7 All right. So moving on. We just want to
 8 remind the parties that documents should be filed online
 9 through the electronic filing link on the Commission's
 10 web page, which, of course, everyone is very familiar
 11 with now that we're working in a virtual environment.
 12 And again, exhibits will be filed only
 13 electronically and all documents will be served
 14 electronically. The Commission will serve the parties
 15 electronically. The parties will serve each other
 16 electronically.
 17 If you have any corrections or updates to
 18 the Master Service List in this docket, please just
 19 e-mail myself and Judge Doyle.
 20 And we are waiving, also going forward, any
 21 paper filing requirements in this docket. We can do
 22 everything electronically.
 23 Is there anything else we need to address
 24 today?
 25 MR. CALLAGHAN: Thank you, Your Honor. I

1 You know, I think the timing is useful after
 2 our first round of response testimony. It's just useful
 3 to have that be done before the public comment hearing.
 4 But, of course, schedules are such that it has to happen
 5 before it, then -- then that's what happens.
 6 I think there's a trickier question when it
 7 comes to whether it's virtual or in person. I think
 8 it's really quite uncertain whether we will be in person
 9 by the summer or even the fall. Fingers crossed that we
 10 are, but we don't necessarily know. So I would urge
 11 flexibility there.
 12 Of course, if we are able to do public
 13 comment hearing in person, I would recommend that it be
 14 conducted within Northwest Naturals service territory.
 15 But I would also recommend that we keep a virtual
 16 participation opportunity. I think that has provided
 17 some benefit to -- to folks trying to participate.
 18 I think that's everything that I wanted to
 19 talk about there, to be sure that I raised.
 20 JUDGE PEARSON: Okay. And duly noted while
 21 that, of course, remains to be seen. So we will play
 22 that by ear.
 23 MS. GAFKEN: Thank you.
 24 THE COURT: All right. Anything else before
 25 we adjourn today?

1 Okay. Hearing nothing, we will issue an
2 order shortly. I will, of course, wait to hear from the
3 parties on the proposed hearing dates. But subsequent
4 to that, we will issue an order memorializing everything
5 that we talked about here today.

6 And thank you all for appearing. And we are
7 adjourned.

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10 (Hearing adjourned at 2:59 p.m.)
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1 CERTIFICATE
2


3
4 STATE OF WASHINGTON)

) ss.

5 COUNTY OF KITSAP)
6

7 I, CRYSTAL R. McAULIFFE, a Certified Court
8 Reporter in and for the State of Washington, do hereby
9 certify that the foregoing transcript of the
10 videoconference pretrial conference on JANUARY 19 2021,
11 is true and accurate to the best of my knowledge, skill
12 and ability.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 and seal this 27th day of January, 2021.

15
16 
17 _____
18 CRYSTAL R. McAULIFFE, RPR, CCR #2121
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<p style="text-align: center;">A</p> <p>ability 13:25 18:12 able 13:8 16:12 acceptable 8:25 9:25 accommodate 13:25 accurate 18:11 address 4:12,13 7:17 14:23 addressed 9:2 adequate 9:22 10:4 adjourn 16:25 adjourned 17:7,10 adjusted 12:4 adjustments 9:1 Administrative 1:12 2:4 4:7 advance 7:19 8:23 advised 7:7 afternoon 4:5 5:25 6:13,18 8:22 14:3 agree 15:5,8 ahead 11:6 12:10 ALD 9:21 Alliance 6:16,20 allow 9:15 apologies 5:16 app 10:23 appearance 7:15 appearances 4:12 5:10,17 appeared 2:2 appearing 6:9,15 6:19 17:6 approximately 4:21 asked 15:4 asking 8:6 Assistant 3:5 6:5,9 assume 10:13 attorney 2:12 3:5,6 6:5,9 11:9 August 10:1,3 11:23 12:12,13,16 12:17,17 13:20</p>	<p>availability 11:22 13:23 available 8:3 13:5 14:3 Avenue 2:19 3:7 AWAC 7:18 AWEC 7:25 11:21 13:13</p> <hr/> <p style="text-align: center;">B</p> <p>back 10:2 11:6 Balasbas 12:24 behalf 6:9 11:10 believe 7:5 13:19 15:6 benefit 16:17 best 13:25 18:11 bit 15:25 Box 2:13 break 11:5,7 12:22 brief 10:14,16 briefing 10:8 briefs 10:10,11 12:18,19 bring 15:22 Brooks 6:21 business 4:18</p> <hr/> <p style="text-align: center;">C</p> <p>C 2:1 3:1 18:1,1 Cable 6:19,21 call 7:21 Callaghan 2:12 5:25 6:4,5 10:15 10:16,22 11:1 14:25 15:14 CALLAHAN 8:17 captioned 4:16 Cascade 15:1 case 4:23 6:21 7:5 9:6,13 15:5 categories 15:8,9 caveats 10:12 CCR 1:25 18:18 Certified 18:7 certify 18:9</p>	<p>Chad 6:18 13:12 chance 5:5 check 7:19 checked 12:23 circulated 15:14 close 4:14 co-presiding 4:6 Coalition 7:1 Collision 7:6 comes 14:3 16:7 comment 15:23 16:3,13 Commission 1:2,4 2:6,11 4:17,25 5:23 6:5 8:5 9:8 9:11 12:21 13:19 14:14 Commission's 8:19 9:5 14:9 Commissioner 12:24 commissioners 4:11 9:22 Commissioners' 12:23 communication 6:25 company 1:7 2:17 4:18 5:11,18 8:14 11:13 competing 9:23 Complainant 1:5 concluded 10:8 conducted 8:19 16:14 conference 4:8,14 5:4,7 8:9 18:10 confirm 13:4,14,15 confirming 7:3 11:21,25 Consumers 6:17,20 continue 13:2 Continued 3:2 conversations 10:21 copy 15:15</p>	<p>corrections 14:17 Council 6:23 7:20 counsel 3:4,6 6:7 6:10,15 8:13 11:15 COUNTY 18:5 couple 9:1 13:4 course 9:10,13 10:11 14:10 16:4 16:12,21 17:2 Court 16:24 18:7 cover 15:10 cross-answer 9:19 cross-answering 9:20 10:6 cross-examination 12:14 crossed 16:9 CRYSTAL 1:25 18:7,18</p> <hr/> <p style="text-align: center;">D</p> <p>D/B/A 1:8 data 8:5,6 15:3,8,9 15:10 date 9:4,10,16,19 9:21,25 10:2,3,6,7 11:22 dates 5:9 9:24 12:4 12:20 13:21 14:1 14:2,5 17:3 day 18:14 deadline 9:8,11 10:6 12:12 December 4:22 decide 10:12 decided 11:11 demands 9:23 difficult 9:5 directions 10:13 discovery 4:13 8:2 8:3,18 12:11 discuss 5:5 10:14 15:18,25 discussing 11:8 Division 2:13</p>	<p>docket 1:4 4:16 14:18,21 documents 14:8,13 doing 4:18 Doyle 1:13 2:5 4:5 4:6 5:15,19,23 6:2 6:7,11,16,22 7:9 7:11 8:18 10:19 11:4 14:19 Drive 2:6 due 12:15,18,19 duly 16:20</p> <hr/> <p style="text-align: center;">E</p> <p>E 2:1,1 3:1,1 18:1,1 e-mail 9:2 11:15 13:15 14:19 15:10 ear 16:22 easier 8:8 15:4 effective 9:4,10,16 either 8:15 10:9 electronic 14:9 electronically 14:13,14,15,16,22 Energy 6:12,15,16 6:20,23 7:1,6,18 7:20,24 enter 5:7 7:15 9:11 environment 14:11 Eric 3:11 5:21 errata 12:15 essentially 15:7 estimates 12:15 event 7:7 Evergreen 2:6 evidentiary 4:11 5:9 12:16 exhibit 12:13,15 exhibits 12:14 14:12</p> <hr/> <p style="text-align: center;">F</p> <p>F 18:1 fall 16:9 familiar 14:10 far 13:20</p>
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Ffitch 5:12 6:13,14 6:24,25 7:10 8:16	great 8:18 11:16 15:13	issue 8:5 9:8 11:19 17:1,4	6:8	necessarily 16:10
Fifth 3:7		issued 4:25	lisa.gafken@atg.... 3:9	need 9:18 10:1,8,9 13:3,24 14:4,23 15:17
file 10:10	H	issues 12:13 13:13	lisa@mrg-law.com 2:22	needed 13:2
filed 4:23 7:18,24 9:20 14:8,12	hand 18:13	J	list 12:13,14 14:18	Nelson 3:11 5:21
files 12:12	happen 16:4	January 1:17 4:1 4:20,25 18:10,14	litigated 9:6	new 11:22 12:1
filing 4:15 9:25 14:9,21	happens 16:5	Jocelyn 2:18 5:13 11:12	little 14:6	nonnegotiable 12:25
final 9:8,11	hard 12:25 13:21	jocelyn@mrg-la... 2:21	looking 10:3 12:11	Northwest 1:7 2:17 4:18,19,22 5:14 5:22 6:22 7:1,6,20 9:3 11:20 12:12 16:14
find 8:25	heard 15:6	joint 12:12	M	noted 16:20
fine 12:9,20	hearing 1:11 4:8,11 5:4,9 7:16,23 8:1 9:21,23 10:1,3,4,6 10:7 11:22 12:16 12:18 15:23 16:3 16:13 17:1,3,10	Judge 4:5,7,13 5:15 5:19,23 6:2,7,11 6:14,16,22 7:9,11 8:18,20,22 10:18 10:19 11:2,3,6,16 12:1,6,9 13:7,10 13:16,18 14:19 15:13,16,21 16:20	Master 14:18	November 9:4,9,15 10:2
Fingers 16:9	helpful 11:14,19 12:7	JUDGES 1:12 2:4	matrix 12:13	NW 1:8 3:11
finish 13:1	hereunto 18:13	July 9:24 10:5 12:4	matter 7:3	O
firm 6:19	Hi 6:8	juncture 9:16	matters 5:6	o0o- 4:3 17:13
first 8:5 9:1,18 16:2	hold 10:19 11:4	K	McAULIFFE 1:25 18:7,18	object 7:24
five 9:18	Honor 5:12,25 6:14 6:24 10:15 11:1 11:13 13:12 14:25 15:20	keep 16:15	McDowell 2:19 5:13,21	objection 8:10,12 8:14,16 10:16
flexibility 16:11	hoping 15:3	KITSAP 18:5	meet 9:6	October 12:19
folks 16:17	hours 13:14	know 7:12 10:23 11:10 12:24 13:22 16:1,10	memorializing 17:4	offer 11:24
foregoing 18:9	housekeeping 5:6	knowledge 18:11	message 10:23	OFFICE 2:12 3:6
foremost 9:18	Huston 6:19,21	L	method 15:2	Okay 7:11,23 10:18 11:3,17 12:1,6 13:7,10,16 15:16 16:20 17:1
forward 12:4 14:20	I	LACEY 4:1	mind 10:7,13	Olympia 2:7,14
Friday 12:13,18,19	idea 15:23	language 15:11,15	missed 7:6	online 14:8
front 12:2,10	include 8:8 15:9	law 1:12 2:4 4:7 6:19	mistake 7:12	operate 9:7
fully 9:6	included 15:24	leave 10:11	Monday 10:3 12:16	opportunity 9:14 16:16
G	including 8:10	let's 5:10 7:12,16 11:6	morning 9:3	oral 7:22
Gafken 3:5 6:8,8 8:12 15:19,22 16:23	individuals 13:4	letters 15:10	motions 4:12	order 4:24 5:2,8 8:4,9 9:9,12 13:24 15:12 17:2,4
GAS 1:7 2:17	information 7:10	light 9:23	move 7:12,16 8:2	orders 5:1
Gass 4:18	Initial 12:17	line 9:9	moving 14:7	Oregon 2:20
general 2:13 3:5 4:23 6:5,9	inquiring 7:2	link 14:9	message 10:23	organize 15:8
GENERAL'S 3:6	interest 7:8	Lisa 2:18 3:5 5:20	method 15:2	outcome 9:7
Gibson 2:19 5:13 5:21	intervene 7:17,19 7:24		mind 10:7,13	P
go 8:20 11:6 12:9	intervention 4:12 7:22		missed 7:6	
going 5:4 9:5,16 14:20	interventions 7:4		mistake 7:12	
good 4:5 5:25 6:13 6:18 8:22 13:11 13:18 15:16			Monday 10:3 12:16	
granted 8:2			morning 9:3	
granting 5:2			move 7:12,16 8:2	
GRC 15:2			moving 14:7	

<p>P 2:1,1 3:1,1 p.m 1:18 4:2,21 11:5,5 13:1 17:10 P.O 2:13 page 14:10 15:12 Pages 1:16 paper 14:21 paragraph 15:12 Pardon 4:9 Park 2:6 partially 9:14 participate 16:17 participation 7:2 16:16 parties 2:2 5:5 8:4 8:5,8,23 10:9,12 10:13,24 11:7,10 11:15 14:4,8,14 14:15 15:2,4,7,15 17:3 parties' 10:20 13:11 party 7:14,23 8:7 PC 2:19 5:13,21 Pearson 1:13 2:5 4:7,13 6:14 8:20 8:22 10:18 11:2,6 11:16 12:1,6,9 13:7,10,16,18 15:13,16,21 16:20 Pease 2:18 5:13,16 5:20 8:14 9:1 11:12,12,17 12:5 12:7 13:3,6,8 person 16:7,8,13 perspective 9:5 perspectives 13:11 petition 7:5 petitions 7:17,19 7:24 8:2 pick 13:2 pin 13:21 place 10:19 11:4 play 16:21 please 5:19 14:18 point 10:24</p>	<p>policy 9:21 Portland 2:20 positive 15:6 possible 9:17 post 12:17 post-hearing 10:11 preconference 1:11 4:8 prehearing 4:8 8:9 preparation 10:5 prepare 9:22 Present 3:11 presiding 4:10 pretrial 18:10 preview 11:20 previous 12:3 privy 10:20 procedural 4:13 5:5,8 8:20,21,24 9:15 11:8,11 proceed 9:17 proceedings 8:4 process 15:3 Project 6:12,15 7:18,25 proposal 11:14 propose 14:4 proposed 5:1 8:24 11:24 12:2 15:2 17:3 protective 4:24 5:2 provide 10:4 provided 16:16 public 3:4,6 6:7,9 8:12 15:23 16:3 16:12 push 11:17</p> <hr/> <p style="text-align: center;">Q</p> <p>question 16:6 quickly 10:10 quite 16:8</p> <hr/> <p style="text-align: center;">R</p> <p>R 1:25 2:1 3:1 18:1 18:7,18</p>	<p>Rackner 2:18,19 5:13,20,21 raise 15:20 raised 16:19 rate 4:23 Rayne 1:13 2:5 4:7 rayne.pearson@... 2:8 read 11:18 12:7 really 16:8 rebuttal 9:19,25 10:5 recess 10:14,17 11:3 recommend 16:13 16:15 record 11:7,19 12:8 regarding 4:14 rejoin 10:24 remains 16:21 remind 14:8 reply 12:19 REPORTED 1:25 Reporter 18:8 representative 6:11 representatives 5:17 request 8:5,6 9:3 15:3 requested 4:23 requests 15:8,9,10 requirement 8:8,11 requirements 4:15 14:21 respect 11:11 respectively 5:3 Respondent 1:9 response 15:6 16:2 responses 8:6 15:11 reviewed 7:4 revise 9:14 revision 5:2 right 4:5 7:3,16 8:1 11:18 13:6 14:7 16:24</p>	<p>round 10:10 16:2 RPR 1:25 18:18 rules 8:3,20</p> <hr/> <p style="text-align: center;">S</p> <p>S 2:1 3:1 Samantha 1:13 2:5 4:6 samantha.doyle... 2:8 saw 7:5 schedule 4:14 5:5,8 8:21,24 9:15 11:8 11:11,24 12:2,3 13:19 15:24 schedules 12:23 16:4 seal 18:14 Seattle 3:8 seek 7:22 seen 16:21 send 11:17 September 10:8 12:18 serve 14:14,15 served 14:13 service 14:18 16:14 set 12:16 18:13 setting 5:8,8 9:8 settles 9:13,14 shared 8:7 shifted 12:5 short 5:10 shortly 17:2 similar 12:3 15:5 Simon 6:14,24 simultaneous 12:19 six 9:18 skill 18:11 sort 11:23 sounds 13:3,16 15:16 South 2:6 Southwest 2:6 speak 11:9 ss 18:4</p>	<p>staff 2:11 5:24 6:6 9:21 10:16 15:1 standard 4:23 5:2 start 5:10 State 18:4,8 statutory 9:10 Stokes 6:18,19 13:12,12,17 stop 12:25 streamline 15:3 subject 11:25 submit 8:23 submitted 8:25 subsequent 8:6 9:2 17:3 Suite 2:20 3:7 summer 16:9 support 8:13 sure 13:25 15:21 16:19 suspending 5:1 suspension 10:2 SW 2:19</p> <hr/> <p style="text-align: center;">T</p> <p>T 18:1,1 take 10:14 13:24 taken 11:5 talk 16:19 talked 17:5 tariff 5:1 Teams 10:23 territory 16:14 testimony 9:20,20 9:25 10:6 16:2 thank 5:12,15,23 6:2,4,22 7:11 8:22 14:25 16:23 17:6 thing 15:1,19 think 11:19,20 16:1 16:6,7,16,18 tight 13:20 time 4:20 9:22 10:5 10:25 12:14,25 timing 16:1 today 4:12,20</p>
---	---	---	--	---

14:24 15:18 16:25 17:5 today's 4:7 5:7 Tommy 6:21 tomorrow 13:15 touch 13:8 transcript 18:9 Transportation 1:2 1:4 2:6,13 4:17 trickier 16:6 true 18:11 trying 16:17 Tuesday 4:20 12:17 turn 10:9 two 5:1 14:1	16:18 Washington 1:1,4 2:7,14 3:6 4:1,17 18:4,8 we'll 8:2 we're 10:3 14:11 15:18 We've 13:8 web 14:10 week 13:20 14:2,5 weeks 9:19 Western 6:16,20 WHEREOF 18:13 wishes 7:14,21 witness 12:14 13:14 18:13 witnesses 11:22 13:9,22 work 11:2 13:22 14:4 working 8:23 10:2 14:11 workload 9:23 works 13:17	1st 9:4,15 <hr/> 2 <hr/> 2 15:12 2:51 11:5 2:59 17:10 2000 3:7 200568 15:12 2020 4:22,25 2021 1:17 4:1 9:4 9:10,25 10:4,9 18:10,14 206 3:8 2121 1:25 18:18 23 10:3 23rd 11:23 12:17 13:1,20,23 24 10:8 13:14 24th 11:23 12:17 12:18 13:2,23 27th 18:14 2nd 10:1 <hr/> 3 <hr/> 3 13:1 15:12 360 2:7,14	8th 12:19 <hr/> 9 <hr/> 9 15:12 97205 2:20 98104-3188 3:8 98504 2:7 98504-0128 2:14
<hr/> U <hr/> UG-200994 1:4 4:16 uncertain 16:8 unconventional 14:6 Unit 3:6 updated 11:14 updates 14:17 urge 16:10 useful 16:1,2 Utilities 1:2,4 2:6 2:13 4:17	X <hr/> Y <hr/> Z <hr/> 0 <hr/> 1	<hr/> 4 <hr/> 400 2:20 40128 2:13 419 2:19 464-6595 3:8 <hr/> 5 <hr/> 503 2:21 595-3925 2:21 5th 12:12	
<hr/> V <hr/> v 1:6 4:17 videoconference 1:11 2:2 18:10 virtual 14:11 16:7 16:15 Volume 1:15	1 1:16 1:34 1:18 4:2 1:35 4:21 1:43 11:5 11th 2:19 1300 2:6 13th 12:13 16 9:24 16th 10:5 12:4,16 18 1:16 18th 4:22 9:9 10:2 19 1:17 4:1 18:10 19th 4:20	<hr/> 6 <hr/> 664-1160 2:7 664-1187 2:14 <hr/> 7 <hr/> 7th 4:25 <hr/> 8 <hr/> 800 3:7	
<hr/> W <hr/> W 3:5,11 WA 3:8 wait 17:2 waiving 14:20 want 12:22 14:7 wanted 15:20,22,24			