

WUTC v. Puget Sound Energy

Docket No. UE-240087 - Vol. I

July 24, 2024



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
Complainant,)
vs.) DOCKET UE-240087
PUGET SOUND ENERGY,)
Respondent.)
PAGES 1-24

VIRTUAL SETTLEMENT CONFERENCE - VOLUME I
July 24, 2024
BEFORE ADMINISTRATIVE LAW JUDGE
CONNOR THOMPSON

Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, Washington 98504

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1 July 24, 2024
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4 JUDGE THOMPSON: Let's go ahead and begin.
5 We are now on the record.
6 Good morning. It is Wednesday, July 24,
7 2024. The time is 9:36 a.m. My name is Connor Thompson,
8 and I am an administrative law judge with the Washington
9 Utilities and Transportation Commission, and I will be
10 presiding in this matter this morning.
11 We are here today for a settlement hearing in
12 Docket UE-240087, which is captioned WUTC versus Puget
13 Sound Energy. The commission convened this hearing
14 following the parties' filing of a multiparty settlement
15 that resolves for now all of the issues in this case.
16 Let's go ahead and start by taking short
17 appearances, starting with staff.
18 ATTORNEY STRAUSS: Good morning, your Honor.
19 Josephine Strauss with the Washington State Attorney
20 General's Office representing staff.
21 JUDGE THOMPSON: Thank you.
22 And for Puget Sound Energy?
23 ATTORNEY STEELE: Good morning, your Honor.
24 David Steele with Perkins Coie on behalf of the company,
25 and also my colleague, Byron Starkey, also with Perkins

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1 Coie.
 2 JUDGE THOMPSON: Thank you very much.
 3 And for public counsel.
 4 ATTORNEY O'NEILL: Good morning, your Honor.
 5 I apologize for being tardy. Tad Robinson O'Neill on
 6 behalf of public counsel.
 7 JUDGE THOMPSON: It is okay. I understand
 8 that things happen.
 9 Let's go ahead and talk about our plans for
 10 this hearing. First we will touch on the admission of
 11 prefiled exhibits and testimony, which should be fairly
 12 brief.
 13 We'll then allow for brief opening statements
 14 if any party has any on the settlement. We'll limit
 15 those to ten minutes each before we turn to the
 16 cross-examination of witnesses following the parties
 17 order presentation, which brings up the order of
 18 presentation.
 19 Because this is a complaint filed by staff,
 20 ordinarily we'd go ahead and have staff give their
 21 opening first and present their witness first. However,
 22 if the company and staff have talked and would like to
 23 change that order, I'm open to being flexible on that.
 24 So is there a preferred order for presentation this
 25 morning?

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1 ATTORNEY STRAUSS: No preferred order from
 2 staff, your Honor. We're happy to proceed as normal or
 3 on an adjusted basis, whichever is preferable.
 4 JUDGE THOMPSON: Okay. Does the company have
 5 any preference?
 6 ATTORNEY STEELE: Same for us, your Honor.
 7 We are fine proceeding as you outlined.
 8 JUDGE THOMPSON: Okay. That sounds good. If
 9 needed, we will take a short break, though I do not
 10 anticipate us going until lunch. We can take a lunch
 11 break if needed.
 12 And then before we begin, I just want to
 13 remind the parties to keep their microphones muted unless
 14 they are speaking. I will try to do the same, although I
 15 often forget that for myself.
 16 And also to only use video for those portions
 17 of the hearing when they have a speaking role.
 18 If you are having any technical issues, or if
 19 you observe a party that drops off, or a representative
 20 that drops off the online meeting, please mention that in
 21 the chat. And the chat should be used and reserved for
 22 technical issues and requests for break.
 23 Are there any questions before turning to the
 24 admission of exhibits?
 25 ATTORNEY STRAUSS: None from staff, your

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1 Honor.
 2 ATTORNEY STEELE: None from the company.
 3 ATTORNEY O'NEILL: None from public counsel.
 4 JUDGE THOMPSON: Okay. Thank you.
 5 Do the parties stipulate to the admission of
 6 all the settlement and supporting testimony filed on
 7 April 19, 2024?
 8 ATTORNEY STRAUSS: Yes, your Honor.
 9 ATTORNEY STEELE: Yes, your Honor.
 10 THE WITNESS: Yes, your Honor.
 11 JUDGE THOMPSON: Okay. Thank you. The
 12 settlement and the supporting testimony will be admitted.
 13 And at this time, we will turn to opening
 14 statements if there are any.
 15 And we'll turn to staff first, if you have an
 16 opening statement.
 17 ATTORNEY STRAUSS: Staff is comfortable
 18 waiving opening statements, your Honor.
 19 JUDGE THOMPSON: Okay. And the company?
 20 ATTORNEY STEELE: I do have an opening
 21 statement.
 22 JUDGE THOMPSON: Wonderful. You may proceed.
 23
 24 OPENING STATEMENT BY THE COMPANY
 25 ATTORNEY STEELE: Thank you, your Honor.

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1 Good morning, your Honor. Again, my name is
 2 David Steele. I'm counsel on behalf of PSE. Thank you
 3 for giving me a few minutes to make a short statement.
 4 I'd like to make just a few quick points, and
 5 then I'm happy to answer any questions, or I can turn the
 6 time over to PSE's witness, Mr. Birud Jhaveri, which is
 7 here with me.
 8 In short, your Honor, your Honor, the
 9 settlement is in the public interest because it clearly
 10 benefits customers and because it allows the parties and
 11 the commission to turn their focus to other matters. But
 12 I think some context and perspective is helpful as to why
 13 a settlement here makes sense.
 14 I want to be clear that PSE accepts
 15 responsibility and has accepted responsibility from the
 16 start for the underlying issue in this case.
 17 In early 2024, PSE learned that approximately
 18 a year before, when it was making its final compliance
 19 filing in the 2022 general rate case, due to a clerical
 20 mistake at filing, a single tariff sheet page was not
 21 included in the filing, the 12th version of PSE's
 22 electric tariff schedule, 52, Sheet B. This schedule
 23 contains a rate for PSE's municipal street lighting
 24 customers.
 25 Unfortunately, no party who reviewed the

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1 compliance filing caught the missing page. The
 2 commission had already approved the tariff rate. And the
 3 company posted the tariff sheet on its website and
 4 updated the applicable rates. No party had a second
 5 thought about it.

6 About a year later, as PSE was preparing for
 7 its next general rate case, the company discovered the
 8 issue and contacted staff for the best way to resolve the
 9 missing tariff sheet. PSE fully cooperated with staff
 10 and answered staff's questions.

11 Staff proceeded to file the complaint in this
 12 matter, alleging that by not filing the tariff sheet, PSE
 13 had improperly charged customers over \$900,000 in rates
 14 and committed thousands of violations of various statutes
 15 and rules.

16 PSE strongly disagrees with the allegations
 17 in the complaint for two primary reasons. First, a total
 18 dollar amount at issue in this case is actually about
 19 \$41,000, not 900,000 as alleged in the complaint.

20 When a company seeks approval of a new tariff
 21 sheet, the current version remains in effect until the
 22 new version is approved.

23 Here, the 11th version of Schedule 52, Sheet
 24 B, was in effect at the time PSE filed its 2022 general
 25 rate case, and while the proposed 12th version was

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1 pending. Thus, if there's an overcharge as staff
 2 alleges, the issue is simply the delta between the 11th
 3 and 12th versions, which is about 41,000 or about \$17 per
 4 customer.

5 Second, this case is about an inadvertent
 6 clerical mistake during a filing, not a rate approval
 7 issue.

8 PSE disagrees that it charged customers an
 9 unauthorized rate. The proposed 12th version of Sheet B
 10 was included in PSE's initial tariff filing at the
 11 inception of the 2022 general rate case, and it was
 12 included in PSE's first compliance filing following the
 13 final order because the updated rate was approved by the
 14 commission. During the case, no party objected to the
 15 proposed rate change, and it was part of the settlement
 16 in that case.

17 Thus, while it is true PSE failed to include
 18 the sheet in the final compliance filing, the rate was in
 19 fact approved by the parties and the commission, and it
 20 was posted on PSE's website so customers were aware. In
 21 other words, the rate PSE charged was the rate the
 22 commission approved. PSE mistakenly omitted the tariff
 23 page.

24 Given that context, the settlement is
 25 absolutely in the public interest. First, after it

Page 11

1 identified the missing sheet, PSE voluntarily alerted
 2 staff, seeking their guidance.

3 Second, in the abundance of caution, PSE
 4 voluntarily reverted rates to the 11th version of Sheet
 5 52-B, even though the parties and the commission had
 6 approved the 12th version. The 11th version remains in
 7 effect today.

8 Third, PSE refunded the customers the
 9 difference between the 11th and 12th versions prior to
 10 settlement being reached, plus interest. Between
 11 reverting the rates and the refund, customers are
 12 effectively getting a net benefit from the filing error.

13 Fourth, PSE literally conducts hundreds of
 14 UTC filings every year, and has a highly skilled and
 15 experienced regulatory team that makes those filings. PSE
 16 prides itself in the quality of its filings.

17 However, we are human. Mistakes happen. As
 18 most lawyers, and I certainly can attest, sometimes
 19 errors happen with filings, and corrections are then
 20 made. This is actually a normal part of the filing
 21 process, especially with complex or voluminous filings
 22 typical in many rate proceedings. Because of this,
 23 usually a party is not sued nor are complaints filed for
 24 a clerical mistake.

25 To help prevent future issues, PSE has added

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1 an initial layer of internal review before and after
 2 filings for the settlement.

3 Lastly, PSE is committed to making sure its
 4 compliance filing on both the gas and electric side in
 5 the pending general rate case is complete. If a similar
 6 situation as in this case happens, PSE is required to pay
 7 the \$106,000 suspended penalty.

8 While PSE disagrees that this amount is
 9 proportional to the injury and the coverage in this case,
 10 which is more than twice the amount at issue, to
 11 facilitate a resolution in this matter, PSE agreed to
 12 that amount.

13 In conclusion, the settlement is joined by
 14 staff and no party opposes. The settlement not only
 15 results in a net financial benefit to Schedule 52
 16 customers, but all customers will benefit from the
 17 additional steps PSE is taking to further improve its
 18 tariff filing process. And the resolution of the matter
 19 will allow the parties and the commission to focus on the
 20 many other pending matters each are addressing.

21 PSE respectfully requests that the commission
 22 approve of the settlement. Thank you, your Honor.

23 You may be muted, your Honor.

24 JUDGE THOMPSON: Thank you. I appreciate
 25 that.

Page 13

1 I do have one question before we move on to
 2 public counsel's opening statement, and I think that this
 3 question, Mr. Steele, is probably better directed to you
 4 than Mr. Jhaveri anyway. You mentioned the amount at
 5 issue being \$41,000 dollars or close thereto.
 6 ATTORNEY STEELE: Correct.
 7 JUDGE THOMPSON: Under the filed rate
 8 doctrine, generally, the company can only charge to
 9 customers those rates properly filed and approved by the
 10 commission. And so just to clarify, PSE's position is
 11 that in absence of the 12th revision, the 11th revision
 12 remains in effect as the filed rate at the time of the
 13 compliance, the second compliance filing. And so the
 14 amount at issue was \$41,000, not the 900,000; is that
 15 correct?
 16 ATTORNEY STEELE: That's correct, your Honor.
 17 JUDGE THOMPSON: Okay. All right. Thank
 18 you.
 19 Public counsel, do you have an opening
 20 statement?
 21 ATTORNEY O'NEILL: I have a very short
 22 opening statement, your Honor.
 23
 24 OPENING STATEMENT BY PUBLIC COUNSEL
 25 ATTORNEY O'NEILL: Public counsel

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1 participated in the negotiations around this settlement
 2 and is aware of the issues. We are not taking any
 3 position on the ultimate settlement.
 4 We do note, however, that this does result in
 5 a refund to customers as well as a process for ensuring
 6 that it does not happen in the future, both of which are
 7 positive developments that come out of the negotiations.
 8 But as I said, public counsel has no position
 9 on the settlement itself.
 10 JUDGE THOMPSON: Okay. Thank you.
 11 At this time, we'll go ahead and move to
 12 witnesses. We'll go ahead and start with staff.
 13 Staff, if you'd like to introduce the witness
 14 and tender them for cross-examination.
 15 ATTORNEY STRAUSS: Yes, your Honor. Staff
 16 has brought Jacque Hawkins-Jones.
 17 JUDGE THOMPSON: Okay. And
 18 Ms. Hawkins-Jones, if you could please rate your right
 19 hand and I'll swear you in.
 20 Do you swear or affirm that the testimony you
 21 will give today will be truth, the whole truth, and
 22 nothing but the truth?
 23 THE WITNESS: Yes.
 24 JUDGE THOMPSON: Okay, thank you.
 25

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1 JACQUE HAWKINS-JONES, witness herein, having been
 2 first duly sworn on oath, was
 3 examined and testified as
 4 follows:
 5
 6 EXAMINATION
 7 BY ATTORNEY STRAUSS:
 8 **Q Good afternoon. Or good morning, apologies.**
 9 **Good morning, Ms. Hawkins-Jones. Could you please state**
 10 **your name and spell your last for the record.**
 11 A Yes. My name is Jacque Hawkins-Jones; last
 12 name is H-A-W-K-I-N-S-J-O-N-E-S.
 13 **Q Ms. Jones, in what capacity are you here today?**
 14 A I am here to represent staff in this complaint
 15 investigation.
 16 **Q And what was your involvement in this**
 17 **investigation?**
 18 A My section was the lead on the previous general
 19 rate case, and I was notified that PSE had alerted staff
 20 of the missing tariff sheet.
 21 ATTORNEY STRAUSS: Your Honor, the witness
 22 is ready for cross.
 23 JUDGE THOMPSON: Thank you.
 24 At this time, does public counsel have any
 25 cross-examination for this witness?

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1 ATTORNEY O'NEILL: We do not, your Honor.
 2 JUDGE THOMPSON: Okay. Thank you.
 3 I do have just a couple of questions
 4 regarding the testimony.
 5
 6 QUESTIONS BY JUDGE THOMPSON
 7 JUDGE THOMPSON: So do you have your
 8 testimony in front of you?
 9 THE WITNESS: I can get it if you just give
 10 me one second.
 11 JUDGE THOMPSON: Okay.
 12 THE WITNESS: Okay. I have it available.
 13 JUDGE THOMPSON: Okay. Wonderful. On page 8
 14 -- and I'm looking at the first question and the first
 15 answer at the top of page 8 -- you discuss that staff
 16 recommends the difference between the 11th and 12th
 17 revisions be refunded to customers with interest.
 18 Has staff confirmed that those funds have
 19 been refunded at this time?
 20 THE WITNESS: It's been some time. I believe
 21 that staff did confirm that the funds were refunded back
 22 to customers.
 23 JUDGE THOMPSON: Okay. Great. And also on
 24 page 8, beginning at line 17, you discuss the
 25 recommendation that PSE initiate a process to ensure

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1 something like what happened with the second compliance
 2 filing does not happen again.
 3 Was there any discussion internally for staff
 4 as to whether or not a similar process or similar layer
 5 of review should be instituted for staff just to ensure
 6 that something else does not happen again?
 7 THE WITNESS: Yes, we have had internal
 8 discussions on staff's end of that as well.
 9 JUDGE BONFRISCO: Okay. And has anything
 10 been implemented or outlined?
 11 THE WITNESS: No, nothing has been formalized
 12 yet.
 13 JUDGE THOMPSON: Okay. Turning to page 9,
 14 again at line 17, you have a brief discussion as to why
 15 the settlement is in the public interest. And I just
 16 want to ask and give you the opportunity.
 17 Do you have anything to add to that as to why
 18 this settlement is in the public interest?
 19 THE WITNESS: No, I think my testimony covers
 20 it.
 21 JUDGE THOMPSON: Okay. Thank you. I think
 22 that concludes all of the questions that I had for you at
 23 this time. So you may go ahead and step down.
 24 THE WITNESS: (Inaudible).
 25 JUDGE THOMPSON: Thank you.

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1 And we will move to Puget Sound's witness,
 2 Mr. Jahveri.
 3 UNIDENTIFIED SPEAKER: (Inaudible).
 4 JUDGE THOMPSON: Go ahead, Mr. Steele.
 5 ATTORNEY STEELE: Thank you, your Honor.
 6 Byron Starkey with Perkins Coie.
 7 PSE presents witness Birud Jhaveri for
 8 cross-examination.
 9 Mr. Jhaveri, could you please state your name
 10 and title, and just spell your name for the court
 11 reporter.
 12 JUDGE THOMPSON: Before we do that, I'll just
 13 swear you in real quick, if that's okay.
 14 Mr. Jhaveri, if you would please raise your
 15 right hand. Do you swear or affirm that the testimony
 16 you will give today will be the truth, the whole truth,
 17 and nothing but the truth?
 18 THE WITNESS: I do.
 19 JUDGE THOMPSON: Okay. Thank you.
 20 All right. You may proceed.
 21
 22 JACQUE HAWKINS-JONES, witness herein, having been
 23 first duly sworn on oath, was
 24 examined and testified as
 25 follows:

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1 EXAMINATION
 2 BY ATTORNEY STARKEY:
 3 **Q Thank you, your Honor. Mr. Jhaveri, could you**
 4 **please state your name and title and spell your name for**
 5 **the court reporter.**
 6 A Sure. My name is Birud Jhaveri. I'm the
 7 director for regulatory affairs at PSE. My last name is
 8 spelled J-H-A-V-E-R-I.
 9 ATTORNEY STARKEY: And your Honor, PSE offers
 10 Birud Jhaveri for cross-examination.
 11 JUDGE THOMPSON: Thank you.
 12 At this time, does public counsel have any
 13 cross-examination for Mr. Jhaveri?
 14 ATTORNEY O'NEILL: I do not.
 15 JUDGE THOMPSON: Okay. Mr. Jhaveri, I do
 16 have at least -- well, a couple of questions for you, if
 17 that's okay.
 18
 19 QUESTIONS BY JUDGE THOMPSON
 20 JUDGE THOMPSON: You mentioned in your
 21 testimony that PSE voluntarily refunded customers prior
 22 to the settlement.
 23 Was that refunded amount the same as what is
 24 contained in the settlement and in your testimony?
 25 THE WITNESS: That is correct. PSE, when PSE

Page 20

1 reached out to staff once we discovered the issue, we had
 2 internal discussions to go ahead and revert back to the
 3 11th revision of the Tariff Sheet B. And at the time, we
 4 had also discussed that we would voluntarily refund
 5 customers based on the overcharge between the variance
 6 between Sheet 11 -- I'm sorry; Version 11 and Version 12.
 7 JUDGE THOMPSON: Okay.
 8 THE WITNESS: So we had already refunded the
 9 customers. And the refund included an additional
 10 interest payment as well.
 11 JUDGE THOMPSON: Okay. And was that a
 12 one-time refund, or is it being refunded over time?
 13 THE WITNESS: It is a one time refund.
 14 JUDGE THOMPSON: Okay. You also discuss that
 15 internally, another layer of review is going to go in
 16 place to ensure that this does not happen again.
 17 Could you just expound upon that a little bit
 18 and explain what that looks like?
 19 THE WITNESS: Sure. And I'd like to
 20 reiterate what Mr. Steele had stated earlier, which is
 21 Puget Sound Energy files thousands of tariff sheets every
 22 year. We do pride ourselves on the fact that most of the
 23 time, not 100 percent, but very close to 100 percent, our
 24 filings are accurate. Sometimes human errors are made.
 25 In this case, an error was made.

1 We typically review the tariff sheets once
2 they are filed. And that process has worked fairly well.

3 We did have an error this time around, and
4 what we have done is we've added another layer of review.
5 The additional review really would consist of PSE
6 downloading the approved compliance sheets from the
7 commission's website, both on the electric side as well
8 as the gas side, and then reviewing the sheets and
9 comparing them to what we have, and uploading the tariff
10 sheets that we've reviewed from the commission's website
11 on to our website; and also add another layer to ensure
12 that the billing system is -- has the same bills that --
13 or has the same rates that are approved on the
14 commission's website version. So that is an extra layer
15 that we've added within our internal process.

16 JUDGE THOMPSON: Okay. Wonderful. And thank
17 you for that.

18 At this time, I think that is all of the
19 questions that I have for you. So you may step down,
20 virtually.

21 THE WITNESS: Thank you.

22 JUDGE THOMPSON: Yes. Thank you.

23 And that brings us to the end of the
24 witnesses and cross-examination.
25

1 JUDGE THOMPSON: Okay. Great. I will go
2 ahead and circle back in a couple of days to just check
3 and make sure that we did not have any public comments
4 filed at this docket. And then I will issue an initial
5 order shortly thereafter.

6 Are there any questions from the parties?

7 ATTORNEY STRAUSS: No questions --

8 ATTORNEY O'NEILL: Not from --

9 ATTORNEY STEELE: No, your Honor.

10 JUDGE THOMPSON: Okay. Is there anything

11 else that needs to be addressed today? Staff?

12 ATTORNEY STRAUSS: No, your Honor.

13 JUDGE THOMPSON: Okay. Puget Sound Energy?

14 ATTORNEY STEELE: No. Thank you.

15 JUDGE THOMPSON: Okay. And public counsel?

16 ATTORNEY O'NEILL: No.

17 JUDGE THOMPSON: Okay. Thank you all. And
18 thank you for appearing this morning and for your time.

19 We are adjourned and off the record. Thank you.

20 (Hearing concluded at 9:58 a.m.)
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25

1 CLOSING DISCUSSION

2 I have a few other housekeeping items before
3 we adjourn. I did want to check, did public counsel
4 receive any public comment in this docket?

5 ATTORNEY O'NEILL: We did not receive it
6 directly. I don't know that we verified with staff
7 whether they have public comment.

8 JUDGE THOMPSON: Okay. And does staff know
9 if any public comments were filed with staff?

10 ATTORNEY STRAUSS: I would have to check with
11 Jacque, and we'd have to check the records. I would be
12 surprised if we had, but we'll have to check on that.

13 JUDGE THOMPSON: Okay. I just wanted to
14 double check before we conclude today.

15 I did e-mail the parties before today's
16 hearing, and I believe that all the parties have agreed
17 to forego post-hearing briefs on the settlement. Does
18 that remain the case today? I'll go ahead and start with
19 staff.

20 ATTORNEY STRAUSS: Yes, your Honor.

21 JUDGE THOMPSON: Okay. And for Puget Sound
22 Energy?

23 ATTORNEY STEELE: Yes, your Honor.

24 JUDGE THOMPSON: And for public counsel?

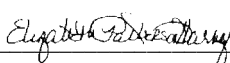

25 ATTORNEY O'NEILL: Yes, your Honor.

1 CERTIFICATE

2
3 STATE OF WASHINGTON)
4) ss
5 COUNTY OF KING)

6 I, Elizabeth Patterson Harvey, a Certified
7 Court Reporter and Registered Professional Reporter
8 within and for the State of Washington, do hereby
9 certify under penalty of perjury that the foregoing legal
10 recordings were transcribed under my direction; that I
11 received the electronic recording in the proprietary
12 format; that I am not a relative or employee of any
13 attorney or counsel employed by the parties hereto, nor
14 financially interested in its outcome.

15 IN WITNESS WHEREOF, I have hereunto set my
16 hand this 7th day of August, 2024.
17
18
19
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21

22  
23 Elizabeth Patterson Harvey, CCR 2731
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