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JUDGE MOSS: Good afternoon, everyone. We are convened in the matter styled Washington Utilities and Transportation Commission against Puget Sound Energy, Docket No. UE-010525. This is our first prehearing conference. Our basic agenda today, we will take appearances. We'll take up petitions to intervene. I gather there may be several oral petitions. I haven't received any written petitions. If anyone has filed them, hand them up to me now.

We will take up any other preliminary motions or requests, and I gather from a heads-up call I had from Mr. Glass regarding the procedural matters in this case that you all may first want to tell me about the status of the case before we proceed any further in terms of process of discussion and that sort of thing. Let's take the appearances, and we'll start with the Company; Mr. Glass?

MR. GLASS: My name is Todd Glass of Heller Ehrman White McAuliffe on behalf of Puget Sound Energy. My address is 701 Fifth Avenue, Suite 6100, Seattle, Washington, 98104. Phone, (206) 389-6142; e-mail, tglass@hewm.com. With me today is Steve Secrist, the director of rates for Puget, and Jerry Henry the director of major accounts for Puget.

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1 MR. CAMERON: I'm John Cameron here today for
2 AT&T Wireless. I'm with the law firm of Davis Wright
3 Tremaine, Suite 2300, 1300 Southwest Fifth Avenue,
4 Portland, Oregon, 97201. My phone number is (503)
5 778-5206, and my e-mail address is my name,
6 johncameron@dwt.com.

7 MR. SANGER: My name is Irion Sanger. I'm
8 with the law firm of Davison and Van Cleve here on
9 behalf of the trade association, Industrial Customers
10 of Northwest Utilities. My address is 1000 Southwest
11 Broadway, Suite 2460, Portland, Oregon, 97205. My
12 telephone number is (503) 241-7242; e-mail,
13 mail@dvclaw.com.

14 MS. ROBERTSON: I'm Melissa Robertson here on
15 behalf of WorldCom. I'm with the law firm of Ater
16 Wynne, LLP. Address is 222 Southwest Columbia, Suite
17 1800, Portland, Oregon, 97201. Phone number is (503)
18 226-1191. E-mail is mmr@aterwynne.com.

19 MS. JOHNSTON: Sally G. Johnston, senior
20 assistant attorney general, appearing on behalf of
21 Commission staff. My address is 1400 South Evergreen
22 Park Drive Southwest, Olympia, Washington, 98504. My
23 telephone number is (360) 664-1193. E-mail address is
24 sjohnston@wutc.wa.gov. My fax number is (360)
25 586-5522.

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1 JUDGE MOSS: Is Qwest entering an appearance?

2 MS. ANDERL: Yes, Your Honor. Lisa Anderl
3 and Adam Sherr on behalf of Qwest Corporation. The
4 address is 1600 Seventh Avenue, Room 3206, Seattle,
5 Washington, 98191. My e-mail is "landerl."
6 Mr. Sherr's is "asherr," both at qwest.com. Telephone,
7 (206) 345-1574 for me, and for Mr. Sherr, it is (206)
8 398-2507. Our common fax line is (206) 343-4040, and
9 we will be presenting an oral petition to intervene
10 today.

11 JUDGE MOSS: Do you want to pull up a chair?

12 MS. ANDERL: Yes, please.

13 JUDGE MOSS: Mr. Cromwell?

14 MR. CROMWELL: Robert Cromwell, assistant
15 attorney general for the State of Washington Public
16 Counsel section. My address is 900 Fourth Avenue,
17 Suite 2000, Seattle, Washington, 98164-1012. My direct
18 line is (206) 464-6595. My fax number is (206)
19 389-2058. My e-mail address is robertc1@atg.wa.gov,
20 and I'm appearing on behalf of Public Counsel.

21 JUDGE MOSS: Any other appearances?

22 Apparently not. Thank you all for that. What about
23 petitions to intervene? We'll start over here on the
24 left side of the table and work our way around.

25 MS. ANDERL: Thank you, Your Honor. Qwest

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1 would like to orally petition to intervene in this
2 matter at this time. As customers affected by the rate
3 schedule, we believe we have standing to intervene and
4 interests that are uniquely affected by the proceeding
5 and would therefore request party status.

6 JUDGE MOSS: Any objection to the
7 intervention by Qwest?

8 MR. GLASS: No objection upon behalf of
9 Puget.

10 MS. JOHNSTON: No objection.

11 JUDGE MOSS: There being no objection, the
12 petition is granted. Mr. Cameron, I guess you are
13 next.

14 MR. CAMERON: I would like to intervene,
15 please, on behalf of AT&T Wireless. We are one of
16 three customers currently under Schedule 48. I won't
17 go into the particulars of why we are there, but we
18 have been told by the Commission that by October 31st
19 of this year, we need to be on a different rate
20 schedule. Puget has proposed that we take service
21 under Schedule 45. We are obviously interested in the
22 outcome of the Commission's determination on that
23 schedule.

24 JUDGE MOSS: Any objection?

25 MR. GLASS: No objection.

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1 JUDGE MOSS: Hearing no objection, the
2 petition is granted. I have a written petition for the
3 Industrial Customers of Northwest Utilities. This does
4 not appear to have been filed.

5 MR. SANGER: It was filed yesterday.

6 JUDGE MOSS: Why don't you just briefly state
7 your trade organization's interest.

8 MR. SANGER: There are ICNU members who are
9 interested in leasing their property to people who may
10 be subject to Schedule 45 under its terms as proposed,
11 and there are also ICNU members who are interested in
12 developing facilities which would be subject to the
13 terms in Schedule 45.

14 JUDGE MOSS: Any objection to ICNU's
15 intervention?

16 MR. GLASS: Puget objects to ICNU's
17 intervention at this point because neither ICNU nor its
18 member have any direct or substantial interest in the
19 outcome of this proceeding and Schedule 45 itself,
20 especially as it currently exists and is proposed. So
21 we would request that there be a greater demonstration
22 of direct and substantial interest before they are
23 granted that full party status.

24 JUDGE MOSS: Which of your members has the
25 interest you described, Mr. Sanger?

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1 MR. SANGER: There are two members which have
2 a direct interest, Global Gateway and Kent, Washington,
3 LLC, who, if they took service under any of Puget's
4 tariffs if Schedule 45 is applicable, it would be
5 Schedule 45. There are other members of ICNU who are
6 interested in a proceeding on both policy grounds
7 because it distinguishes between incremental and
8 imbedded cost pricing, which is a change in Commission
9 policy. There are other members of ICNU who are
10 considering developing Internet data service centers or
11 like service centers under Schedule 45 but have not
12 done so yet.

13 JUDGE MOSS: Anybody else want to speak to
14 this petition? I'm going to overrule the objection and
15 grant the intervention.

16 MS. JOHNSTON: May I just ask a question for
17 a point of clarification? I would like to request
18 Mr. Sanger to indicate where on Attachment A -- there
19 is a Global Gateway, I believe.

20 MR. SANGER: Global Gateway became an ICNU
21 member this morning.

22 MR. GLASS: Similarly, I would request
23 clarification with regard to Kent, Washington, which
24 does not appear either.

25 MR. SANGER: Same for Kent, Washington.

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1 JUDGE MOSS: Ms. Robertson, you filed a
2 written petition, I believe.

3 MS. ROBERTSON: Yes, just filed it today.

4 JUDGE MOSS: You are seeking to intervene
5 upon behalf of WorldCom. Why don't you briefly state
6 your client's interest.

7 MS. ROBERTSON: WorldCom is of the class of
8 customers to which the proposed Schedule 45 would be
9 applicable so has a direct interest in this proceeding.

10 JUDGE MOSS: Any objection?

11 MR. GLASS: No objection, Your Honor.

12 JUDGE MOSS: Hearing no objection, the
13 petition is granted. Have I covered everyone?

14 (Pause in the proceedings.)

15 JUDGE MOSS: I guess I will ask if there are
16 any preliminary motions or requests before we hear
17 about the status of this case. Apparently not. What
18 is the status of this case, Mr. Glass?

19 MR. GLASS: Your Honor, the Commission in
20 late June suspended Schedule 45 as proposed in order to
21 assess for their own case and in order to allow the
22 parties, both PSE as well as the affected customers, to
23 further discuss and refine Schedule 45.

24 I have today a petition to substitute revised
25 Schedule 45, which reflects revisions that PSE has

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1 agreed to as part of these discussions with these
2 customers that would be served and who have been
3 identified here today. PSE fully supports the
4 substituted Schedule 45, but the customer support for
5 this rate schedule is conditioned on the total
6 settlement of a variety of issues surrounding service
7 under this rate schedule. At this time, I would like
8 to present to you the petition for your consideration
9 and the Commission's further consideration in this
10 docket.

11 JUDGE MOSS: All right. Have you filed that?

12 MR. GLASS: No. Your Honor, at this time, I
13 would note that at the request of Staff, there has been
14 one additional change that we would like to read into
15 the record on Schedule 45 as proposed today. It comes
16 on the first page under the "applicability" section.
17 The draft that you have begins, "This schedule..." The
18 following clause, and I'll quote it, should be inserted
19 before this: "Notwithstanding any possible temporary
20 applicability of any other schedules in this tariff,
21 during the effective period," and then we would
22 continue with, "this schedule applies..."

23 MR. SANGER: Can you read that again?

24 MR. GLASS: Yes. "Notwithstanding any
25 possible temporary applicability of any other schedules

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1 in this tariff, during the effective period," and then
2 it would continue, "this schedule applies to any
3 customer," etcetera.

4 JUDGE MOSS: Everybody get that down? I got
5 it. So since you haven't filed this with the
6 Commission yet, you probably ought to make that
7 correction before you do. That would be my
8 recommendation. Otherwise, you are going to have to do
9 a subsequent filing.

10 MR. GLASS: On that very topic, there will
11 be a subsequent filing. To review, in recent weeks,
12 PSE and the three customers that would be served under
13 Schedule 45 have been negotiating a settlement to
14 resolve Schedule 45 and related Schedule 48 issues. A
15 few weeks ago, we reached a tentative settlement in
16 principle. Drafts have been exchanged during the
17 intervening time, and PSE believes that there is an
18 agreement in principle that we would propose to file
19 with the Commission on September 14th, no later than
20 September 14.

21 There are a few remaining issues to be
22 discussed in that settlement, but PSE is confident that
23 we should be able to reach resolution of these issues
24 by that date. We would then request a Commission
25 hearing as necessary, if deemed necessary by the

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1 Commission, the week of September 24th, and action, if
2 possible, by the Commission by October 1st.

3 JUDGE MOSS: Let me ask first if anyone wants
4 to comment on what Mr. Glass had to say before I go on.
5 Mr. Cameron?

6 MR. CAMERON: Thank you, Your Honor. I
7 generally agree with what Mr. Glass has said. First
8 let me say at the beginning, we have been working on
9 this. The parties, Puget, and with a lot of help from
10 the Commission staff facilitated the early meetings and
11 have provided a lot of input and comment throughout, so
12 we all appreciate that.

13 Second, I think it's probably a bit strong to
14 say there is an agreement in principle. There are a
15 few issues, but I will say that to the extent there is
16 an agreement in principle, it is to wrap this up
17 quickly and to make an expeditious filing. We
18 discussed here at the Commission prior to this
19 afternoon's hearing several issues, and there aren't
20 many that separate us, but we do have to get through
21 those. Hopefully, we will have done that by Monday or
22 Tuesday of next week.

23 The schedule that Todd Glass handed you a
24 moment ago covers a transitional period. As you well
25 recall from this spring in the Air Liquide complaint

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1 proceeding, there were three customers on Schedule 48
2 that were not parties to that case but for whom Puget
3 and the Commission anticipated a new rate schedule to
4 replace Schedule 48, which terminates on October 31 of
5 this year.

6 It is our intention as we work through these
7 negotiations with the Schedule 45 substitute handed to
8 you today to substitute that rate schedule. That's
9 what we are working towards. Mr. Glass is correct in
10 saying there are a number of issues we are attempting
11 to resolve relating to our service as well as the
12 schedule that applies to that service. At this point,
13 I think it's fair to say, at least on behalf of AT&T
14 Wireless, that we neither support nor oppose the
15 schedule but look forward to supporting it soon.

16 JUDGE MOSS: Mr. Sanger, did you have
17 something?

18 MR. SANGER: Yes, Your Honor. ICNU opposes
19 Schedule 45 as currently filed, including the amended
20 version that PSE just handed out here. We also oppose
21 the time line proposed by Puget. We think that is too
22 expeditious to determine that this rate is just and
23 reasonable, and especially given that there are
24 significant issues to be resolved regarding this
25 tariff. For example, this tariff would deviate from

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1 the 20-year policy of pricing new service at imbedded
2 cost rather than a marginal cost, and the Commission
3 has said in the past that it's got to depart from that
4 policy or conduct full hearings and investigation. The
5 schedule proposed by Mr. Glass is much too tight to
6 adequately look into all those issues.

7 And I would add that if there are special
8 significant issues that need to be addressed to
9 alleviate the concerns of the Schedule 48 customers,
10 those things could be addressed in special contracts
11 and don't necessarily have to apply to a rate schedule
12 that the Commission approves.

13 JUDGE MOSS: Have Kent and Global been
14 involved in these negotiations that I heard about?

15 MR. SANGER: I'm not familiar with the extent
16 of their participation in the negotiations.

17 JUDGE MOSS: Mr. Glass?

18 MR. GLASS: They've been kept informed of the
19 status, but they have not actively participated in the
20 negotiation.

21 JUDGE MOSS: They have been free to do so if
22 they chose?

23 MR. GLASS: I would not characterize it as
24 free to join the negotiations, but they have been
25 informed of the status of them.

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1 JUDGE MOSS: Anybody else; Ms. Robertson,
2 Ms. Johnston? Anybody else want to comment on the
3 status of the case?

4 MS. JOHNSTON: Thank you, Your Honor. I
5 think generally Commission staff is supportive of the
6 schedule as outlined by Mr. Glass. However, given that
7 this matter was suspended on June 27th, Commission
8 staff is concerned that in the event that settlement
9 discussions fail -- I believe Mr. Cameron stated that
10 the parties had reached an agreement in principle,
11 which was, in fact, an overstatement at this late
12 date -- it's important to Commission staff that we
13 proceed to set a schedule.

14 JUDGE MOSS: We've got a tariff suspension,
15 so we've got until April?

16 MS. JOHNSTON: Yes.

17 JUDGE MOSS: Mr. Cromwell, you had something
18 to share with us?

19 MR. CROMWELL: Thank you, Your Honor. I
20 would like to clarify for the record that we've not
21 participated in those discussions that were referred
22 to. I've had a couple of conversations with
23 Mr. Secrist and Mr. McIntosh this morning.
24 Mr. McIntosh ordered a copy of the draft document that
25 I believe you have in front of you. He very graciously

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1 informed me about the scope of what's being proposed.

2 I think at this point, we don't have a
3 position on this proposal that the Company is putting
4 forward to resolve these issues. Other than what's
5 represented to me by Mr. McIntosh that the issues that
6 underlie the filing that perhaps, certainly Mr. Sanger,
7 would be addressed fully in subsequent rate cases, that
8 wouldn't seem like a proper context for judging the
9 larger policy issue.

10 JUDGE MOSS: Anybody else want to comment on
11 the status of the case; Ms. Anderl?

12 MS. ANDERL: Thank you, Your Honor. I'm sure
13 it hasn't escaped you that even though there is a
14 10-month statutory deadline on the tariff suspension
15 that the three customers who are at the table do need a
16 resolution of their issues prior to October 31st, and
17 we therefore support some more expeditious resolution.

18 MS. JOHNSTON: Is that in an effort to avoid
19 a special contract situation?

20 MS. ANDERL: If a special contract was the
21 solution, maybe we can look at that. Our feeling is
22 simply that we don't want to be without a rate
23 schedule.

24 MS. JOHNSTON: We are concerned about the
25 timing, the October versus the April. In the event

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1 there is a gap created, then clearly you and your
2 client would need to take under some rate.

3 MR. CAMERON: If I could offer one point of
4 further clarification, the schedule that is tendered to
5 you in revised form covers only what we've
6 characterized as a transitional period, between the
7 date on which the Commission would allow that schedule
8 to go into effect and the end of Puget's next general
9 rate case, which perhaps isn't quite a date certain yet
10 but is becoming more certain now that Puget has
11 promised to file a general rate case by the end of this
12 November.

13 All we've attempted to do is cover that
14 transitional period with a rate schedule, Schedule 48.
15 All parties, the customers and Puget, have made it
16 clear throughout negotiations that we reserve our full
17 rights in that next general rate case to argue which
18 rate should apply which might entail the elimination of
19 replacement Schedule 45 using existing tariffs or
20 something brand-new, depending on what people come up
21 with in the next general rate case and the Commission
22 adopts.

23 In other words, we have tried to frame this
24 in a way that raises as few a number of issues as
25 possible, given only the transitional period,

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1 preserving to ICNU as well as anyone else their full
2 rights in the next general rate case.

3 JUDGE MOSS: It strikes me as I consider the
4 comments this afternoon that there are some issues
5 outstanding that need to be resolved, and it also
6 strikes me that there are some parties that need to be
7 at the table if the intention of some of you, at least,
8 is to present to the Commission a comprehensive
9 settlement agreement.

10 Of course you can present a partial
11 settlement agreement; that is to say, one that does not
12 include all parties, and you would be free to present
13 that, and the Commission would take it up in its usual
14 fashion. We would have a record. We would have a
15 panel of witnesses from the sponsoring parties, but it
16 does not appear to me on the basis of what I've heard
17 that we are close enough to that point to where we
18 might have a comprehensive settlement, for example.
19 Nor are you even prepared at this point to say all the
20 issues are resolved among those who might present a
21 partial settlement.

22 Ms. Johnston has asked that we go ahead and
23 set up a procedural schedule as a precautionary
24 measure, at least, and I think that's a prudent
25 suggestion that I would follow. Do you have a

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1 suggested schedule, Ms. Johnston?

2 MS. JOHNSTON: No, Your Honor, I don't.

3 JUDGE MOSS: We will go off the record in a
4 moment and see if we can work that out and then
5 memorialize it.

6 MR. GLASS: Your Honor, one clarification of
7 information that I've just been given. With regard to
8 the negotiations with Global Gateway and Kent,
9 Washington, LLC, with regard to Global Gateway, that
10 customer has in writing informed PSE that it is no
11 longer building the facility that would have qualified
12 under Schedule 45, and with regard to Kent, Washington,
13 LLC, they have informed us to discontinue going forward
14 with the infrastructure required at this time because
15 of a lack of customer and other type of things.

16 Negotiating with those customers is
17 substantially different than negotiating with the three
18 customers that are currently on Schedule 48 that will
19 be served under Schedule 45.

20 JUDGE MOSS: I understand different parties
21 have different interests and are standing in different
22 positions with respect to Puget at the moment and that
23 some are customers and some are just prospective
24 customers, you might say.

25 It certainly is not unheard of for the

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1 Commission to take up a partial settlement that is
2 opposed by one or more parties, consider that
3 settlement and either enter an order approving it or
4 not or conditioning it in some way in light of whatever
5 opposition is stated. So I don't see that there is any
6 particular impediment to going forward on that track,
7 and I would encourage you to do so, and to the extent
8 you can be inclusive and get everyone on board, that
9 would probably expedite things.

10 Nevertheless, I do want to set a schedule,
11 hearing schedule so that we don't allow anything to
12 slip through the cracks nor waste our time this
13 afternoon. Everyone has come up from Portland and some
14 points of distance. Seattle, I guess, is actually the
15 time, at least more remote location, so I want to take
16 good advantage of our time and go forward with that.

17 As far as the suggested schedule that you
18 mentioned, Mr. Glass, in your discussion of the status
19 of the case, at this juncture sitting here today, I
20 can't tell you whether the Commission would be in a
21 position in the week of September 24th to conduct the
22 hearing on a settlement filing or not, but I will check
23 on that after our conference today and see what we can
24 work out in that time frame. As far as a hearing on
25 September 24th, an action by October 1 -- is it

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1 October 1 that Schedule 48 turns into smoke?

2 MR. GLASS: Yes. If I could clarify, the
3 parties that have been negotiating Schedule 45 are very
4 aware of the fact that Schedule 48 goes away at the end
5 of October. The idea behind the October 1st date is
6 that if the Commission decides it doesn't like the
7 as-proposed Schedule 45 or the special contracts or
8 anything of the like, we would like to have some time
9 before the end of the month to work on something
10 different that will be mutually acceptable. That is
11 why we have that October 1st date in there.

12 JUDGE MOSS: We will do what we can to
13 accommodate the parties' needs in terms of timing, but
14 sitting here right now, I can't tell you exactly when
15 we might be able to convene a hearing in that time
16 frame given the other business on the commissioners'
17 schedules. That's pretty close in time. I'm not
18 hopeful.

19 As far as the seven days between the dates
20 you proposed for a hearing and the date you would
21 propose Commission action, we might be able to do that,
22 but that's pretty tight. We will await any filing
23 before making any sort of decision about scheduling on
24 that anyway, so even if I knew, I wouldn't schedule it
25 today.

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1 Before we move on to the more routine and
2 traditional task of the prehearing conference, I just
3 want to ask a question or two about the petition that
4 you handed up. This is a petition to substitute
5 revised Schedule 45. I did read through the file this
6 morning, and I guess this is actually the third set of
7 tariff sheets that have been filed?

8 MR. GLASS: If I could clarify, Your Honor,
9 originally, the Schedule 48 litigation resulted in a
10 settlement that required PSE to file Schedule 45 by
11 April 16th. PSE filed an original Schedule 45 on that
12 day and subsequently moved back the effective dates but
13 made no other material changes to the tariff whatsoever
14 in order to accommodate various schedules, but this
15 substitute revised Schedule 45 is the first actual
16 substantive revision from that original filed on April
17 16th.

18 JUDGE MOSS: The stated effective date on the
19 currently filed version is June 28th. Is that the
20 current one?

21 MR. GLASS: I believe so, yes. That would
22 seem to correlate with the Commission's hearing date,
23 yes.

24 JUDGE MOSS: I notice in your petition then
25 that the attachments to your petition are not in the

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1 form of tariff sheets.

2 MR. GLASS: They have not been put into the
3 complete format of tariff rate schedules; that is
4 correct. However, in discussions with various
5 interested parties here, it was felt it would be
6 helpful at this time to submit revised Schedule 45,
7 which at least to the terms of that document and within
8 its four corners both PSE and the customers are
9 comfortable with those terms themselves, albeit with
10 the caveat that the customers are not going to support
11 the Schedule 45 absent the complete global settlement
12 that we've discussed before.

13 JUDGE MOSS: I'm just wondering what we are
14 to do with this petition? What am I to do with it, if
15 anything?

16 MR. GLASS: If the Commission is not likely
17 to consider actively this matter or this docket until
18 the full settlement documentation is submitted on
19 September 14th, I would advise you to wait until then
20 and we will do it then, but if the Commission is
21 interested to see where the status of things are, I
22 think this Schedule 45 does represent the actual status
23 of the tariff itself, and I would leave it to the
24 customers to either agree or disagree with that.

25 JUDGE MOSS: Did the Commission take any

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1 action with respect to your first petition to
2 substitute revised Schedule 45? I don't find anything
3 in my record.

4 MR. GLASS: Your Honor, those substitutes of
5 the effective dates happened prior to any suspension,
6 so no action was necessary.

7 JUDGE MOSS: So the Commission suspension
8 order actually speaks to those tariff sheets. That's
9 what was suspended.

10 MR. GLASS: Correct.

11 JUDGE MOSS: Ms. Johnston, I'm going to turn
12 to you and ask what would be the effect of the
13 Commission, I guess, granting this petition to
14 substitute revised Schedule 45 tariff sheets? Would
15 that have any effect with respect to the current
16 suspension? Would that start things over in terms of
17 dates? I've not had this particular experience before.
18 I don't know what happens.

19 MS. JOHNSTON: I've not had this experience
20 before either, but I think the Commission has a couple
21 of options. I think the Commission could accept this
22 petition to revise the current Schedule 45 in the
23 context of this adjudication under this docket number
24 and deal with it in this context, or the Commission
25 would have the option of pulling this out of this

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1 docket and making it an open meeting item and dealing
2 with it at that time.

3 JUDGE MOSS: Perhaps it would be redocketed.

4 MS. JOHNSTON: It would be redocketed and
5 perhaps consolidated, even suspended, if the parties
6 are unable to reach a global settlement.

7 JUDGE MOSS: It doesn't strike me there is
8 anything I can do as a presiding officer with respect
9 to this petition. It will require some action by the
10 Commission itself. I leave it up to you to file this
11 now or file something in connection with the settlement
12 on the 14th or however you want to handle it, and I'm
13 uncertain what action the Commission might take with
14 respect to any such petition that you do file.

15 Technically, it's not before me because it
16 hasn't been filed, but I appreciate you handing it up
17 to me and having the opportunity to discuss it, but we
18 would have to consider internally what the appropriate
19 action would be with respect to the proposal.

20 MS. JOHNSTON: Your Honor, may I make one
21 other statement? I don't believe notice is an issue
22 with regard to the Schedule 45 as revised. I believe
23 that the parties that would be interested in Schedule
24 45 as eventually approved or adopted by the Commission
25 are present in the room. So that in terms of whether

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1 or not to set it at an open meeting at which notice is
2 primarily an issue, I don't think we have those
3 problems.

4 JUDGE MOSS: I appreciate that. Mr. Glass
5 probably appreciates that too. I think that takes care
6 of the unusual qualities of the --

7 MR. GLASS: Your Honor, at this point,
8 especially given the fact that the clause that I read
9 to you is not currently in the document that is
10 attached to this petition, I think it would be most
11 expeditious for us not to file the actual petition you
12 have before you, and we will file the total package
13 together next Friday, September 14th.

14 JUDGE MOSS: That will be fine, and I think
15 it's appropriate and important to the extent that would
16 include proposed tariff sheets, they need to be in the
17 proper form according to the Commission's requirements.
18 Mr. Cameron, did you have something?

19 MR. CAMERON: If I could just make one point,
20 and that is the customers were not advocating this
21 petition to be filed. I think our point is less
22 formal, and that is we anticipated that there would be
23 others who might be interested in this. It's a
24 solution we've been negotiating, but there are others
25 that might be affected as well.

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1 It's sufficient at least for AT&T wireless'
2 purpose that Mr. Sanger and others have access to the
3 schedule. They can look it over. They can determine
4 for themselves whether it's an improvement over what
5 was filed before. If they have any questions, I invite
6 them to call any of us.

7 JUDGE MOSS: As I indicated before, I think
8 your suggestion is consistent with what I said,
9 Mr. Cameron, that it would be good to get everybody in
10 the loop in this discussion and see what could be
11 accomplished that way. Anything else on the status of
12 the case, if you will, with respect to the potential
13 for a settlement agreement, full or partial?

14 MR. SANGER: One thing, Your Honor. I
15 understand that there are very pressing concerns to get
16 some sort of resolution for three of the customers here
17 by the end of October, but at the same time, there may
18 be other solutions that can address their concerns and
19 not have a ruling on a tariff that's filed within 14
20 days after the tariff is filed. So I think that not
21 all the options have been explored by the parties here
22 in dealing with their problems expeditiously but still
23 addressing the concerns the other parties may have with
24 Schedule 45.

25 JUDGE MOSS: I think perhaps it would be

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1 fruitful for there to be some direct discussion on the
2 sorts of points that you raise outside the context of
3 the prehearing or the proceeding in anticipation that
4 you might be able to work some of those things out on
5 your own. If you can't, as I indicated before, any
6 parties are free to file a settlement agreement at any
7 time. It only makes sense for the Commission to take
8 that up when it happens and determine it one way or the
9 other promptly so that the parties then know where they
10 stand, and the Commission also is able to go forward
11 with its processes toward a hearing or whatever is
12 required to resolve the case. I'll let you continue
13 that discussion with the parties directly and encourage
14 that, I should say, and that's how we will proceed.

15 In terms of a procedural schedule -- before
16 we get to that, I guess we do need to raise the
17 traditional questions, whether any party requests the
18 Commission to invoke its discovery rule? Apparently
19 there is not a need for discovery in connection with
20 this at this time. You all can request that later.

21 MS. JOHNSTON: I would like to invoke the
22 discovery rule in the event the global settlement
23 fails.

24 JUDGE MOSS: Anybody else want to speak to
25 that?

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1 MR. SANGER: I would second that motion.

2 JUDGE MOSS: Certainly the case, to the
3 extent it's going to involve a novel rate structure, I
4 guess I'll say -- in the sense of what I've been
5 informed today, there is apparently some prospect of
6 marginal rates deviation from the imbedded cost
7 methodology, I think was the word you used,
8 Mr. Sanger -- certainly that is a matter of nature that
9 would make it appropriate to invoke the discovery rule,
10 so we will do that.

11 MR. GLASS: Your Honor, if I could make a
12 request. In order to allow us to concentrate our
13 efforts during the next week on the actual settlement
14 rather than on discovery, Puget would request that the
15 rule be invoked on the next day after that settlement,
16 that day of September 14th so that it can happen
17 afterwards.

18 JUDGE MOSS: What we can do is establish a
19 discovery schedule and initiate it after that. Does
20 that work?

21 MR. GLASS: Thank you.

22 JUDGE MOSS: That doesn't seem to prejudice
23 anybody's interest.

24 MR. SANGER: Your Honor, could that be
25 conditioned on expedited discovery in case hearings are

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1 done on an expedited basis?

2 JUDGE MOSS: I don't think we are going to
3 need expedited discovery. We've got until April, at
4 least, so I'm not going to do that, not yet. As the
5 case proceeds, we may have to make some changes but
6 setting today as sort of a provisional effort, and we
7 can always adjust that later. You can all request a
8 prehearing conference, and I'll be glad to convene one.

9 I'm getting ahead of myself making
10 assumptions. The assumption I'm making is that at this
11 juncture, there would be no need to enter a protective
12 order. We would want to wait until the discovery
13 process got under way, if it does, and then we can
14 consider whether that's something we need to do. At
15 this time, I'm getting nods of affirmance, so I'm
16 batting .500.

17 Since we don't have a suggested procedural
18 schedule, let's go off the record and have some
19 discussion about that and see if we can work some
20 things out in terms of dates and timing and what have
21 you, and then we will go back on the record and
22 memorialize that.

23 (Discussion off the record.)

24 JUDGE MOSS: The parties have had some
25 opportunity off the record to discuss a procedural

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1 schedule. We have reviewed that off the record, and I
2 will now memorialize it for the record, and Mr. Glass
3 will correct any mistakes that I make along the way.

4 As I understand, the schedule would call for
5 Puget Sound Energy to prefile its testimony on October
6 the 8th. Response testimony would be due from other
7 parties on November the 5th. Rebuttal testimony by
8 Puget Sound Energy would be on November the 19th. The
9 hearing is requested to be held in the approximate time
10 frame of December 5th, and we will set three days.
11 Assuming we can accomplish the requested hearing
12 schedule, we would set briefs for December the 19th,
13 which I gather that what the parties are looking for
14 there is two weeks after the hearing?

15 MR. GLASS: Correct.

16 JUDGE MOSS: So if we have to change dates
17 slightly, I'll set it two weeks after whatever the
18 final hearing date is. The parties are hopeful for
19 Commission resolution on that schedule by January 7th,
20 2002.

21 As to the question of discovery, because we
22 are anticipating that there will be at least a partial
23 settlement filed in this proceeding in very short
24 order, which will necessitate Commission attention and
25 perhaps some revision to the procedural schedule we are

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1 setting today, we will postpone the initiation of
2 discovery until the 17th of September. If no
3 settlement is filed by that date, then discovery will
4 commence on a five-business-day turnaround basis
5 through the 19th of November and thereafter on a
6 three-day business turnaround. Have I covered
7 everything?

8 MR. GLASS: Yes, Your Honor.

9 MS. JOHNSTON: Yes.

10 JUDGE MOSS: I will, of course, enter a
11 prehearing order that will capture the elements of that
12 schedule except, perhaps, the aspirational date for
13 Commission action.

14 Things did not go entirely as I had
15 anticipated they would today, so I did not take the
16 usual step of determining from the records center how
17 many copies of any filings you make need to be provided
18 to the Commission for its internal distribution. The
19 standard number is 19. I will, however, find out if we
20 can ask for fewer copies, and I will include that
21 information in my prehearing order.

22 I'm going to reiterate something that we
23 often include in our orders with which most counsel who
24 are present are familiar from practice before us. When
25 you do make filings, we ask that in addition to making

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1 your paper copy filing through the records center that
2 you do provide the Commission with an electronic
3 version of your filing, and that's very helpful to us.
4 That can be done either by e-mail attachment addressed
5 to the records center or providing the records center
6 with a three-and-a-half-inch diskette appropriately
7 formatted and provided in any of the common word
8 processing software. MS Word, Word Perfect, PDF
9 format, I guess are the preferred three.

10 I will remind the parties, although it seems
11 a little superfluous in this case, that the Commission
12 encourages settlements. The Commission encourages the
13 pursuit of alternative dispute resolution.
14 Nevertheless, the Commission remains prepared to go
15 forward with adjudication, if necessary, so we will let
16 the parties work on that outside the context of the
17 hearing room and see where things stand in a week or
18 so.

19 Is there any other business we need to
20 conduct today? Apparently there is not, so I thank you
21 all for being here today and look forward to working
22 with you as we bring this proceeding to its resolution.

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(Prehearing concluded at 2:40 p.m.)

