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5 THE KROGER COMPANY, by KURT J. BOEHM (via
6 bridge), Attorney at Law, Boehm, Kurtz, and Lowry, 36
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8 SEATTLE STEAM COMPANY, by ELAINE L. SPENCER
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10 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,
11 by IRION A. SANGER, Attorney at Law, Davison Van Cleve,
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13 COGENERATION COALITION OF WASHINGTON, by
DONALD E. BROOKHYSER, Attorney at Law, Alcantar & Kahl,
14 1300 Southwest Fifth Avenue, Suite 1750, Portland,
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15 NORTHWEST INDUSTRIAL GAS USERS, by EDWARD A.
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Haagensen & Lloyd, 1001 Southwest Fifth Avenue, Suite
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224-3092.

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

2 JUDGE WALLIS: This is a prehearing
3 conference of the Washington Utilities and
4 Transportation Commission in the matter of consolidated
5 dockets UE-060266 and UG-060267. This matter is being
6 heard before Administrative Law Judge C. Robert Wallis
7 on the 21st day of March of the year 2006 in Olympia,
8 Washington, pursuant to due and proper notice to all
9 interested persons.

10 This afternoon, we are engaged in the
11 preliminary prehearing conference in these matters and
12 will be exploring procedural issues and the schedule
13 for the proceeding. At this time, I would like to call
14 for appearances and would like to begin with the
15 Company, if you would, please.

16 MS. DODGE: Kirsten Dodge representing Puget
17 Sound Energy.

18 JUDGE WALLIS: Because this is the initial
19 statement of appearances, if you could state your full
20 information for the record, please.

21 MS. DODGE: My address is the PSE Building,
22 10885 Northeast Fourth Street, Suite 700, Bellevue,
23 Washington, 98004. My phone is (425) 635-1407. Fax is
24 (425) 635-2400. E-mail address is
25 kdodge@perkinscoie.com.

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1 Also, co-counsel for PSE on this case is
2 Mr. Jason Kuzma, who is also here today. He has the
3 same contact information, but his direct dial is (425)
4 635-1416, and his e-mail is jkuzma@perkinscoie.com.
5 Just for introduction purposes, Donna Barnett is also
6 on the legal team at Perkins Coie. People may have
7 occasion with data requests or other things to speak
8 with her, and we also have here today Mr. Tom DeBoer,
9 director of rates and regulatory affairs from PSE.

10 JUDGE WALLIS: For purposes of service for
11 all legal documents, are you the lead counsel to whom
12 such matters should be addressed?

13 MS. DODGE: Yes, but we would appreciate it
14 if all matters would be addressed to me and to
15 Mr. Kuzma as well as e-mail to Mr. Kuzma as well as me
16 because sometimes I'm not in a position to look at my
17 e-mail or I may be out, and that way, we are sure that
18 things are circulated.

19 JUDGE WALLIS: Very well, but we do ask that
20 we have one person who is responsible, and service will
21 be sufficient if addressed to you?

22 MS. DODGE: That's true. It just needs to be
23 one address, but if both names are on it, then
24 internally we will make the copies. Just note that as
25 in past cases, we have set up a special e-mail address

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1 for discovery requests, and I could state that now or
2 we could wait.

3 JUDGE WALLIS: State that now, please.

4 MS. DODGE: psedrs@perkinscoie.com.

5 JUDGE WALLIS: Thank you. For Commission
6 staff?

7 MR. CEDARBAUM: Robert Cedarbaum, assistant
8 attorney general for Commission staff. My business
9 address is the Heritage Plaza Building, 1400 South
10 Evergreen Park Drive Southwest in Olympia, Washington,
11 98504. My direct-dial telephone is area code (360)
12 664-1188. Fax is area code (360) 586-5522, and the
13 e-mail is bcedarba@wutc.wa.gov.

14 JUDGE WALLIS: For Public Counsel?

15 MR. FFITCH: Good afternoon, Your Honor.
16 Simon ffitch, assistant attorney general for the public
17 counsel section of the Washington State Attorney
18 General, 900 Fourth Avenue, Suite 2000, Seattle,
19 Washington, 98164. The telephone number is (206)
20 389-2055, and the fax is 389-2079. E-mail is
21 simonf@atg.wa.gov.

22 JUDGE WALLIS: Thank you, Mr. ffitch. I now
23 plan to go down the list of potential intervenors for
24 whom petitions are of record, beginning with ICNU.

25 MR. SANGER: My name is Irion Sanger of

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1 Davison Van Cleve representing the Industrial Customers
2 of Northwest Utilities. My address is 333 Southwest
3 Taylor, Suite 400, Portland, Oregon, 97204; phone
4 number, (503) 241-7242; fax, (503) 241-8160; e-mail,
5 mail@dvclaw.com, and I'll also be appearing in this
6 case with Bradley Van Cleve and Matthew Perkins.

7 JUDGE WALLIS: For NWIGU?

8 MR. FINKLEA: My name is Ed Finklea. I'm
9 representing the Northwest Industrial Gas Users. I'm
10 with the law firm Cable, Huston, Benedict, Haagensen
11 and Lloyd. Our business address is 1001 Southwest
12 Fifth Avenue, Suite 2000, Portland, Oregon, 97204. Our
13 telephone is (503) 224-3092, and our fax is (503)
14 224-3176. My e-mail is efinklea@chbh.com, and also
15 appearing in this proceeding with me is Mr. Chad
16 Stokes, same address. Everything is the same except
17 his e-mail address is cstokes@chbh.com.

18 JUDGE WALLIS: Thank you. Is there a
19 representative on the line or in the hearing room from
20 the Federal Executive Agencies? Let the record show
21 there is no response. I will indicate for the record
22 that I did receive a communication from Ms. Rita Liotta
23 today indicating that she was unable to participate and
24 that Norman Furuta was also unable to participate.
25 They asked to be excused from appearing in as much as

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1 they have filed a petition for intervention and notice
2 of appearance, I did indicate that their appearance was
3 excused. For Seattle Steam?

4 MS. SPENCER: I'm Elaine Spencer, Your Honor.
5 I'm with the law firm of Graham and Dunn, PC. My
6 address is Pier 70, 2801 Alaskan Way, Suite 300,
7 Seattle, Washington, 98121-1128. My phone number is
8 (206) 340-9638. The fax number is (206) 340-9599. My
9 e-mail address is espencer@grahamdunn.com.

10 JUDGE WALLIS: Thank you, Ms. Spencer. My
11 quick search of our records center database failed to
12 indicate that you have filed a notice of appearance.
13 If that is incorrect, could you educate me right now?

14 MS. SPENCER: We have filed a motion to
15 intervene. I'm not sure we've filed a separate
16 document called a "notice of appearance."

17 JUDGE WALLIS: Could you make arrangements to
18 make that filing, please?

19 MS. SPENCER: Certainly.

20 JUDGE WALLIS: For the Cogeneration
21 Coalition.

22 MR. BROOKHYSER: Good afternoon, Judge. My
23 name is Donald Brookhyser of Alcantar and Kahl
24 appearing for the Cogeneration Coalition of Washington.
25 My address is 1300 Southwest Fifth Avenue, Suite 1750,

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1 Portland, Oregon, 97201. My phone number is (503)
2 402-8702. My fax number is (503) 402-8882, and my
3 e-mail address is deb@a-klaw.com.

4 JUDGE WALLIS: Mr. Brookhyser, as to your
5 petition for intervention in other documents, we do
6 have that petition of record. However, I do not show
7 that you have filed a notice of appearance either.

8 MR. BROOKHYSER: I will do that also.

9 JUDGE WALLIS: Northwest Energy Coalition?

10 MS. DIXON: Danielle Dixon for the Northwest
11 Energy Coalition. Our address is 219 First Avenue
12 South, Suite 100, Seattle, 98104. Phone is (206)
13 621-0094. Fax is (206) 621-0097. E-mail is
14 danielle@nwenergy.org. Also appearing on behalf of the
15 Coalition is Nancy Hirsch. All the information is the
16 same except her e-mail, which is nancy@nwenergy.org.

17 JUDGE WALLIS: Thank you very much. That
18 exhausts my list of petitions for intervention that I
19 was able to find in our records database. Is there
20 anyone else in the room who desires to state an
21 appearance and to seek intervention in this docket?

22 MR. ROSEMAN: Yes, Your Honor. We did not
23 file an oral petition to intervene. I am Ronald
24 Roseman appearing on behalf of The Energy Project. I'm
25 an attorney. My address is 2011 14th Avenue East,

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1 Seattle, Washington, 98112. My phone is (206)
2 324-8792. My fax is (206) 568-0138, and my e-mail
3 address is ronaldroseman@comcast.net.

4 JUDGE WALLIS: Mr. Roseman, would you kindly
5 file a notice of appearance on behalf of your client?

6 MR. ROSEMAN: I will be glad to, Your Honor.

7 JUDGE WALLIS: Is there anyone else in the
8 hearing room who wishes to enter their appearance as a
9 party in this docket and seek intervention? Let the
10 record show there is no response. Let me ask that same
11 question as to persons who are listening on the bridge
12 line.

13 MR. BOEHM: This is Kurt Boehm from the
14 Kroger Company. We filed a petition to intervene but
15 not a notice of appearance, and we will do that.

16 JUDGE WALLIS: Very well.

17 MR. BOEHM: I'm with the law firm of Boehm,
18 Kurtz and Lowry, 36 East Seventh Street, Suite 1510,
19 Cincinnati, Ohio, 45202. My phone number is (513)
20 421-2255. My fax is (513) 421-2764, and e-mail is
21 kboehm@bkllawfirm.com, and also appearing in this case
22 is Mike Kurtz, and his contact information is the same
23 other than his e-mail, which is mkurtz@bkllawfirm.com.

24 JUDGE WALLIS: Did you file a notice of
25 appearance in this docket?

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1 MR. BOEHM: No, I have not. I will do so.

2 JUDGE WALLIS: Very well. Is there any other
3 person in the room or on the line that would like to
4 enter an appearance? Let the record show there is no
5 response.

6 Let's move right now to interventions. Is
7 the Company prepared or other parties prepared to
8 respond blanket, or would you prefer that we go through
9 each of these individually?

10 MS. DODGE: The Company has no objection to
11 any of the petitions for intervention.

12 JUDGE WALLIS: Let me ask if there is any
13 party to the proceeding or petitioner for intervention
14 that has objection to any of the petitions. Let the
15 record show there is no response. Each of the
16 petitioners has shown the necessary relationship with
17 the issues, and interventions are granted as to each of
18 the petitioners.

19 Let's proceed through the usual list of the
20 issues in such matters and first ask if the parties
21 desire the entry of a protective order.

22 MS. DODGE: Yes, Your Honor. There is
23 probably no dispute that a regular protective order
24 with confidential provisions be entered right away.
25 The Company has filed a motion for amended protective

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1 order with highly confidential provisions and a sworn
2 statement in support of that that was filed on February
3 15th. As of this morning, I hadn't seen any opposition
4 to that motion.

5 JUDGE WALLIS: Do any of the parties wish to
6 be heard?

7 MR. FFITCH: Yes, Your Honor, Public Counsel
8 would like to respond. Your Honor, we have no
9 objection to the entry of the standard form
10 confidentiality order. We also have no objection in
11 general to the entry of a highly confidential
12 protective order. However, we do object to the
13 specific provisions of the proposed order tendered by
14 Puget Sound Energy in this matter.

15 We would recommend as an alternative the form
16 of highly confidential protective order used by the
17 Company in its last general rate case, Docket UG-040640
18 and UE-040641, and we would also note for the record
19 that the currently pending PacifiCorp general rate case
20 has a confidentiality order with no highly confidential
21 provisions.

22 We would also note that the highly
23 confidential protective order in the MidAmerican
24 Holding Company PacifiCorp merger docket, although it
25 does contain highly confidential provisions, they are

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1 essentially parallel or consistent with the last Puget
2 rate case whereby we also find them to be acceptable
3 and preferable to the provisions recommended by the
4 Company.

5 Just to sum up our concerns, we believe the
6 proposed order raises issues that have been discussed
7 or debated on quite a number of occasions with previous
8 proposed orders, and they go too far, in our view,
9 towards employment restrictions for certain folks who
10 might be used, particularly for consultants or
11 advisors, rather than focusing simply on use
12 restrictions.

13 That's essentially the basis of our concern
14 in a nutshell. I do acknowledge that this motion was
15 filed in February and, as Ms. Dodge indicates, we have
16 not yet filed a written response, but I did want to
17 note our objection on the record today.

18 JUDGE WALLIS: Very well. Do others wish to
19 be heard?

20 MR. SANGER: We have many of the similar
21 concerns as Public Counsel has raised, and we were
22 hoping that we could maybe address this issue if
23 problems actually arise. In the last case, we were
24 able to get the information we needed from PSE without
25 the company-designated information we needed to see as

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1 highly confidential, and if the Commission or you are
2 inclined to adopt this highly confidential protective
3 order, we would like to reserve the right to challenge
4 any aspect of it in the future if we have an actual
5 dispute.

6 One potential way for the Commission to
7 address this problem is to wait until there is an
8 actual case in controversy before it before ruling on
9 whether or not parties have access to the highly
10 confidential information. Then the parties can have an
11 opportunity to see if we could get access to the
12 information from the Company without the Company
13 designating it as highly confidential or the Company
14 redacting certain portions or reformatting in a way
15 they could provide it under the confidential protective
16 order.

17 So if you are inclined to adopt the highly
18 confidential protective order, we would like to have
19 the opportunity to challenge the specific provisions of
20 it and any other aspect of it at a future date if we do
21 have an actual dispute.

22 JUDGE WALLIS: Does any other party wish to
23 be heard?

24 MR. CEDARBAUM: Yes, Your Honor. As a
25 practical matter, the motion for protective order with

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1 the highly confidential provisions doesn't affect
2 Staff. By its terms, the motion says the Staff has
3 access to highly confidential information on the same
4 basis as confidential information except for outside
5 consultants. We have hired an outside consultant on
6 cost and money issues, but I don't think there is any
7 conflict with respect to the blue paper that's been
8 filed, the highly confidential paper there.

9 I would note, however, that I think
10 Mr. Sanger's suggestion is a good one, and it really
11 parallels what happened in the last power-cost-only
12 rate case filed, and that was Docket UE-050870. I
13 believe the Company made the same proposal it is making
14 today, and we really could sidestep the issue and wait
15 to see if it was a problem for intervenors who are
16 seeking access to highly confidential information. It
17 actually did never become a problem. We never had a
18 conflict on access. We ultimately settled that case,
19 which probably made a difference there too, but I think
20 Mr. Sanger's suggestion is a good one, to wait and see
21 if there is going to be an issue before we fight about
22 it.

23 JUDGE WALLIS: Anyone else before we return
24 to the Company?

25 MR. FINKLEA: Ed Finklea for the Northwest

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1 Industrial Gas Users. I would echo ICNU and Public
2 Counsel's comments, and I do think the practical
3 approach of waiting until there is a real controversy
4 so that we can move forward if there is not a level of
5 concern.

6 On the gas side of things, we haven't run
7 into this level of confidentiality request as much as
8 on the electric side, so again, this may not be as big
9 an issue as the Company perceives. Thank you.

10 JUDGE WALLIS: Perhaps it would be
11 appropriate to hear from Mr. ffitch on this question
12 before we return to the Company. Mr. ffitch?

13 MR. FFITCH: Well, I guess sort of our
14 general concern from a policy perspective is that the
15 Commission's proceedings be open, so we believe that
16 there is actually a presumption against closing any
17 information from public review in these proceedings,
18 and we are concerned that there is a constant pressure
19 from the industry in these regulatory cases to remove
20 more and more of the evidence in the cases from the
21 public eye, and we don't think that's a healthy trend.

22 In the particular case of Puget Sound Energy,
23 the experience we've seen in the last three to four
24 years is that while we have been able to work out
25 reasonable terms for highly confidential protective

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1 orders in a number of proceedings, it appears, and this
2 is a further example, that Puget is in every new case
3 attempting to push the boundary of the sort of scope of
4 the protective order provisions a little bit further.
5 We have not seen this specific level of restriction
6 exactly in previous cases, and as I point out, the last
7 rate case is nothing like these specific restrictions.
8 Other cases are being litigated before the Commission
9 virtually contemporaneously without this kind of
10 restriction.

11 So that's one of the reasons we are making
12 these objections is there are sort of these broader
13 policy issues raised by this request, and I think I
14 would concur with the recommendation we've heard, I
15 think, from Staff and ICNU that perhaps we proceed with
16 a confidential protective order, and then if there is
17 particular information that needs protection, then the
18 Company can come forward and bear the burden of showing
19 there needs to be special additional confidentiality or
20 highly confidential treatment for that, and we can
21 discuss at that point any restrictions that would need
22 to be imposed.

23 JUDGE WALLIS: It would be acceptable to you
24 if the form of highly confidential order in the last
25 general rate case was used?

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1 MR. FFITCH: Yes, Your Honor.

2 JUDGE WALLIS: Ms. Dodge?

3 MS. DODGE: Thank you, Your Honor. You did
4 not have the benefit of all of the discussion, debate,
5 and argument in the 2005 PCORC about this issue and
6 also specific discussion and argument about using the
7 form of highly confidential protective order that was
8 used in the 2004 general rate case for PSE, but there
9 is a reason that the proposed highly confidential
10 provisions are different, and that's because in the
11 2004 general rate case, we didn't have resource
12 acquisitions at issue that involved third-party project
13 developer information that was submitted to the Company
14 in the RFP competitive bidding process, and in
15 addition, the Company is now currently engaged in a
16 very aggressive way in acquiring new resources, so the
17 Company's own interests in maintaining its negotiating
18 position and not having that leverage undercut is
19 significantly more pressing in this case as it was in
20 the 2005 PCORC than it was back at the time of the 2004
21 rate case was filed and litigated.

22 As far as the trend to push the envelope, the
23 difficult factual circumstances that the Company is in
24 and where it sits in its resource acquisition process
25 account for why it's seeking the protections that it

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1 is. In fact, the proposed protective order in this
2 proceeding is significantly narrower in scope and in
3 time than the one that the Company proposed in the 2005
4 PCORC. We had some discussion in that case. Some
5 parties said they didn't like how broad the terms were.
6 We had an offer outstanding to sharpen our pencils and
7 to try to come up with narrower language, but
8 objections of principle in some cases got in the way,
9 and practical workarounds helped us get around having
10 to actually go through that exercise, so we took it on
11 ourselves in this case filing to try to do it ourselves
12 to try to come up with language and scope that would be
13 more acceptable to the parties rather than being some
14 kind of industry-wide barrier to access, it's, Well, if
15 you are an owner and developer of projects that could
16 potentially be bid to PSE or compete with projects that
17 are being bid to PSE, then you shouldn't see this
18 information.

19 Similarly, with respect to advisors,
20 attorneys, and consultants for such owners or
21 developers, we are saying you shouldn't have access
22 only if you are in a position to provide advice that's
23 relevant to these kinds of projects. So if you happen
24 to be, say, an attorney or law firm providing advice
25 about something unrelated, we are trying not to be too

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1 broad.

2 So we have tried to come in with a much
3 narrower scope in this case, and additionally, rather
4 than a three-year employment restriction, we are
5 proposing a two-year restriction. We are trying to
6 think through how long is this information current
7 instead of stale, things like that.

8 I would also say that in terms of the
9 employment restriction issue, that was brought up in
10 the past case more in argument, and in our motion this
11 time, we addressed that issue as well. Right up front,
12 we have precedent, case precedent, showing, employment
13 restrictions in Washington of three years, and we are
14 asking for two. Washington precedent does recognize
15 that sometimes access to information is as damaging --
16 you need to prevent access, because once the
17 information is in someone's brain, they just can't
18 segregate it sufficiently, and this 2004 highly
19 confidential order that's referred to as a use
20 restriction we are looking at as an access restriction
21 as being more appropriate for that very reason.

22 You are talking about things like how many
23 dollars per megawatt hour are in the ballpark. You are
24 asking about financing terms, how deals are put
25 together in a way that gives them some financial

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1 competitive advantage in the marketplace, and so to
2 somehow unlearn how different parties in the industry
3 are approaching that and trying to get an edge on some
4 of those competitive issues I think would be very
5 difficult for an expert in this area to do that once
6 they've seen the information.

7 I would just point, out as a practical matter
8 so far, the Company has designated information as
9 highly confidential. It has not given the highly
10 confidential text to any parties other than internal,
11 Commission staff and Public Counsel, and we can
12 continue to do so and try to do workarounds.

13 As an alternative, if the Commission were to
14 enter the proposed protective order that the Company
15 has proffered with its motion, there is a provision for
16 challenging the highly confidential designation as to
17 particular items or pieces of information. I would say
18 the Company has made its preliminary showing to support
19 its designation of highly confidential material. It
20 has been very careful to designate only certain
21 columns, numbers, figures, so we do believe we have
22 complied with the requirements for obtaining a highly
23 confidential protective order, and at this stage, it
24 really ought to be other parties who want to see
25 particular pages or columns or things like that to come

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1 forward and say, We want you to release that
2 information.

3 Now as a practical matter, we will try to
4 work with the parties. Sometimes we can brainstorm
5 ways to get information that gives them the substantive
6 information they are looking for as far as, say,
7 relative merit projects without actually providing the
8 detail that's the competitive concern.

9 JUDGE WALLIS: Responses? Mr. ffitch.

10 MR. FFITCH: I don't have extensive
11 additional responses, Your Honor. As an example, the
12 concern that we have, and I would just note to
13 Mrs. Dodge's comment that they have attempted to sort
14 of carefully draft this with respect to their
15 particular concerns, I think that does appear from the
16 face of the document, but our concern still is with the
17 breadth and vagueness of the language. For example,
18 the phrasing of use of the term "competing" or "could
19 potentially compete" is very, very broad language.

20 These are difficult arguments because the
21 companies typically can make very compelling statements
22 of their particular factual situations. I guess I
23 would just note that if we look at the Commission's
24 experience with something like the MidAmerican merger
25 or with some of the cases on the telecom side where we

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1 actually have in the same case companies that are
2 competing with each other head to head, and even in
3 that setting, we are not having these kinds of
4 protective orders being issued, and we haven't seen a
5 history of problems. We haven't seen a history of
6 disclosure or competitive damage, and those similar
7 kinds of arguments could have been made in all of those
8 cases as to the very highly commercial sensitivity of
9 some of the information that was being provided, and
10 yet it wasn't necessary to have this kind of
11 restriction.

12 JUDGE WALLIS: Very well. Any concluding
13 remarks? It appears to me that the concerns that the
14 Company has stated are valid concerns. It appears to
15 me that the Company has indicated, number one, that it
16 is willing to work with other parties for workarounds,
17 and number two, that it continues to be amenable to
18 changes as may be required.

19 I am concerned that we allow the parties to
20 begin discovery, and certainly begin to have access to
21 the full case that the Company has filed, and it would
22 be my intention to see that an order as requested or
23 substantially as requested will be entered shortly. I
24 do believe that it is appropriate for the parties to
25 raise concerns about the application of the Order and

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1 to bring to the Commission any matter that you believe
2 should be an exception or to bring to the Commission
3 based on your experience as the case proceeds a motion
4 to amend that protective order.

5 Will that satisfy the parties' immediate
6 concerns?

7 MR. SANGER: To clarify, Your Honor, in a
8 motion for an exception or a motion to amend, we could
9 challenge the employment restrictions, use
10 restrictions, and any aspect of the highly
11 confidential?

12 JUDGE WALLIS: Yes.

13 MR. SANGER: We have no concerns.

14 JUDGE WALLIS: With the understanding that
15 you will attempt to work with the Company for a
16 workaround?

17 MR. SANGER: Yes.

18 JUDGE WALLIS: Very well. Let's move on. We
19 will see that the discovery rules are invoked in this
20 docket. Mr. Cedarbaum, do I recall correctly that
21 there may be a request to shorten the response time?

22 MR. CEDARBAUM: Yes, Your Honor; although it
23 coincides with the proposed schedule that we submitted
24 to the Commission.

25 JUDGE WALLIS: Very well. Shall we move on

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1 to the proposed schedule and take that up as one
2 element in the proposal?

3 MR. CEDARBAUM: Yes.

4 JUDGE WALLIS: Have all the parties had an
5 opportunity to review the proposal? Let me ask if it
6 has been circulated to parties appearing on the bridge
7 line? Very well.

8 MR. ROSEMAN: I have not seen it. Is there
9 an extra?

10 JUDGE WALLIS: There are copies on the side
11 table.

12 MR. CEDARBAUM: I distributed the schedule to
13 all the intervenors as I received copies of their
14 intervention. Mr. Roseman's was the only one that did
15 not come in on time.

16 JUDGE WALLIS: Why don't we begin with the
17 statement or explanation from the parties who have
18 brought this forward, the Company, Commission staff,
19 and Public Counsel. Who would like to proceed with
20 that?

21 MR. CEDARBAUM: I can explain it. Again,
22 this was put together by Staff, the Company and Public
23 Counsel. It was circulated, again, as parties filed
24 their interventions. We felt it was advisable to set
25 aside two periods of time for issue discussions and

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1 settlement conferences, so those are the first dates,
2 the May 17th and 18th and June 13th and 14th dates.

3 I think at this time, we are not specifically
4 asking the Commission to have a settlement judge
5 available, but certainly that might be something we
6 would ask down the road, but those would be dates we
7 would get together in Olympia, I assume, and talk about
8 settlement possibilities.

9 July 19th is when all parties would file the
10 response testimony to the Company direct. August 23rd,
11 Company files rebuttal. Hearings, we would set aside
12 the two weeks beginning September 18th for hearings.
13 We don't know if we would use them all, but they are at
14 least reserved, and then opening and reply briefs are
15 October 31st and November 14th.

16 With respect to discovery, I believe we do
17 have agreement amongst the parties that with the filing
18 on July 19th of all responsive testimony, we would
19 shorten the response time down to seven business days
20 for responses to data requests, and with the filing on
21 August 23rd of the Company's rebuttal case, we would
22 further reduce the response time down to five business
23 days. Other than that, I think that summarizes the
24 agreement on scheduling matters.

25 JUDGE WALLIS: Is there any party that has

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1 objection to this proposed schedule?

2 MR. FFITCH: Your Honor, it's not an
3 objection exactly, but the settlement dates came in
4 later in the process and I didn't have a chance to, or
5 I missed my chance to comment. On the first one, I'm
6 actually out of state May 17th and 18th, so I wanted to
7 raise the possibility with other parties -- I mentioned
8 this to Ms. Dodge before the hearing -- of possibly
9 slipping those even just a day or two so that I can be
10 back. We could have people there, but ideally, I would
11 like to have them happen after I return, so that could
12 be the 19th and the 22nd or the 22nd and 23rd of May.

13 MR. CEDARBAUM: I would have to confirm with
14 Staff, but I think a day or two slippage would not be a
15 problem subject to a confirmation with Staff.

16 JUDGE WALLIS: Is there any party for whom
17 that would raise an inconvenience? Let the record show
18 there is no response, and we will show those as
19 scheduled for May 22 and 23.

20 MR. FFITCH: Thank you, Your Honor.

21 JUDGE WALLIS: Very well. I believe that
22 there is at least one of those days on which the
23 chairman will be unavailable after 3 p.m., and
24 Mr. Cedarbaum, am I correct that you've been advised of
25 that?

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1 MR. CEDARBAUM: Yes, I was, Your Honor, and I
2 did circulate that information at least one point in
3 time. My understanding is that the Friday of that
4 first week in September, Chairman Sidran needs to leave
5 in the afternoon of that day to be in Seattle. I think
6 all the parties were fine with that.

7 JUDGE WALLIS: Very well. Mr. Sanger?

8 MR. SANGER: I would like to note that ICNU's
9 primary witness, Don Schoenbeck, is not going to be
10 available the first week of hearings. I think that
11 that has been made aware to the parties that if he's
12 going to be cross-examined, we will need some of the
13 second week.

14 JUDGE WALLIS: Very well. I believe we will
15 be able to make accommodation to that requirement.
16 With those understandings, we will adopt and set forth
17 this schedule as it has been circulated.

18 In reviewing the filing and the cover letter
19 under which it appeared, it occurred to me that the
20 filing is filed to be effective at a time prior to --
21 let me ask Ms. Dodge because I'm positive she will know
22 the answer. What is the stated effective date of your
23 electric tariff filings?

24 MS. DODGE: The effective date was for March
25 18th, I believe, but it has been suspended, but the

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1 entire filing was made under Order No. 4 of the 2005
2 PCORC, which called for the general rate case filing by
3 mid February for rates that would be effective January
4 1, 2007.

5 JUDGE WALLIS: That is the question that I
6 have; whether, in fact, you did not wish at least some
7 of these to bear a stated effective date of January 1.
8 In other words, are you intending all of these to
9 become effective as soon as the Commission acts or on
10 January 1?

11 MS. DODGE: If the case settles early, then
12 most of the tariff schedules would go into effect
13 within days, I think, after the entry of the
14 Commission's order. We were simply saying in the cover
15 letter that this was in compliance with the PCORC
16 order, and we are quoting from it.

17 We also state in the letter that we didn't
18 file Schedule 95 as part of the filing. That is the
19 power-cost baseline surcharge, essentially, and that
20 needs to go to zero when new general rates go into
21 effect because the revenues from that are essentially
22 rolled into the new general revenues, but there is
23 another mandatory filing under the 2005 PCORC order
24 this spring that would result in a new Schedule 95 as
25 of July 1 of this year, and so we would just have to

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1 see how the timing worked out because -- and I'm sure
2 the parties would address that as part of any
3 settlement that the power-cost baseline and the
4 agreement that came out of the 2005 PCORC about this
5 new PCA period being an annual calendar year and this
6 bridge period for the second half of 2006 we would need
7 to work out to consider that in general rates.

8 JUDGE WALLIS: Does this cause any concern to
9 any of the parties?

10 MR. SANGER: I'm not sure I'm following all
11 the conversation that is going on. I think the last
12 order said there is a specific effective date, and that
13 needs to be complied with in the settlement agreement.
14 Then we can address the effective date and make it
15 earlier or even later, but I may be missing some
16 discussion of what's going on here.

17 MR. CEDARBAUM: I guess I would agree. If we
18 settle the case, one issue may be the effective date of
19 the tariff, whether they would be earlier than January
20 1. We could deal with that in the settlement
21 discussion. I was operating under the assumption that
22 January 1, 2007, was the effective date of new rates
23 absent a settlement, but with a settlement, it's an
24 open issue.

25 MR. FFITCH: For Public Counsel for the

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1 record, we just reserve comment on Ms. Dodge's
2 description of the sort of sequence of events here. We
3 will just tell you that we may have some opinion about
4 that. I don't right now. I'm not up to speed on the
5 specific details, but just want to make it clear that
6 it's not silence giving consent. We are just going to
7 reserve comment at this time.

8 MR. FINKLEA: For the Industrial Gas Users,
9 my understanding is the January 1 date is on the
10 electric side, so I'm not sure if I understand exactly
11 what the Company's proposal is with the gas side of the
12 rate increase. Is it the normal suspension period or
13 January 1st has meaning on the gas side as well?

14 JUDGE WALLIS: Ms. Dodge?

15 MS. DODGE: I think the Company is operating
16 under the assumption if this is a fully litigated case,
17 new rates would go into effect January 1, and the
18 schedule the parties have worked out contemplates
19 providing the Commission sufficient time to issue an
20 order and the Company to get a compliance by the
21 January 1 date as to all rates.

22 JUDGE WALLIS: Very well. Let me ask now if
23 there is anything further to come before the Commission
24 at this time?

25 MR. FFITCH: Your Honor, one other item I

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1 wanted to raise. Perhaps this would have fit well into
2 the scheduling discussion, but we would like to request
3 that at least one, preferably additional public
4 hearings be scheduled for comment from Puget Sound
5 Energy customers with regard to the case.

6 At this time, we have not had any preliminary
7 discussions with the Company with regard to the notice
8 that would go to customers. Ordinarily in this type of
9 case, that will provide them with information about
10 when and where the hearings will be held, so we would
11 like to initiate that process immediately.

12 We have, I think, had some mixed experience
13 with this process in different cases. Sometimes there
14 has been a problem with getting hearings set in time so
15 they can be put into the notices and getting to the
16 billing cycle and so on, so I'm raising this now. One
17 option might be for Your Honor to set a deadline for us
18 to get back to you so that we can report on the process
19 and hopefully have things in train so we can have a
20 hearing set and have the notice issues resolved early
21 on.

22 Some of that is going to require
23 communicating with the hearings division for potential
24 dates. That has often occurred through the public
25 affairs folks who handle the hearing process for the

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1 Commission. I will be happy to initiate those
2 discussions and work with the Company on it. It would
3 help us, perhaps, if you could set a deadline for us to
4 get back to you on this.

5 JUDGE WALLIS: What would your suggestion be
6 looking ahead to the time that would be required to
7 have the decisions made to facilitate a notice?

8 MR. FFITCH: I'm thinking something in the
9 range of no more than 30 days, but I'm not sure what
10 kind of time the Company would need.

11 JUDGE WALLIS: 30 days from today?

12 MS. DODGE: We would be able to work with
13 that.

14 JUDGE WALLIS: We will state that deadline in
15 the order with the understanding that if an extension
16 of time is required for good reason, the parties may
17 make that request.

18 I will note for the record that I am not Ann
19 Rendahl and that Judge Rendahl does remain the
20 presiding judge for this docket. She is unavailable
21 today, and I am conducting the prehearing conference on
22 her behalf, so I would ask that you do in all of your
23 correspondence make certain that you provide courtesy
24 copies to Judge Rendahl and to any of the advisory
25 staff that she may indicate.

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1 In a related topic, I have not yet researched
2 the number of physical copies that will be required for
3 the Commission. I will do that within the next 24
4 hours, and it will be my intention to enter a
5 prehearing conference order consistent with our
6 discussions today certainly no later than the close of
7 business on Thursday so that the parties have the
8 required information.

9 Is there anything further to come before the
10 Commission at this time? Let the record show that
11 there is no response. Thank you all for your
12 participation today, and this session is concluded.

13 (Prehearing conference adjourned at 2:25 p.m.)

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