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BEFORE THE WASHINGTON STATE

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UTILITIES AND TRANSPORTATION COMMISSION

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WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)

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Complainant,)

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vs.) DOCKET UE-111048 and

7

PUGET SOUND ENERGY, INC.) DOCKET UG-111049

8

Respondent.)

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PREHEARING CONFERENCE, VOLUME I

11

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ADMINISTRATIVE LAW JUDGE DENNIS MOSS

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1:30 P.M.

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JULY 20, 2011

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Washington Utilities and Transportation Commission
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1 JUDGE MOSS: Good afternoon, everyone.

2 My name is Dennis Moss, I'm an administrative law
3 judge with Washington Utilities and Transportation
4 Commission. The Commission has asked me to preside
5 over this proceeding captioned Washington Utilities
6 and Transportation Commission against Puget Sound
7 Energy, Inc., Dockets UE-111048 and UG-111049.

8 Our first order of business will be to take
9 appearances, and I will start with us in the hearing
10 room and then we will pick up any who are on the
11 conference bridge line.

12 I will simply note at the outset, I did have
13 one phone call from Mr. Furuta, who represents the
14 Federal Executive Agency in a petition to intervene.
15 He is unavailable today, and I have excused him from
16 the conference without any prejudice due to his
17 participation.

18 Now let's begin with the Company.

19 MS. BARNETT: Thank you, Your Honor.
20 Appearing for Puget Sound Energy, Donna Barnett.
21 That's D-O-N-N-A, B-A-R-N-E-T-T, Perkins Coie LLP.
22 The address is 10885 Northeast Fourth Street,
23 Suite 700, in Bellevue, Washington, and that's 98004.
24 The phone number is (425) 635-1400 and my e-mail is
25 dbarnett, dbarnett, D-B-A-R-N-E-T-T, @perkinscoie.com.

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1 Also appearing, though not here today, are
2 Sheree Strom Carson, that's S-H-E-R-E-E, S-T-R-O-M,
3 C-A-R-S-O-N, same address and phone number, except her
4 e-mail is scarson@perkinscoie.com. Also, Jason Kuzma,
5 J-A-S-O-N, K-U-Z-M-A, and same address and phone
6 number. His e-mail is jkuzma@perkinscoie.com.

7 JUDGE MOSS: All right.

8 And in previous proceedings the Company has
9 requested that we add an additional e-mail address to
10 its service list, psedrs@perkinscoie.com for purposes
11 of discovery. Is that --

12 MS. BARNETT: That's correct, we will go
13 by that again.

14 JUDGE MOSS: Okay, we'll add that as
15 well, then. Thank you very much.

16 And I'll just pause here to welcome
17 Ms. Sherrilyn Smith, our court reporter. Buell
18 Realtime Reporting has taken over the contract with
19 the Commission. While they have been here in other
20 proceedings, this is my first. It was useful that you
21 were spelling and so forth because when we have new
22 court reporters, they will need to become accustomed
23 to our bar. Also, of course, as we go through the
24 proceeding, there may be occasions when people use
25 acronyms, and it will be helpful if we can avoid that

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1 or at least indicate what those mean in the first
2 instance. That will help us out with their record
3 going forward.

4 So with that, let's just proceed around the
5 room.

6 MR. COWELL: Thank you, Your Honor.
7 Jesse Cowell on behalf of Industrial Customers of
8 Northwest Utilities, J-E-S-S-E, C-O-W-E-L-L. I'm with
9 Davison Van Cleve, D-A-V-I-S-O-N, V-A-N, C-L-E-V-E.
10 The address is Suite 400, 333 Southwest Taylor,
11 Portland, Oregon 97204. Telephone number is
12 (503) 241-7242. My e-mail address is jec@dvclaw.com.
13 Also appearing on behalf of Industrial Customers of
14 Northeast Utilities, or ICNU, is Melinda Davison,
15 M-E-L-I-N-D-A, D-A-V-I-S-O-N, same address, telephone
16 number. Her e-mail address is mjd@dvclaw.com.

17 Your Honor, excuse me, first time here. Also
18 shall I spell out our expert who is on the service
19 list?

20 JUDGE MOSS: Is that Mr. Schoenbeck?

21 MR. COWELL: Yes.

22 MS. BARNETT: We've got that from
23 previous --

24 MR. COWELL: Okay.

25 JUDGE MOSS: -- occasions. I can

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1 provide a copy of the spelling for the reporter if she
2 needs it.

3 MR. COWELL: Thank you.

4 JUDGE MOSS: And I don't know that you
5 noted your fax number, which I believe is (503)
6 241-8160.

7 MR. COWELL: That's correct, Your Honor.

8 JUDGE MOSS: Welcome.

9 MR. STOKES: Good afternoon, Chad Stokes
10 from the Cable Huston law firm representing the
11 Northwest Industrial Gas Users. The address is 1001
12 Southwest Fifth Avenue in Portland, Oregon, Suite
13 2000. Phone number is (503) 224-3092, fax number is
14 (503) 224-3176. My e-mail is cstokes, S-T-O-K-E-S,
15 @cable, C-A-B-L-E, huston, H-U-S-T-O-N, .com.

16 Also appearing with me will be Tommy Brooks
17 and his information is the same, except his e-mail is
18 tbrooks, B-R-O-O-K-S, at cablehuston.com. We would
19 like to make sure that Paula Pyron and Don Schoenbeck
20 are also on the service list for us.

21 JUDGE MOSS: And for the reporter's
22 benefit, I'll just provide you with a copy of the
23 service list so you get all of these spellings.

24 All right. Thank you very much.

25 MR. STOKES: Thank you.

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1 MR. JOHNSON: Thank you, Your Honor. My
2 name is David S. Johnson, representing the Northwest
3 Energy Coalition. That is spelled out, however, NW
4 Energy Coalition. The address, 811 First Avenue,
5 Suite 305, Seattle, Washington 98104. My phone,
6 (206) 788-7991. Fax number is (206) 621-0097, and my
7 e-mail address is david@nwenergy.org.

8 Also appearing for the Coalition in these
9 proceedings, though not here today, will be the
10 Coalition Senior Policy Associate Danielle Dixon,
11 spelled D-A-N-I-E-L-L-E, Dixon. Same address, fax
12 number. Her phone number is (206) 621-0094, and her
13 e-mail address is danielle, same spelling as before,
14 danielle@nwenergy.org.

15 Thank you.

16 JUDGE MOSS: Mr. Roseman.

17 MR. ROSEMAN: Thank you, Your Honor. My
18 name is Ronald L. Roseman, R-O-S-E-M-A-N. I'm
19 attorney at law representing The Energy Project. My
20 office address is 2011 Fourteenth Avenue East,
21 Seattle, Washington 98112. My e-mail address is
22 ronaldroseman@comcast.net. My telephone number is
23 (206) 324-8792. My fax number is 568-0138.

24 JUDGE MOSS: And will Mr. Eberdt be on
25 our service list again?

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1 MR. ROSEMAN: Yes, Your Honor.

2 JUDGE MOSS: That's Chuck Eberdt,
3 E-B-E-R-D-T, and -- well, I'll provide all the contact
4 information.

5 Mr. ffitch.

6 MR. FFITCH: Thank you. Good afternoon,
7 Your Honor. Simon ffitch appearing for the Office of
8 Public Counsel, Assistant Attorney General. Our
9 address is 800 Fifth Avenue, Suite 2000, Seattle,
10 Washington 98104-3188. Phone number is
11 (206) 389-2055. The fax number is (206) 464-6451, and
12 the e-mail is simonf@atg.wa.gov. Ffitch is spelled
13 with two Fs.

14 Your Honor, as we have done in past cases with
15 regard to other names for the service list, we've
16 asked for additional Staff people to be on an
17 electronic service list which the Commission compiles
18 and then parties use for electronic service. We would
19 ask to add Carol Williams and Stephanie Johnson to
20 that list for this case.

21 JUDGE MOSS: Okay.

22 MR. FFITCH: I don't have their e-mail
23 addresses at memory, but I could provide those.

24 JUDGE MOSS: Okay, please do.

25 But not Ms. Campbell or Ms. Harper this time?

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1 MR. FFITCH: Correct, Your Honor.

2 JUDGE MOSS: Okay.

3 MR. FFITCH: Ms. Harper is no longer
4 with Public Counsel Division. She's in another AG
5 department.

6 JUDGE MOSS: I see, okay. Great. All
7 right.

8 Mr. Cedarbaum.

9 MR. CEDARBAUM: Thank you, Your Honor.
10 I'm Robert Cedarbaum, Assistant Attorney General,
11 representing the Commission Staff. My last name is
12 spelled C-E-D-A-R-B-A-U-M. The business address is
13 the Heritage Plaza Building, 1400 South Evergreen Park
14 Drive Southwest, Olympia, Washington 98504. My direct
15 dial telephone number is (360) 664-1188. The fax
16 number is (360) 586-5522, and my e-mail is
17 bcedarba@utc.wa.gov.

18 JUDGE MOSS: Are you flying solo this
19 time, Mr. Cedarbaum?

20 MR. CEDARBAUM: I'm sorry?

21 JUDGE MOSS: Flying solo this time?

22 MR. CEDARBAUM: Currently.

23 JUDGE MOSS: All right, very good.

24 Thank you.

25 Now, I think that exhausts those in the

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1 room -- no, I'm sorry, I missed you over there sitting
2 at the witness table. Go ahead.

3 MR. GANNETT: Your Honor, thank you. My
4 name is Craig Gannett. I'm with the law firm of Davis
5 Wright Tremaine, and I am here representing Cost
6 Management Services, or CMS. My address is 1201
7 Third Avenue, Seattle, Suite 2200. The phone is
8 (206) 757-8048, the fax is (206) 757-7048, and my
9 e-mail is craiggannett@dwt.com.

10 Also appearing but not here today is my
11 partner John Cameron in the Portland office of Davis
12 Wright Tremaine. His address is 1300 Southwest
13 Fifth Avenue, Suite 2300, Portland. His phone is
14 (503) 241-2300, his fax is (503) 778-5299, and e-mail
15 is johncameron@dwt.com.

16 JUDGE MOSS: Thank you, Mr. Gannett.
17 And I will ask you to give me your card at the end of
18 the proceedings this afternoon so that I can be sure I
19 got all of that down correctly.

20 MR. GANNETT: Okay.

21 JUDGE MOSS: Thanks very much.

22 Now I think we have those in the room. Yes,
23 apparently we have.

24 So let me just do a little roll call here.
25 I've already noted the Federal Executive Agency

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1 petition to intervene, and they will be represented,
2 as in prior cases, by Mr. Furuta, who is known to most
3 of you. He is associate counsel with the Department
4 of the Navy, and he is at 1455 Market Street, San
5 Francisco, California 94103-1399. His telephone is
6 (415) 503-6994, fax (415) 503-6688, and his e-mail is
7 norman.furuta, that's F-U-R-U-T-A, @navy.mil. He will
8 probably have some additional persons on the
9 electronic service list, but we will confirm that
10 later.

11 All right. Is there a representative on the
12 teleconference bridge line for the Kroger Company?

13 Apparently not.

14 The Kroger Company did file a petition to
15 intervene. I don't recall whether it was Mr. Kurtz or
16 Mr. Boehm who filed that, but the Boehm, Kurtz & Lowry
17 law firm in Cincinnati, Ohio, is representing the
18 Kroger Company, and I will just include their contact
19 information in the service list rather than reading it
20 in here.

21 Is there a representative on the line for
22 Nucor Steel of Seattle?

23 Yes, Your Honor, this is Damon
24 Xenopoulos.

25 JUDGE MOSS: Good afternoon,

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1 Mr. Xenopoulos. Why don't you enter your appearance
2 for us.

3 MR. XENOPOULOS: This is Damon
4 Xenopoulos of Brickfield Burchette Ritts & Stone. My
5 last name is spelled X-E-N-O-P-O-U-L-O-S, and we are
6 at 1025 Thomas Jefferson Street Northwest, 8th Floor
7 West, Washington, D.C. 20007. My telephone number is
8 (202) 342-0800. Our fax number is (202) 342-0807. My
9 e-mail address is dex@bbrslaw.com.

10 I would like to also enter the appearance of
11 Shaun Mohler, M-O-H-L-E-R, of the same law firm. His
12 address and telephone number and fax number obviously
13 is the same. His e-mail address is Shaun, S-H-A-U-N,
14 Mohler, M-O-H-L-E-R, @bbrslaw.com.

15 Your Honor, if possible I would like to add
16 our expert witness, Kevin Higgins, to the service list
17 as well.

18 JUDGE MOSS: All right. Do you have his
19 e-mail?

20 MR. XENOPOULOS: I apologize, I had it
21 up there a second ago. Bear with me for a minute. It
22 seems to have left my screen somehow.

23 JUDGE MOSS: You can just e-mail that to
24 me if you would.

25 MR. XENOPOULOS: Thank you.

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1 JUDGE MOSS: We will add that. All
2 right, no problem.

3 That exhausts my list. Let me ask if there's
4 anyone else on the teleconference bridge line who
5 wishes to enter an appearance today?

6 Apparently not.

7 With that, then, and I apologize for the
8 laborious nature of that initial round of appearances,
9 but in the future we will confine ourselves to names
10 only, so that will make it a little more smooth in
11 future proceedings.

12 I do have petitions to intervene from eight
13 parties: The Industrial Customers of Northwest
14 Utilities, the Northwest Industrial Gas Users, the
15 Northwest Energy Coalition, Kroger Company, Federal
16 Executive Agencies, Cost Management Services, The
17 Energy Project and Nucor Steel. I have read those,
18 and I would just ask with respect to the group if
19 there are any objections to any of these?

20 MS. BARNETT: Your Honor, PSE does want
21 to object to Cost Management Services' petition.

22 JUDGE MOSS: All right. Proceed.

23 MS. BARNETT: First of all, CMS is not a
24 customer of PSE. They are rather a competitor of
25 PSE's. In a proceeding such as this with information,

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1 sensitive information around, that it is reasonable
2 there could be negative implications to PSE with their
3 involvement. We don't believe the standard for
4 intervening, which is in WAC 480-07-355, has been met.
5 It calls for a substantial interest in the subject
6 matter or a public interest to intervene and on
7 balance of PSE's risk of competitive implications. We
8 believe that they have not met this standard.

9 Finally, PSE -- we would like to point out
10 that CMS's petition should be denied as a procedural
11 matter because it was filed on the 18th. The rules
12 require three business days before a hearing or a
13 showing of good cause, including a satisfactory
14 explanation of why the filing was not timely.

15 For those reasons, we ask you to deny
16 petition.

17 JUDGE MOSS: Okay.

18 Anybody else want to be heard in opposition to
19 the intervention by Cost Management Services?

20 Apparently not.

21 I did review the written petition to
22 intervene, Mr. Gannett, but I would be happy to hear
23 from you.

24 MR. GANNETT: Yes, just briefly, Your
25 Honor. We do not view ourselves as competitors but

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1 rather --

2 JUDGE MOSS: Is your microphone on? The
3 little red light should be illuminated.

4 MR. GANNETT: Is it on now?

5 JUDGE MOSS: Yes.

6 MR. GANNETT: Thank you.

7 We do not view ourselves as competitors, but
8 rather, agents for a segment of its customer base;
9 that is, those that are large enough to need advice on
10 their natural gas transport and commodity acquisition,
11 but not as large as the customers represented by the
12 Northwest Industrial Gas Users. One of the things
13 that we do is represent them in proceedings like this.
14 You will notice that there are no -- none of the 36
15 customers that we represent has intervened in this
16 case, because they rely upon us to represent them and
17 their interests in these sorts of proceedings.

18 We basically are here to look at standard
19 issues of rate design, you know, rate spread. We're
20 here to help the Commission find its way to fair, just
21 and reasonable rates. We're not going to unduly
22 expand, delay or prolong the proceedings in any way.

23 JUDGE MOSS: Thank you very much.

24 Anything else?

25 MS. BARNETT: Your Honor, PSE simply

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1 believes that the risk of -- they are a competitor,
2 because they are engaged in the buying and selling and
3 transmission of power. The risk of competitive harm
4 by PSE is not -- it outweighs the benefit of CMS's
5 intervention. The involvement level is -- their
6 customers have not designated them as representatives
7 and they should be represented by --

8 (Simultaneous talking.)

9 JUDGE MOSS: Cost Management Services
10 Inc. We denied your intervention last time, but the
11 grounds stated for the intervention were quite
12 different. Here I think the risk of competitive harm
13 is not something that really is taken into account
14 directly in terms of the party's interest in a
15 proceeding or interest in participating in a
16 proceeding. We have other means to protect against
17 disclosure that might be harmful to the Company,
18 including the protective order that was entered in
19 this proceeding on June 17th, so I'm not concerned
20 about that particularly.

21 I think we've had good experience in policing
22 that problem through the protective order mechanism.
23 Of course, individual protective orders can be
24 requested with respect to specific information if you
25 can show the reason to do so.

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1 I'm not going to reject the petition on that
2 basis. I think in this instance, Cost Management has
3 demonstrated a substantial interest on behalf of the
4 companies it represents as an agent in dealing with
5 the Company, and so I'm going to overrule your
6 objection and allow that petition to intervene.

7 I gather there are no other objections in the
8 other petitions?

9 MS. BARNETT: No, Your Honor.

10 JUDGE MOSS: Okay.

11 Anybody else?

12 All right. So the rest of you skate by
13 freely. All of your petitions will be granted.

14 All right. Very well. That takes care of
15 that.

16 Discovery will continue under 480-07-400
17 through 425, as you are all familiar with. I did
18 mention we entered a protective order, as Order 1 in
19 this proceeding on June 17th, 2011. In that
20 connection, I noted we have an error in our order
21 numbering already. The suspension order also bears
22 the number 01. It should have borne the number 02.
23 We'll put out some sort of an errata on that, I
24 suppose. And then we will have a prehearing
25 conference order. It will probably be tomorrow rather

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1 than today, which will be Order 3.

2 So with that, process and procedural schedule
3 was the next item on my agenda. I see that I have
4 been handed a proposal, if I can find it again. Here
5 it is, Staff proposed schedule.

6 Mr. Cedarbaum.

7 MR. CEDARBAUM: Yes, it is labeled a
8 Staff proposed schedule, although we have some parties
9 who support the schedule. My understanding is the
10 parties that support the schedule are the Company,
11 ICNU, Northwest Industrial Gas Users, Nucor and the
12 Federal Executive Agencies. I don't know about Kroger
13 or CMS.

14 My understanding is that public counsel for
15 the Northwest Energy Coalition and The Energy Project
16 object to some but not all of the schedule. I can run
17 through the schedule and the explanatory footnotes,
18 which are unfortunately numerous.

19 JUDGE MOSS: For good reason, I'm sure.

20 MR. CEDARBAUM: I think where we agree
21 on the schedule, or all parties agree on the schedule
22 are the basic structure; in other words, the event
23 descriptions on the left-hand side of the page, and I
24 think we agree to a large extent on the explanatory
25 footnotes.

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1 Where we disagree is on the Staff, Public
2 Counsel, Intervenor and response testimony and exhibit
3 date, and the rebuttal and cross-answering filing
4 date. If you would like me to, now or later, I can
5 get into the reasons behind that.

6 JUDGE MOSS: Go ahead.

7 MR. CEDARBAUM: The parties -- the Staff
8 and the parties with support staff's proposed schedule
9 have December 7th, 2011, as the deadline for filing
10 response testimony of Staff, Public Counsel and
11 Intervenors, and January 17th by two o'clock in the
12 afternoon for filing Company rebuttal and Staff,
13 Public Counsel and Intervenor cross-answering
14 testimony and exhibits. My understanding is that the
15 other parties would like those dates to be
16 December 1st and January 6th instead of December 7th
17 and January 17th.

18 The reasons behind the Staff proposal is
19 simply a workload one. As the Commission is well
20 aware, Staff is the only party that will be presenting
21 testimony on every issue in the case. Public Counsel
22 certainly presents issues, presents testimony on many
23 issues, but not typically all of them.

24 Staff is also involved with the pending Avista
25 general rate case, the pending PacifiCorp general rate

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1 case. There is under suspension also, Puget Sound
2 Energy's gas safety tracker case, which is going to
3 receive some sort of process. I don't know if a
4 decision has been made on that or not, so we might
5 have hearings on that.

6 We also have the intervening Thanksgiving
7 holiday, which presents workload issues and just
8 family problems, family issues, spending time with
9 family.

10 December 7th just fits into the Staff overall
11 workload much better, and January 17th just flows from
12 that in terms of giving the Company enough time to
13 prepare its rebuttal case, given the holidays and the
14 intervening period of time. It really boils down to
15 an overall workload issue.

16 JUDGE MOSS: The Company has chosen a
17 day when we are going to work over a three-day
18 weekend. The 16th is a holiday, according to my
19 calendar.

20 MR. CEDARBAUM: If I could just
21 elaborate on -- I need to refine Footnote No. 2
22 involving the data request response time. This was
23 something that was just discussed this afternoon with
24 the Company.

25 I think we are all in agreement to reduce the

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1 response time to five business days after the
2 Company's rebuttal and the cross-answering testimony
3 is filed. The Company and Staff are also agreeable to
4 reducing the data request response time after Staff,
5 Public Counsel and Intervenor response testimony to
6 seven business days. That is not something indicated
7 on our sheet, but it's acceptable to Staff, and it is
8 consistent with what I think we have done in the past
9 for cases involving Puget Sound Energy.

10 JUDGE MOSS: Mr. ffitch.

11 MR. FFITCH: Thank you, Your Honor.

12 Mr. Cedarbaum has given a fair and balanced
13 description of the general disagreements and
14 agreements here. We do agree with the general
15 structure and with a number of the items on here. Let
16 me address the testimony date specifically that
17 Mr. Cedarbaum has just talked about. We would request
18 that the Staff, Public Counsel and Intervenor response
19 date for testimony be December 1st and that the date
20 for rebuttal testimony and exhibits be moved up to
21 January 6th.

22 Addressing first the responsive testimony
23 date. We also are very concerned about internal
24 workload issues, while understanding and being
25 sympathetic to the rationale that Staff has outlined.

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1 What we are looking at with regard to the December 7th
2 date is that that falls one day after the
3 predistribution of cross-examination exhibits in the
4 Avista general rate case. There is essentially a
5 practical impossibility for our staff to be able to do
6 that on the 6th and also file testimony for expert
7 witnesses on the 7th. We are at this point in time
8 reduced to one legal assistant, so that's the reason
9 why we had asked to move that date up a little bit, to
10 create some daylight between those two dates.

11 With regard to January 17th, we had two
12 concerns. One is that in -- one is similar, again a
13 conflict with Avista. In Avista the posthearing
14 briefs are due on January 13th. As you pointed out,
15 Your Honor, there is a holiday weekend in between, and
16 then the Puget rebuttal and cross-rebuttal would be
17 due on the 17th. We would request that the date be
18 moved up earlier in January to -- and, you know, some
19 daylight between that and the 13th, which is the
20 Avista brief due date. We had looked at the 6th as
21 creating a week difference between those two dates.

22 The other concern that we have, which is also
23 I think a significant one for us, is that if you
24 remember that you can't really count from the hearing
25 date, which from our perspective as parties we

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1 really -- we really need to count from the exhibit
2 distribution date. That's when we have to have our
3 case ready. That's when we have to have the exhibits
4 identified, the discovery done, et cetera. That's
5 roughly a week ahead of the hearing. So if you count
6 from January 17th until February 9th, for example,
7 which is the date on the Staff schedule, that's really
8 only about three weeks to receive the rebuttal
9 testimony and the testimony of all parties, read it
10 all, do discovery on it and then identify all of your
11 cross-examination exhibits and get them prepared and
12 filed or presented to the Commission and other
13 parties. That is quite a squeeze, so for that reason
14 also, we would ask for the hearing date -- excuse me,
15 the rebuttal date to be moved up a week.

16 I had a couple other comments on the Staff
17 schedule, if I may at this point.

18 JUDGE MOSS: Go ahead.

19 MR. FFITCH: With regard to the
20 discovery deadline, Public Counsel would just like to
21 state for the record that we object to the inclusion
22 of discovery cutoffs as a matter of principle. From
23 our experience, there's never been any real need for a
24 formal discovery cutoff. We feel like it has the
25 potential at least to unfairly disadvantage parties,

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1 and so we wanted to make that statement for the
2 record. That's a relatively new phenomenon in
3 commission proceedings and we don't favor it. This
4 specific date, we have no objection to in this case.

5 JUDGE MOSS: Okay.

6 MR. FFITCH: Finally, with respect to
7 the reply brief, Public Counsel is not specifically
8 requesting a reply brief in this case. We don't
9 object if the Commission would prefer to have only one
10 round of briefs, simultaneous briefs. Public Counsel
11 would be comfortable with that. If the Commission
12 does wish to have two rounds of briefs, we don't have
13 any objection to either the dates laid out here or the
14 15-page limit.

15 JUDGE MOSS: All right.

16 MR. FFITCH: Let me just check and make
17 sure I have covered all the points. I believe those
18 are the...

19 At a later time, Your Honor, I think we did
20 want to talk about the predistribution process for
21 cross-examination exhibits, which I don't think is
22 mentioned here in the footnotes. And then I guess I
23 just wanted to underline that we agree with Staff's
24 proposal to have the hearing commence on the 14th,
25 unless the 13th is necessary based on the projected

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1 hearing time required.

2 JUDGE MOSS: All right.

3 Anybody else want to be heard on the issues of
4 the schedule?

5 Okay.

6 I will start with the last point first. As
7 far as the hearings are concerned, if the parties are
8 confident that we can do it in four days of hearing,
9 then I have no problem starting on the 14th. We
10 reserved the full week to give you some flexibility in
11 that regard. If parties are all comfortable with the
12 14th, unless I hear to the contrary...

13 All right. We'll set December 14th, then, as
14 the first day of -- or February 14th, sorry.

15 All right. Now, as far as the discovery
16 deadline issue, you're right, Mr. ffitch, that is
17 something new that we are trying in this round of rate
18 cases, actually. As this schedule itself reflects,
19 you are all familiar with what happened in Avista. We
20 are following some new processes, internal processes,
21 including the imposition of discovery deadlines in
22 cases of this nature, this time in recognition in part
23 of workload concerns that we have for ourselves, as
24 well as for the Commission Staff and other parties,
25 and so we are going to do that. I'm not sure about

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1 this date, but we will have a deadline for discovery.

2 I haven't heard any disagreement over the idea
3 of shortening response times after the response
4 testimony to seven days and after the rebuttal to five
5 days, which I think in the context of setting a
6 discovery deadline, that's helpful.

7 What I had in mind in terms of the discovery
8 deadline was targeting a day -- well, let's say five
9 days before the hearing, maybe seven business days
10 before the hearing, something like that, so that
11 everything will have been -- all the responses will be
12 received in time, to get them in before the hearing as
13 the proposed exhibits. Because that has been a
14 problem in the past, is things coming in even during
15 the hearing from day to day, and that's a management
16 issue we would like to avoid.

17 As far as the briefs are concerned, I had
18 envisioned a single round of briefs. Do the parties
19 have strong feelings about having reply briefs?

20 MS. BARNETT: Your Honor, Puget finds
21 reply briefs valuable. We recommend that -- I think
22 the 15-page limit and short turnaround time will
23 create enough time for --

24 JUDGE MOSS: Okay.

25 Anybody else? Mr. Cedarbaum.

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1 MR. CEDARBAUM: Your Honor, we agreed to
2 the proposal and so I don't want to disturb that
3 agreement, but on the other hand, we're not going to
4 lose sleep over losing that reply brief if that's the
5 Commission's decision.

6 JUDGE MOSS: I will say this on the
7 subject, and that is that I have down here on my notes
8 no briefs later than March 19th. That is taking into
9 account the commissioners' wishes with respect to the
10 time available to them after we have all the advocacy
11 in place, in terms of turning around their order, so
12 I'm not going to budge off of that date.

13 I'm of two minds, and perhaps we can just
14 discuss it here a little bit. One option, clearly, is
15 to just not have reply briefs, which was my initial
16 inclination.

17 The other would be -- well, three options.
18 The other would be to set a date no later than March
19 19th for that, which would mean pushing back the
20 initial briefs a few days, I think.

21 And then the third option would be the parties
22 could of course seek leave to file a reply brief on
23 showing of need. With respect to some of our pleading
24 rules, that is something that we require. Of course
25 reply briefs are supposed to be limited to new

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1 material that came up in the initial brief and that
2 sort of thing, or unanticipated arguments, that sort
3 of thing.

4 What do the parties think about the three
5 options? I guess the Staff doesn't want to come out
6 and say let's don't do reply briefs, because they
7 agreed to them.

8 MR. CEDARBAUM: I think I've given
9 the -- if the Commission does not want briefs after
10 March 19th, I think it's critical that we have a full
11 month or so in between the end of the hearings and
12 when an initial brief is filed, given the number of
13 issues that could be in this case, and other workload.
14 Given the choice between losing time on an initial
15 brief or just losing a reply brief, I'll lose the
16 reply brief.

17 JUDGE MOSS: Easy choice.

18 MR. CEDARBAUM: But I agree that any
19 party, whether the Commission says in this prehearing
20 conference order in this case or not, can always seek
21 leave to file a reply brief if it feels it needs to
22 file a reply brief.

23 JUDGE MOSS: I've never yet seen a
24 lawyer shy to file something if they felt they needed
25 to say something, so that's correct, Mr. Cedarbaum.

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1 Ms. Barnett, do you want to be heard further
2 on the subject of reply briefs since the Company is a
3 principal sponsor of that idea?

4 MS. BARNETT: Your Honor, again, we do
5 support that. We understand the concerns. We would
6 be fine moving the initial briefs up a bit, as long as
7 we just have a week in response. We are also fine
8 with -- understanding that there is, and reminding
9 that there is an opportunity for a motion.

10 JUDGE MOSS: I don't want to cut four
11 business days out of the initial brief schedule for
12 the reasons Mr. Cedarbaum notes. Let's leave it this
13 way: Let's go with the option of, we will have the
14 briefs on the 16th, as the parties propose, and then
15 if there is some need for a limited reply brief, you
16 can get that in. We can be a little bit flexible. I
17 can be certainly a little bit flexible in terms of
18 that date for final advocacy if it's going to be very
19 limited in nature. There will be lots for us to do as
20 we breathlessly await the final words.

21 All right. Now, as far as the dates for
22 testimony, I'll say first of all there's no
23 prohibition against preparing and filing your
24 testimony early, to the extent what Public Counsel is
25 proposing here is something that would move some of

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1 these dates up. To that extent, that shouldn't be an
2 issue. I really don't see a conflict between the
3 distribution of cross-examination exhibits in Avista
4 and filing expert testimony the next day. The
5 testimony, I would think, and my experience on your
6 side of the bench, that testimony would be complete
7 well prior to the evidence, certainly by a matter of
8 days.

9 I think we'll stay with the December 7th date
10 for the Staff, Public Counsel, Intervenor response
11 testimony. Again, if you see an administrative
12 problem within your organization in terms of getting
13 the workload taken care of, then just file your
14 testimony early.

15 I realize parties like to wait until the last
16 minute to file everything. I used to do it when I
17 practiced in D.C., too. We would wait until 4:56 on
18 the last day. That's really not necessary. The
19 parties are not going to change their testimony or
20 their advocacy or whatnot if they see your stuff a few
21 days early, so I'm not concerned about that. I'm
22 going to stay with the December 7th date.

23 As far as the rebuttal testimony is concerned,
24 I am a little more torn on that one. We do have the
25 Avista briefs coming in on the 13th. The concern for

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1 Public Counsel in this instance would primarily be in
2 connection, I would think, with cross-answering
3 testimony, Mr. ffitich, since you obviously are not the
4 party responsible for the rebuttal.

5 I guess I don't see any advantage to moving it
6 up earlier into the week of the 13th. I really don't
7 want to push it all the way back to the 6th. Why
8 don't we do it this way: We will go ahead and leave
9 it on the 17th, early on the 17th, but if the case
10 unfolds in such a fashion, Mr. ffitich, that it appears
11 that you are going to have difficulty filing some
12 cross-answering testimony that you want to file on
13 that date, then as we are closer in time and we know
14 more, then you can let us know by motion or informal
15 means, and we will find a way to accommodate your
16 needs or other parties' needs in that regard.

17 The agreed schedule is one that is consistent
18 with my own thinking as to what a good schedule would
19 be considering all the other book of business we have
20 before the Commission right now. Bottom line, I am
21 going to go with the schedule that is labeled "Staff
22 proposed schedule," which I understand most of the
23 parties agreed. I have considered carefully your
24 points, Mr. ffitich, and I feel like they can be
25 accommodated.

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1 MR. FFITCH: Thank you, Your Honor.

2 May I just say something without -- I accept
3 your ruling.

4 JUDGE MOSS: Of course.

5 MR. FFITCH: I feel an obligation here
6 to speak up on behalf of our support staff with your
7 observation about the conflicting dates. It is
8 possible internally, and we will because -- as a
9 result of this schedule, we will have to have
10 hearing -- excuse me, testimony prepared in advance.
11 It is possible to do that, but it is in fact the
12 reality that in order to prepare cross-examination
13 exhibits for presentation to the ALJ and parties,
14 that's often a process that takes two to -- at least
15 two to three days of very intensive staff time, as
16 does the preparation and filing of testimony. And
17 because of the amount of -- because of the time lines
18 involved with discovery and coordinating with the
19 witnesses and exchanging draft documents and so on,
20 all of which involve support staff, there is in fact a
21 real logjam when you have the two dates right on top
22 of each other.

23 The testimony may be finished by the experts.
24 In fact we require that it be finished several days
25 ahead of that deadline, but the time involved then to

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1 get it in proper form to file, and all the
2 proofreading and -- and et cetera, et cetera, it's a
3 very time-consuming process for our staff. It's not a
4 simple one-day turnaround where we get something from
5 the expert that we can just put in the mail.

6 JUDGE MOSS: I appreciate your comments.
7 Believe me, support staff has all my sympathy. Our
8 own support staff is limited and we suffer likewise.
9 We have these crunch moments. For example, when we
10 receive the distribution of cross-examination
11 exhibits, there's a considerable work burden for us.

12 Again, there's nothing to prevent you from
13 filing your testimony early if you wish to do so. You
14 had proposed a date six days earlier. You can do
15 that. I don't think it will prejudice you in any way.
16 It's probably a small comfort, if any, but the 7th of
17 course is an electronic date, so at least you don't
18 have to physically deliver it on that date. That
19 gives you a little bit of -- like I said small, but
20 perhaps some comfort.

21 Thank you for your comments. I will remind
22 parties, too, at the risk of opening the door to
23 something I shouldn't open the door to, if a party
24 finds itself pressed in such a way that it feels it
25 will be prejudiced in some way, that should be brought

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1 to my attention, and we will see what we can do, okay?

2 MR. FFITCH: Thank you, Your Honor.

3 JUDGE MOSS: Let's keep that in mind. I
4 understand we are all under a lot of pressure this
5 year with all of these cases.

6 MR. JOHNSON: Your Honor, may I
7 interject just on one point?

8 JUDGE MOSS: Yes, sir.

9 MR. JOHNSON: This is David Johnson for
10 the Northwest Energy Coalition. I understand and
11 appreciate your colloquy with Mr. ffitch, but of
12 course when he was advocating for the December 7th and
13 January 17th dates, he was also speaking for The
14 Energy Project, as well as the Coalition. I just want
15 to make sure that your interchange with him, which
16 seemed to be directed to problems that he might have
17 in filing and issues that he might face, in particular
18 the January 17th date, also would extend to other
19 parties. For example, you know, issues about possibly
20 filing a motion to file something earlier or -- or
21 revise the dates, that sort of thing. I just want to
22 make sure that the colloquy that you had with him is
23 equally applicable to the other parties, including The
24 Energy Project and my client.

25 JUDGE MOSS: If I was not clear, I will

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1 be clear. My remarks in these terms apply equally to
2 all. If there is a problem, if you experience a
3 problem and you can demonstrate to me that it is
4 something that is significant and needs to be
5 addressed, we will certainly address it.

6 MR. JOHNSON: Thank you.

7 JUDGE MOSS: I will say, too, I am not
8 meaning to invite that if we can accomplish within the
9 constraints of the schedule without the need to do
10 that. Frankly, we have been down this path before in
11 other cases and parties have always managed. I am
12 confident that will happen again. I just want to be
13 clear that we do have motions practice, we do have
14 process options, and if we need to take advantage of
15 those, we will, just as I mentioned earlier to
16 Ms. Barnett, with respect to concerns over
17 confidentiality. We do have means to address those
18 issues if we need to.

19 So need we say any more about this, then?

20 Now, in terms of the dates that will appear on
21 the procedural schedule, this list looks fairly
22 complete. We will want to say something about public
23 comment hearings. The chairman has expressed to me
24 that he is agreeable to having more than one.

25 Mr. ffitich, did you have any specific

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1 proposals today, or do you want to follow up with us
2 later in those terms? Typically, in my experience
3 with you, you've wanted to have a public comment
4 hearing somewhere in the service territory after the
5 response testimony. Is that the case here?

6 MR. FFITCH: Your Honor, we are flexible
7 on the actual timing. There's some advantage to
8 having it after the response testimony. In this case
9 that would be, however, getting into the holiday
10 season and bad weather season, so there's some reasons
11 to hold -- in this case to hold them earlier in the
12 fall.

13 JUDGE MOSS: We are already in the bad
14 weather season.

15 MR. FFITCH: The worst weather season.

16 JUDGE MOSS: So we might want to do
17 something before the response testimony?

18 MR. FFITCH: We would be comfortable
19 with that.

20 JUDGE MOSS: All right.

21 MR. FFITCH: I have conferred with
22 the Consumer Affairs staff about their preferences.
23 Our recommendation, and I think I'm speaking for
24 Consumer Affairs too, is to hold at least a hearing in
25 Olympia and one in the sort of larger Puget-opolis

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1 metropolitan area. We would recommend Edmonds to be
2 considered. The Commission has held some other
3 hearings around the Seattle metro area. They haven't,
4 I don't think, held one in Edmonds. I'm just thinking
5 in terms of giving folks up there an opportunity.

6 JUDGE MOSS: Okay.

7 MR. FFITCH: Then separately, Public
8 Counsel would ask for a third hearing somewhere on the
9 West Sound area, either Bremerton, Port Orchard or
10 Gig Harbor.

11 JUDGE MOSS: Okay.

12 MR. FFITCH: I think the Commission
13 Public Affairs staff is not advocating that, but we
14 would add that as an additional request if the
15 Commission is open to a third hearing.

16 JUDGE MOSS: Okay. I'll take that up
17 with the commissioners, and we will work that out and
18 work that into the schedule.

19 As far as Olympia is concerned, that is one
20 convenience we have when PSE is here, part of the
21 service territory here, and we can have one in
22 conjunction with our evidentiary hearing, which is
23 very convenient for everyone. We will plan on that, I
24 think, for sure. We will have at least one of these
25 others and perhaps both if the commissioners wish it.

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1 All right.

2 Now the issues list. Let's see, the
3 February 3rd joint issues list, is that the first date
4 on here that's indicated for that?

5 MR. CEDARBAUM: No, Your Honor. It's
6 the -- we understood that in the Avista case, the
7 Commissions got at least two, maybe more, I can't
8 remember, and the idea being that it would start off I
9 think based on the Company's opening case and then
10 grow from there.

11 JUDGE MOSS: Right.

12 MR. CEDARBAUM: Our proposal is that we
13 just have one issues list that combines everything to
14 be filed February 3rd, after the discovery deadline.
15 If the discovery deadline were to change in the final
16 schedule, that we would ask for the issues list to be
17 filed, you know, a day or two after that.

18 JUDGE MOSS: Okay.

19 MR. CEDARBAUM: We just thought that was
20 more efficient.

21 JUDGE MOSS: I appreciate your point
22 regarding efficiency. Let me explain a little bit
23 some of our thinking behind this. This is another of
24 the new processes I mentioned.

25 This I would say is in significant part for

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1 our benefit, "our" meaning the commissioners and those
2 of us who advise them in these cases. We find it
3 helpful in terms of organizing the material that we
4 prepare for the commissioners, we do support them, to
5 have this sort of thing early on. I, in the past,
6 have often prepared these myself, and you never see
7 them. Since we are moving through this process of
8 getting the parties involved in developing these, I
9 think we would like to follow the similar process to
10 what we did with Avista, and that is just ask the
11 Company to give us its preliminary list based on the
12 various points it has raised in its case early on.

13 Now, that's not to say that those -- you know,
14 the various pro forma adjustments will all be issues.
15 They won't, surely, but you can identify those areas
16 where there are pro forma adjustments and so forth,
17 and then we will have a complete list, and then we
18 will refine the list as we go on. I know I spoke with
19 Ms. Carson after our Bench-Bar Conference, and one
20 other time -- well, at the conference and then one
21 other time subsequently, and she seemed agreeable to
22 that kind of an approach. That informed my thinking
23 coming in here today.

24 I will set a date at some reasonable time,
25 probably not too far in time from the time of the

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1 response testimony, to ask the Company to do that.
2 And then after the response testimony is filed, then
3 the parties can work together on this joint list,
4 which we would like to have before the -- well, I will
5 think about that, whether we want to do that once or
6 twice.

7 How did they do it in Avista?

8 MR. CEDARBAUM: I'm not sure, Your
9 Honor, but it seems to me like if we are going to have
10 this kind of evolving document, that you would want to
11 have the Company reflect its rebuttal case, because
12 perhaps issues can be taken off the table, which is
13 why we proposed one.

14 JUDGE MOSS: I think that makes some
15 sense. Well, okay. We will think of it for the time
16 being in those terms, of just doing sort of a
17 preliminary list, which will give us some guidance --
18 "us" again being those who advise the commissioners --
19 and then finalizing it for everyone's purposes after
20 the rebuttal cases. That will be useful going into
21 the hearing and into the briefing period as well. I
22 know issues do settle along the way and things fall
23 off the list, and that's helpful.

24 MR. ROSEMAN: Your Honor, you asked
25 about the Avista case. What they did in Avista is

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1 they have the joint issues list right after Staff,
2 Public Counsel and Intervenor response testimony, and
3 then right before -- right before the -- well, after
4 the briefs are filed, they have a -- no, at the time
5 the briefs are due, there is an updated issues list.

6 JUDGE MOSS: Which will basically be the
7 table of contents in PSE's briefs. That will be
8 simple enough. We'll follow something along those
9 lines.

10 Looking again at my list, I will adopt your
11 proposal on the response dates for discovery. I will
12 establish a date for discovery deadline. I'm not sure
13 sitting here right now what that will be, but it will
14 be reasonably in advance of the date for
15 cross-examination exhibits to be exchanged, closed.
16 Enough in advance so that those will be available.

17 MR. CEDARBAUM: Your Honor, just on that
18 point, the theory behind our proposed February 2nd
19 date was it would allow two rounds of data requests
20 after the Company filed rebuttal, with a few days in
21 between to actually read the testimony before
22 preparing the DRs, and then having the responses back
23 in enough time to determine if there are
24 cross-exhibits. If you are going to change that date,
25 we would hope that you would be consistent with that

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1 notion.

2 JUDGE MOSS: That's consistent with my
3 thinking. I want to make sure that you have
4 everything in hand by the time we exchange
5 cross-examination exhibits. That's one of my goals,
6 to avoid the piecemeal redistribution.

7 I know in the Avista case, Judge Friedlander
8 set the date for predistribution of cross-examination
9 exhibits about a week in advance of the hearing, as I
10 recall. I have usually done it a little closer in
11 time to the hearing. Do the parties have thoughts on
12 that? I usually allow three business days.

13 MR. CEDARBAUM: We would appreciate that
14 the distribution happen sooner to the hearings.

15 JUDGE MOSS: Closer to the hearings.

16 MR. CEDARBAUM: Close to the hearings.

17 JUDGE MOSS: As I have usually done.

18 MR. CEDARBAUM: That's where
19 February 9th came about, given that we assumed we were
20 starting the hearings on February 14th.

21 JUDGE MOSS: Okay, all right. Yes, that
22 works. I think that's enough time.

23 MR. FFITCH: We don't have any objection
24 for Public Counsel if you want to move it even closer,
25 like the Friday --

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1 JUDGE MOSS: The Friday before? Well,
2 the only problem with that is, and it gets back to the
3 problem you mentioned, Mr. ffitch, which we all share,
4 which is the staff. It is a lot of work for our
5 staff, and I don't like to ask them to come in on a
6 weekend. It would probably have to be at best the
7 Thursday before. We can probably do it on that time
8 frame. If I set that date, we will do it, okay?

9 I will set it as close as I can feel
10 comfortable doing it from the perspective of our
11 staff. It has gotten simpler.

12 MR. CEDARBAUM: Would you like me to
13 e-mail you this document? I don't know if this would
14 be helpful to you or not.

15 JUDGE MOSS: Sure. Yes, I would,
16 actually. Yes, please do.

17 MR. FFITCH: Your Honor, may I address
18 the predistribution?

19 JUDGE MOSS: Sure.

20 MR. FFITCH: I'm not sure if you were
21 going to do this, if I'm stealing your thunder. I was
22 going to request that we adopt a procedure that was
23 discussed at the Bench-Bar Conference in which the
24 cross-exhibits would be provided to you on the
25 predistribution date of the 9th, or other day, and to

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1 the other parties in hard copy, and that the
2 electronic versions of the exhibits be provided after
3 the hearing, once the final exhibit list is
4 identified, and that there be no requirement that the
5 exhibits be filed with the records center, they would
6 be distributed to the LJ and shared with the other
7 parties.

8 JUDGE MOSS: Basically I am in agreement
9 with that approach. I'm a little uncomfortable saying
10 no filing requirement. My recollection on some of the
11 internal discussions we've had is that there would be
12 a filing that would take place after the hearing,
13 whereby those exhibits that were admitted would be
14 filed with the records center, so that we would be
15 sure to have a copy from the parties that was clean
16 and complete and what have you for purposes of the
17 records center, but done at such a time as to not
18 interfere with the other obligations that the parties
19 have.

20 I believe that was the way it was set up in
21 Avista, for there to be a filing after the hearing.

22 MR. FFITCH: I don't think we have a
23 problem with that.

24 JUDGE MOSS: I understand the
25 constraints that you are trying to address, and I

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1 think that still works for you, doesn't it?

2 MR. FFITCH: Yes, that's right.

3 JUDGE MOSS: We will do something
4 similar to Avista, then. Yes, I think that's fine.
5 And of course, as the parties are familiar, much of
6 the material that takes place in this exchange of
7 cross-examination exhibits is in the form of discovery
8 that was conducted, and so the parties are really in
9 pretty good shape. It's our situation that needs to
10 be addressed at that point in time. If we have the
11 paper copies, for me, that's fine, because for the
12 purposes of the hearing, that's what we will rely on
13 here at the bench. We still haven't made it up to the
14 electronic age's full potential in terms of having
15 everything electronic.

16 Anything else with respect to these types of
17 matters?

18 MR. FFITCH: I did have one other
19 matter, Your Honor. It's a point of clarification.
20 Footnote 3 to the Staff proposed schedule does cover
21 this, but I wanted to make sure that we just stated
22 for the record that Public Counsel reserves the right
23 to present an issue, or one or more issues without a
24 witness rather -- but instead through presentation of
25 an exhibit or cross-examination with follow-up

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1 briefing. And with the adoption of the joint issues
2 list, we would expect that we would identify those on
3 an issues list. However, I just want to make a
4 statement for the record that we might, upon
5 consideration, as the case develops, we might choose
6 that option with certain issues.

7 JUDGE MOSS: Of course what we are doing
8 here is implementing some of the things we have
9 discussed at our Bench-Bar Conference, at which many
10 of you were present, and that's consistent with the
11 discussion we had there. We want the parties to be
12 open in letting us know what issues they expect to
13 advocate. I do think it is possible to argue an issue
14 without presenting a witness on it. I think that was
15 the consensus that we reached in discussing this.

16 Having said that, we would like to see those
17 issues identified too, because somebody else might
18 want to put a witness on with respect to the point.

19 Anything else?

20 (Discussion off the record.)

21 (A brief recess.)

22 JUDGE MOSS: We are back on the record.

23 While off the record, we confirmed the
24 suspension date of May 14th, 2012, in this proceeding.

25 As far as the electronic submission and filing

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1 and service process, we will follow the convention
2 that has been adopted now for some time of accepting
3 the dates and the procedural schedule dates for your
4 electronic submission. We ask that that occur
5 preferably by two o'clock in the afternoon of the date
6 indicated, taking into account the needs of our
7 records center. They post all of this stuff on an
8 immediate basis, and so there are some timing issues
9 for them.

10 The hard copies need to be served the next day
11 and of course delivered here. We will need original
12 and 18 copies in this case for purposes of internal
13 distribution. Keep in mind that the official filing
14 date, then, is actually the day after the date
15 indicated in the procedural schedule.

16 Parties can waive the receipt of hard copies.
17 If they wish to do so, they can agree to have
18 electronic service only. If you wish to do that, you
19 need to submit a letter to that effect so that it's on
20 record that you are waiving the personal delivery of
21 hard copies or hand-delivered mail or whatever.

22 The Commission's settlement rules remain in
23 place. If parties wish to avail themselves of that
24 process, and of course we do establish a date for you
25 all to have at least one settlement conference, and

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1 that's a process over which you have control and you
2 can change that date if you need to. Let us know if
3 you would. And of course you can meet whenever you
4 wish for that purpose. If you believe that it would
5 benefit you to have mediation services provided by the
6 Commission, let us know, and if we have people
7 available who can do that, we will.

8 On the copies I mentioned, we need the
9 original and 18. Keep in mind that for purposes of
10 what you file here, we only need all those copies of
11 the most highly confidential version of whatever it is
12 you are filing, because all of us who are on that
13 distribution list are eligible to see that. I don't
14 want you to have to file 18 redacted and 18
15 confidential. Just file one copy of each redacted
16 version, if there's more than one, and 18 copies of
17 the unredacted version. You are all familiar with the
18 filing convention through the records center,
19 addressed to the Commission secretary, the electronic
20 filing requirements as set forth in the rules.

21 Close in time to the hearing, I will send out
22 my usual set of instructions concerning the
23 preparation and presentation of a witness order and
24 estimate of cross-examination times table. Of course
25 we will follow the process we have followed many times

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1 in exchanging cross-examination exhibits. I will
2 prepare the exhibit list and get it back to you
3 promptly, and you all will then correct all my errors
4 for me.

5 Anything else we need to say today or talk
6 about today?

7 I apologize for the length of our prehearing
8 conference today. Oh, there is one more thing I need
9 to say, so I'm going to prolong it yet further.

10 As another point that came out in Avista, and
11 this appears to be something contemplated in your
12 schedule, Company supplemental direct testimony and
13 exhibits on decoupling optional. Staff, Public
14 Counsel, Intervenor response testimony, exhibits,
15 parentheses, includes decoupling. Well, yes, you have
16 anticipated correctly that the commissioners asked me
17 to convey to you today that as in the Avista case,
18 given that we do have a loss margin recovery mechanism
19 proposal in this case, that Mr. DeBoer carefully
20 distinguishes from being a decoupling mechanism in his
21 testimony. We will open those issues up in the same
22 fashion that we did in the Avista proceeding.

23 Would it be helpful to you if I issued the
24 same bench request or a similar bench request to what
25 we did there?

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1 Mr. ffitch at least is nodding "yes." It
2 can't hurt, Mr. Cedarbaum?

3 MR. CEDARBAUM: It can't hurt, but I
4 think I understood what was going on.

5 JUDGE MOSS: I think everybody has it in
6 mind. I suppose for the sake of form, I will issue
7 that. It will be almost identical, but you all know
8 what's going on.

9 MR. CEDARBAUM: The difference here,
10 Your Honor, with our schedule is that in Avista, my
11 understanding is that the first one to go first, or
12 the one to go first in Avista is Staff. Here we are
13 asking that the Company, if it is going to put on
14 decoupling testimony, do that before the response
15 case.

16 JUDGE MOSS: I am agreeable to that
17 approach. I see that reflected in the schedule to
18 which you all agreed, so I assume everybody is on
19 board with that. I'm happy with that -- well, that
20 might not be quite the right word, but that will work
21 for me.

22 All right. Any other business we need to
23 conduct today? Again, apologies for the length of our
24 prehearing conference. I think it sets a record, for
25 me in terms of length.

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1 We will be off the record and I will look
2 forward to working with you all to get this case
3 resolved in due course.

4 (Prehearing conference concluded 2:39 p.m.)

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23 MY COMMISSION EXPIRES:

24 JUNE 2012

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I, Sherrilyn Smith, a Certified
Shorthand Reporter and Notary Public in and for the
State of Washington, do hereby certify that the
foregoing transcript is true and accurate to the best
of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto
set my hand and seal this 27th day of July, 2011.

SHERRILYN SMITH