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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION)	
)	
Complainant,)	
)	
vs.)	DOCKETS NO. UE-090704
)	UG-090705
PUGET SOUND ENERGY, INC.,)	Volume I
)	Pages 1 - 31
Respondent.)	

A prehearing conference in the above matter was held on June 22, 2009, at 1:30 p.m., at 1300 South Evergreen Park Drive Southwest, Olympia, Washington, before Administrative Law Judge DENNIS MOSS.

The parties were present as follows:

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, by ROBERT D. CEDARBAUM and MICHAEL FASSIO, Assistant Attorneys General, 1400 South Evergreen Park Drive Southwest, Post Office Box 40128, Olympia, Washington 98504; telephone, (360) 664-1188

PUGET SOUND ENERGY, INC., by SHEREE STROM CARSON, Attorney at Law, Perkins Coie, 10885 Northeast Fourth Street, Suite 700, Bellevue, Washington 98004; telephone, (425) 635-1400.

PUBLIC COUNSEL, by SIMON J. FFITCH, Assistant Attorney General, 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104; telephone, (206) 389-2055.

COST MANAGEMENT SERVICES, by JOHN A. CAMERON, Attorney at Law; Davis, Wright, Tremaine, 1300 Southwest Fifth Avenue, Suite 2300, Portland, Oregon 97201; telephone, (503) 241-2300.
Kathryn T. Wilson, CCR

Court Reporter

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1 SEATTLE STEAM COMPANY, by ELAINE L. SPENCER
2 (via bridge line), Attorney at Law, Graham & Dunn, 2801
3 Alaskan Way, Suite 300, Seattle, Washington 98121;
4 telephone, (206) 624-8300.

5

6 THE ENERGY PROJECT, by RONALD L. ROSEMAN,
7 Attorney at Law, 2011 14th Avenue East, Seattle,
8 Washington 98112; telephone, (206) 324-8792.

9

10 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,
11 by S. BRADLEY VAN CLEVE, Attorney at Law, Davison Van
12 Cleve, 333 Southwest Taylor, Suite 400, Portland,
13 Oregon 97204; telephone, (503) 241-7242.

14

15 NORTHWEST INDUSTRIAL GAS USERS, by CHAD M.
16 STOKES, Attorney at Law; Cable, Huston, Benedict,
17 Haagensen & Lloyd, 1001 Southwest Fifth Avenue, Suite
18 2000, Portland, Oregon 97204; telephone, (503)
19 224-3092.

20

21 KROGER COMPANY, by KURT J. BOEHM (via bridge
22 line), Attorney at Law; Boehm, Kurtz & Lowry, 36 East
23 Seventh Street, Suite 1510, Cincinnati, Ohio 45202;
24 telephone, (513) 421-2255.

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1 NORTHWEST ENERGY COALITION, by DAVID S.
2 JOHNSON, Attorney at Law, 811 First Avenue, Suite 305,
3 Seattle, Washington 98104; telephone, (206) 621-0094.

4

5 FEDERAL EXECUTIVE AGENCIES, by NORMAN J.
6 FURUTA, Associate Counsel, 1455 Market Street, Suite
7 1744, San Francisco, California 94103; telephone,
8 (415) 503-6994.

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

2 JUDGE MOSS: Let's be on the record. Good
3 afternoon, everybody. My name is Dennis Moss. I'm an
4 administrative law judge with the Washington Utilities
5 and Transportation Commission. We are convened this
6 afternoon for our first prehearing conference in the
7 matter styled Washington Utilities and Transportation
8 Commission against Puget Sound Energy, Inc., given
9 docket numbers UE-090704 and UG-090705.

10 Our first order of business will be to take
11 the appearances, and I'll take the appearances of those
12 in the rooms, and I know there are at least two
13 appearances on the bridge and perhaps others, so we
14 will begin with the applicant; Ms. Carson?

15 MS. STROM CARSON: I'm Sheree Strom Carson of
16 Perkins Coie representing Puget Sound Energy. Address
17 is 10885 Northeast Fourth Street, Suite 700, Bellevue,
18 Washington, 98004-5579. Phone is (425) 635-1400; fax,
19 (425) 635-2400, and e-mail is scarson@perkinscoie.com.

20 JUDGE MOSS: Just go around the room.

21 MR. VAN CLEVE: Thank you, Your Honor.
22 Bradley Van Cleve for the Industrial Customers of
23 Northwest Utilities, and also appearing with me will be
24 Irion Sanger, with the law firm of Davison Van Cleve.
25 The address is 333 Southwest Taylor, Suite 400,

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1 Portland, Oregon, 97204; telephone, (503) 241-7242.
2 Fax number is (503) 241-8160, and my e-mail address is
3 dvc@dvclaw.com. We would also like mail@dvclaw.com.

4 JUDGE MOSS: Thank you very much.

5 Mr. Roseman?

6 MR. ROSEMAN: My name is Ronald Roseman. I'm
7 an attorney at law in Seattle, and I'm representing The
8 Energy Project. My address is 2011 14th Avenue East,
9 Seattle, Washington, 98112. My phone number is (206)
10 324-8792. My e-mail address is
11 ronaldroseman@comcast.net. My fax is (206) 568-0138.

12 MR. FFITCH: Good afternoon, Your Honor.
13 Simon ffitich, assistant attorney general with the
14 Public Counsel section of the Washington attorney
15 general's office, and my address is 800 Fifth Avenue,
16 Suite 2000, Seattle, Washington, 98104-3188. Phone is
17 (206) 389-2055. Fax is (206) 464-6451, and the e-mail
18 address is simonf@atg.wa.gov.

19 JUDGE MOSS: Mr. Cedarbaum?

20 MR. CEDARBAUM: Robert Cedarbaum, assistant
21 attorney general for Commission staff. My business
22 address is Heritage Plaza, 1400 South Evergreen Park
23 Drive Southwest, Olympia, Washington, 98504. My
24 direct-dial telephone is (360) 664-1188. The fax is
25 (360) 586-5522, and my e-mail is bcedarba@utc.wa.gov.

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1 Also appearing for Commission staff is
2 Michael Fassio. He's an assistant attorney general as
3 well. His street address and fax number is the same as
4 mine. His direct line is (360) 664-1192, and his
5 e-mail is mfassio@utc.wa.gov.

6 JUDGE MOSS: Mr. Furuta?

7 MR. FURUTA: Norman Furuta representing the
8 consumer interests of the Federal Executive Agencies in
9 this proceeding. My business address is 1455 Market
10 Street, Suite 1744, in San Francisco, California,
11 94103; telephone, (415) 503-6994. Fax is
12 (415) 503-6688, and my e-mail is
13 norman.furuta@navy.mil.

14 JUDGE MOSS: Thank you very much.

15 Mr. Stokes?

16 MR. STOKES: Good afternoon, Your Honor.
17 Chad Stokes from Cable, Huston, Benedict, Haagensen and
18 Lloyd representing the Northwest Industrial Gas Users.
19 Address is 1001 Southwest Fifth Avenue, Portland
20 Oregon, 97204. Telephone is (503) 224-3092. The fax
21 number is (503) 224-3176. E-mail is
22 cstokes@cablehuston.com.

23 Also appearing with me will be Tommy Brooks.
24 His contact info is the same, but his e-mail is
25 tbrooks@cablehuston.com.

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1 JUDGE MOSS: Northwest Energy Coalition?

2 MR. JOHNSON: Thank you, Your Honor. David
3 Johnson, attorney at law, representing the Northwest
4 Energy Coalition. The address is 811 First Avenue,
5 Suite 305, Seattle, Washington, 98104. Phone is
6 (206) 621-0094; fax, (206) 621-0097, and my e-mail
7 address is david@nwenergy.org.

8 Also appearing for the Coalition will be
9 Ms. Danielle Dixon, coalition senior policy associate.
10 The phone and fax number are the same. Her e-mail
11 address is danielle@nwenergy.org.

12 MR. CAMERON: Hello, Judge Moss. John
13 Cameron appearing for Cost Management Services. I'm
14 with Davis, Wright, Tremaine, LLP, 1300 Southwest Fifth
15 Avenue, Suite 2300, Portland, Oregon, 97201; phone
16 number, (503) 778-5206; fax number, (503) 778-5299;
17 e-mail address, johncameron@dwt.com.

18 JUDGE MOSS: Thank you. I think that
19 probably concludes those in the room; is that correct?
20 Ms. Spencer, are you on the line?

21 MS. SPENCER: Yes, thank you. This is Elaine
22 Spencer appearing on behalf of Seattle Steam. My
23 address is Graham and Dunn, 2801 Alaskan Way, Suite
24 300, Seattle Washington, 98121. My phone number is
25 (206) 340-9638. Fax is (206) 340-9599, and my e-mail

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1 address is espencer@grahamdunn.com.

2 JUDGE MOSS: Mr. Boehm, are you there for
3 Kroger?

4 MR. BOEHM: Yes, Your Honor. My name is Kurt
5 Boehm. I'm with the law firm Boehm, Kurtz and Lowry,
6 36 East Seventh Street, Suite 1510, Cincinnati, Ohio,
7 45202. My phone number is (513) 421-2255. My fax
8 number is (513) 421-2764, and my e-mail is
9 kboehm@bkllawfirm.com, and I'm appearing on behalf of
10 the Kroger Company.

11 JUDGE MOSS: Mr. Kurtz is not with you on
12 this case?

13 MR. BOEHM: No, but I would like to enter his
14 appearance. Thank you.

15 JUDGE MOSS: All right. I believe that
16 concludes all appearances from those I've received,
17 petitions to intervene, and one that I did not receive.
18 Is there anyone else on the conference bridge line who
19 wishes to enter an appearance today? Hearing nothing,
20 I will assume not.

21 With that, we do have petitions to intervene.
22 I received the petitions as of this afternoon from
23 ICNU; Northwest Industrial Gas Users; Northwest Energy
24 Coalition; Seattle Steam Company; Kroger Company on
25 behalf of its Fred Meyer stores and Quality Food

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1 Centers; Federal Executive Agencies, and Cost
2 Management Services. So I think I'm missing The Energy
3 Project, Mr. Roseman.

4 MR. ROSEMAN: Yes.

5 JUDGE MOSS: But you wish to petition today
6 orally?

7 MR. ROSEMAN: Yes.

8 JUDGE MOSS: Is there objection to any of
9 these participating as a party?

10 MS. STROM CARSON: The Company has no
11 objections. We understand that Cost Management
12 Services is limiting its involvement in this case. To
13 the extent that's true and that's stated on the record,
14 then we have no objection.

15 JUDGE MOSS: Mr. Cameron, would you come
16 forward and give us whatever confirmation we may need
17 here?

18 MR. CAMERON: Yes, Your Honor. I had a
19 conversation with counsel for the Company prior to the
20 hearing and explained to her that our interests were
21 limited to the gas transportation rate schedules of the
22 Company. It looks like that's an adequate explanation.

23 JUDGE MOSS: Based on the nodding,
24 affirmative heads, I believe you are right.

25 MS. STROM CARSON: That's fine with the

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1 Company.

2 JUDGE MOSS: Any other objections from
3 anyone? Mr. Furuta?

4 MR. FURUTA: Yes, Your Honor. Just one minor
5 clarification to our petition to intervene. We had
6 specified our interests and specifically mentioned
7 electricity service that we take, but I would note for
8 the record that Federal Executive Agencies do have gas
9 accounts as well; I think several wholesale type but
10 also some retail, so we would like to intervene in both
11 proceedings if possible.

12 JUDGE MOSS: Ms. Carson?

13 MS. STROM CARSON: The Company has no
14 objection to that.

15 JUDGE MOSS: These dockets have been
16 consolidated, of course. We will grant these petitions
17 to intervene. Are there any others? Hearing
18 nothing....

19 I have the Company's motion for a protective
20 order. I'll be frank and honest and say I haven't read
21 it. Is the protective order that's attached our
22 standard form of protective order?

23 MS. STROM CARSON: It is the same protective
24 order that was submitted in the last 2007 general rate
25 case and merger case. It had some minor changes that

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1 various parties had submitted, and it's my
2 understanding the Commission accepted and issued that.

3 JUDGE MOSS: That's consistent with my own
4 recollection. Is there any objection? Apparently
5 there is not, so we will enter the order as you
6 attached it to your motion, and if you did not submit
7 that in DOC format, please send me a courtesy copy in
8 that format to facilitate the order.

9 MS. STROM CARSON: Okay.

10 JUDGE MOSS: I gather discovery has commenced
11 since I've already seen confidentiality agreements come
12 into the file. Of course, it shall continue under WAC
13 480-07-400, et sec. Do we have any special return
14 dates on the discovery this time?

15 MR. CEDARBAUM: Yes, Your Honor. I think two
16 or three weeks ago when the notice of hearing was
17 issued, I circulated and submitted to the Commission a
18 proposed schedule of Staff, the Company, and Public
19 Counsel, which we can talk about more, but it does
20 include our proposed agreement to reduce the data
21 request response time after the response cases are
22 filed from ten business days down to five business
23 days.

24 JUDGE MOSS: That's agreeable to everybody?
25 Fine; we will do that. We will talk about the

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1 procedural schedule here in just a moment. I'll note
2 first, however, or give you a reminder, I assume we
3 will follow the practice now seemingly standard of the
4 electronic submissions filing and service for whatever
5 filings are to follow in the proceeding. In that
6 connection, please remember that you need to file a
7 letter with the Commission waiving service by mail or
8 hand delivery. It could be a very brief submission.

9 Let's talk about the procedural schedule. I
10 do have a proposed schedule, from, as Mr. Cedarbaum
11 noted, Staff, the Company, and Public Counsel, who are
12 until a moment ago our only certain parties. Have the
13 rest of you had an opportunity to see this, and are
14 there any thoughts you wish to share with me before we
15 determine what the schedule will be?

16 MR. VAN CLEVE: I would just say, Your Honor,
17 that ICNU is in support of the schedule that Staff and
18 Public Counsel and the Company negotiated.

19 JUDGE MOSS: Thank you very much,
20 Mr. Van Cleve.

21 MR. CEDARBAUM: If I could interject, beyond
22 just the scheduling of dates, there are some agreements
23 with respect to the filing of work papers and a page
24 limit on reply briefs, so the schedule doesn't include
25 those other items.

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1 JUDGE MOSS: Then we will note those for the
2 record. So I will actually read the agreed schedule
3 into the record so we will have that memorialized in
4 our transcript.

5 The Staff, Public Counsel, and Intervenor
6 response cases are to be filed on November 17th, 2009,
7 accompanied by work papers. PSE's rebuttal and any
8 cross-answering testimony is to be filed on December
9 17th, 2009, again accompanied by work papers. Hearings
10 are scheduled for January 19th through 22nd, and
11 January 25th, 2010.

12 Initial briefs will be due February 19, 2010,
13 reply briefs limited to 15 pages, March 2nd, 2010, and
14 I did mention the electronic filing of service, which
15 is also part of your proposal here, Mr. Cedarbaum, with
16 next day hard copy, of course, necessary here. Five
17 business day response time for data requests after the
18 response cases are filed on November 17th will also be
19 made part of the prehearing conference order.

20 MR. CEDARBAUM: One item of the procedural
21 schedule that's not included is the setting of
22 settlement conferences. Typically, we have set up a
23 meeting before the response cases are filed and
24 meetings after the response cases are filed. The
25 meeting that occurs before the response case gets filed

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1 has been typically called an issues conference or a
2 status conference, but presumably, the Commission would
3 not be closing the door to any settlements or narrowing
4 of the issues at that point in time.

5 So Staff would also not want to close the
6 door to that type of process before the response cases
7 are filed. I understand that the parties may not be
8 ready to do that, and certainly Staff does not know
9 where it's headed in this case yet, but we would not
10 want to close the door on that. I would ask the
11 parties, if we can, to stick around after we close the
12 hearing to talk about those dates, and then perhaps I
13 can communicate them to you for inclusion into your
14 order.

15 JUDGE MOSS: Yes. We do like to have
16 procedural dates for the settlement negotiations, or at
17 least a couple of dates anyway, in the order, so if you
18 could follow that process. I will have a few remarks
19 here on the settlement process momentarily, but I
20 appreciate your comments and they are well taken.

21 The other thing, Mr. ffitich, typically we
22 have some request for public comment hearing, so I want
23 to make sure we include that as well.

24 MR. FFITCH: I was prepared to address that.
25 Shall I address that now?

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1 JUDGE MOSS: Yes.

2 MR. FFITCH: We have had an opportunity to
3 confer with the Commission's public affairs staff,
4 consumer protection and communication staff, and also
5 with the Company sharing those ideas, and I'm prepared
6 to tell you what the Public Counsel, Commission
7 consumer affairs proposal is, and I believe Ms. Carson
8 wants to comment on that. We are not 100 percent in
9 agreement. I think we are pretty close, but they have
10 some other points to make also.

11 We are proposing a total of four public
12 hearings in the following locations: Bellingham,
13 Bremerton, Bellevue, and Olympia, so if the Commission
14 chooses to set fewer than four, we would recommend a
15 priority for Bremerton because there has not been a
16 recent public comment hearing there for Puget Sound
17 Energy.

18 We would request a starting time of six p.m.
19 for the hearings; however, for Olympia, the Commission
20 staff would like to try a midday hearing time to test
21 attendance for such a scheduling time in Olympia. If
22 the Commission does not take that option, the Olympia
23 hearing would be held on an evening during the
24 evidentiary hearing as we have done in past cases.

25 In terms of the timing of when these would

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1 fall in the schedule, we do have not have a specific
2 recommendation. Frequently in past cases, we have
3 suggested that they be held after the testimony is
4 filed. In this case, that's after November 17th. We
5 are cognizant of the fact that we are getting into the
6 holiday season and the bad weather season as we get
7 later in the year.

8 JUDGE MOSS: We don't have bad weather here.

9 MR. FFITCH: Not every year. I guess we will
10 defer to the Commission's thinking and availability on
11 that, and perhaps in this case, a little bit earlier in
12 the fall might be better for those reasons.

13 Commission staff is recommending a facility
14 for 150 with audio capability and Internet access if
15 possible. It's our understand that the Commission
16 consumer protection communication staff is actually
17 tasked with locating the facilities, so we are assuming
18 that they will be looking for that type of facility as
19 they try to schedule the hearings.

20 JUDGE MOSS: And I would not put this level
21 of detail into an order, so make sure they are provided
22 with the appropriate information. It might not hurt to
23 copy me on the details, such as 150 capacity with
24 Internet and so on.

25 MR. FFITCH: I'm not sure if

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1 Ms. Griffin-Wallace is here from staff. I'm not sure
2 if that needs to be in the order itself.

3 JUDGE MOSS: No. It's too much detail.

4 MR. FFITCH: I can certainly send you the
5 notes I'm reading from that came from our discussions.

6 JUDGE MOSS: That would be helpful, because
7 as you know, I always discuss the scheduling with the
8 commissioners before we make a final decision on how
9 many, where, and so forth, so I'll make them aware of
10 these various details as well.

11 MR. FFITCH: Thank you, Your Honor. The only
12 other banter was the public notice process, but I can
13 hold off on addressing that. I think Ms. Carson wanted
14 to address the public comment hearings.

15 JUDGE MOSS: Ms. Carson?

16 MS. STROM CARSON: Thank you, Your Honor.
17 The Company's concern is that four public comment
18 hearings seems like it's excessive given what we've had
19 in previous cases. I believe in the 2004 PSE general
20 rate case, there were two public comment hearings. In
21 2006, I believe there was one public comment hearing.
22 The initial order in the last GRC was for two public
23 comment hearings, and then Public Counsel asked for
24 additional because there were two cases that were being
25 commented on as well as the general rate case, so the

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1 Commission, Public Counsel asked for four then and the
2 Commission ordered three.

3 It just seems like given that this is just a
4 general rate case, no merger this time, to comment on
5 that two would be a more reasonable number.

6 MR. FFITCH: May I briefly respond to that,
7 Your Honor?

8 JUDGE MOSS: Yes, you may.

9 MR. FFITCH: The recommendation originated
10 with the Commission's consumer protection staff. We do
11 agree with it. As I understand it from them, the
12 rationale for four -- first of all, the Olympia hearing
13 is -- it's really three travel hearings. The Olympia
14 hearing has been logistically much less of a burden on
15 the Commission, especially when it's been done as part
16 of the evidentiary hearings. So it's three travel
17 hearings.

18 The Commission staff has reported getting a
19 number of questions from the public about accessibility
20 of hearings and asking if they can have hearings in
21 their area and questions of that nature, so this
22 recommendation was an attempt to respond to that type
23 of input they are getting from customers.

24 JUDGE MOSS: Thank you. Let me ask you one
25 more question, Mr. ffitich. On this idea of having a

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1 midday hearing opportunity in Olympia, was the
2 contemplation that that would be separate from the
3 evidentiary hearing schedule or during that process?
4 Would it interrupt the evidentiary presentation? I'm
5 just not sure I understand the proposal.

6 MR. FFITCH: Your Honor, we did not discuss
7 that specific issue. I think we could do it either
8 way. I think we could --

9 JUDGE MOSS: We've got five days scheduled
10 for hearing, it looks like.

11 MR. FFITCH: Yes. It does seem that it would
12 be a bit difficult to do it.

13 JUDGE MOSS: It might be difficult to do a
14 midday. The 18th is a holiday.

15 MR. FFITCH: If I could just have a moment to
16 talk with the consumer affairs folks.

17 JUDGE MOSS: That would be fine.

18 (Discussion off the record.)

19 MR. FFITCH: Your Honor, the thinking is I
20 think that it could be scheduled during the evidentiary
21 hearing, that it would be a break then needed for the
22 commissioners and hearing participants between the
23 public comment and the evidentiary hearing, and there
24 is some anticipation that it wouldn't be expected to be
25 an extremely long hearing but that it would be an

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1 opportunity for people to come on their lunch hour.

2 JUDGE MOSS: So when you say midday, you mean
3 twelve o'clock.

4 MR. FFITCH: I think that was the Staff's
5 proposal. It's a bit of an experiment, Your Honor, to
6 see if that would be an opportunity that people would
7 take advantage of.

8 We are cognizant that the daytime hearing in
9 Pullman did not have great attendance for the Avista
10 hearing at noon, but we are supportive of Staff's
11 effort to try some different things to see what works
12 for the public.

13 JUDGE MOSS: As long as everybody
14 understands, no doughnuts.

15 MR. FFITCH: I can address the public notice
16 if you are ready.

17 JUDGE MOSS: Go ahead.

18 MR. FFITCH: On this, Your Honor, as per the
19 standard procedure, we are starting discussions with
20 Puget Sound Energy and the consumer protection and
21 communication about the form of the notice, really
22 haven't gotten very far on that yet, and we would ask
23 that a 30-day status report date be included in the
24 schedule for us to report back to the Commission on the
25 process of developing the public notice.

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1 JUDGE MOSS: So you want a status report
2 date?

3 MR. FFITCH: Yes. 30 days from the date of
4 the order would be fine, Your Honor.

5 MS. STROM CARSON: Your Honor, if I might
6 speak to that issue also.

7 JUDGE MOSS: Yes, you may.

8 MS. STROM CARSON: It's not clear to the
9 Company what the rationale is or why there is a
10 necessity for the status report. It's true in the last
11 couple of cases Public Counsel has asked for the status
12 report, but the WAC is pretty clear about what needs to
13 be included in the public notice, WAC 480-90 and 100,
14 197 sets forth the contents of the notice, sets forth
15 the means by which notice should be given, sets forth
16 the public involvement, the option for public
17 involvement language that the Company may use, and
18 addresses publication.

19 So it's all there in the WAC, and the Company
20 is obligated to follow that, and so I guess we are
21 wondering why a status report is needed to report back
22 on the public comment process.

23 JUDGE MOSS: I'll add a little bit to that
24 question, which I would like to have a response from
25 you, Mr. ffitich, but also the Company too. We have

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1 been going through this exercise now for quite some
2 time, almost on an annual basis. I would think that by
3 now you would have all worked this out into some sort
4 of fairly standard format and approach, so it's hard
5 for me to imagine why there remains any point of
6 controversy, and perhaps you can enlighten me.

7 MR. FFITCH: Well, first of all, with regard
8 to just having the status report, this is based on long
9 experience with the negotiation process, and the sort
10 of agreed procedure before the Commission is that our
11 office and the Company and the Commission's own staff
12 as a matter of routine practice have a conference
13 together and collaborate to reach agreement on the form
14 of the notice, and I think it's fair to say in every
15 case, there is some back and forth on format and
16 phrasing and content, and in the past, again, focusing
17 on why a status report, in the past, unfortunately, due
18 to the press of other matters and any number of
19 reasons, sometimes the process has floated a little
20 bit, and we have found ourselves, not necessarily with
21 this company but sometimes have found ourselves coming
22 up against deadlines for when the notice has to be put
23 in the customer bills, and we still don't have
24 agreement, so we've gotten very short of time.
25 Sometimes there has been a need to present issues to

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1 the Commission and then the timing becomes a factor.

2 JUDGE MOSS: Was all this resolved to your
3 satisfaction in the last case?

4 MR. FFITCH: The form of the notice was, yes,
5 Your Honor, but I'm just -- generically, the reason we
6 are asking for this in all of the cases in front of the
7 Commission -- frankly, I think it's been quite
8 successful -- it just puts a little more structure in
9 the process for everybody's benefit, and hopefully, as
10 you say, if we reach agreement, it's not a big deal,
11 but at least it sort of gives everybody more of a work
12 schedule to try to get things done early in the case.

13 We have not always been clear on what the
14 Company's mailing schedules are. Sometimes -- again,
15 not necessarily with this company, but sometimes we
16 find out to our surprise that it's got to go out next
17 Monday and we are up against it, and that really
18 disadvantages the process, so it's really sort of a
19 good process tool that's been quite successful so far,
20 and based on actual less than desirable experiences in
21 the last couple years, and I'm really looking further
22 back. I don't think we've had that particular problem
23 since we started doing the 30-day notice reporting
24 deal.

25 With regard to the reason why there are still

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1 disputes about public comment notices, certainly with
2 this particular company, we think we had really reached
3 a good place in the last case, and we are hopeful that
4 there shouldn't be any major areas of dispute here, but
5 as a general matter, we have found that notices are not
6 always easy to read, that they don't always include
7 information that should be in there, that they use
8 fonts and formats that are much less user friendly than
9 just about any other kind of mailing that the companies
10 send to their customers, and the Commission's own staff
11 really put some efforts in trying make these notices
12 something that people read instead of tossing, and
13 we've even up until recently had fights about whether
14 the customers even need to be told about whether Public
15 Counsel is representing the public in the case,
16 something that's been in notices for 20 years. We've
17 had companies pushing back on that lately.

18 These things, they should be easy, but they
19 are not always easy, and this 30-day process gives us a
20 chance to work those things out.

21 JUDGE MOSS: Ms. Carson, anything further?

22 MS. STROM CARSON: The Company intends to
23 work with the other parties, Staff and Public Counsel
24 in particular, as it has in the past and to submit a
25 draft language for the parties to look at. We just

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1 don't think this is necessary, and to the extent it's
2 used to kind of impose requirements that go beyond the
3 WAC, then that's something that we think isn't
4 necessary and isn't appropriate.

5 JUDGE MOSS: All right. It sounds to me like
6 in this instance, cooperation will be the order of the
7 day, and that you have in the past, particularly with
8 the last case, reached a point where Public Counsel was
9 satisfied, and probably you should follow that as a
10 guide in this case as well so that any disputes can be
11 minimized, but what Mr. ffitich asked, I think, is a
12 fairly small matter, perhaps one of great consequence
13 to Public Counsel and others, so we will have the
14 status report, and I will leave that burden on you,
15 Mr. ffitich, to furnish that to the Commission, and what
16 I hope is to hear that you worked this out two or three
17 days following today's conference no problem.

18 MS. STROM CARSON: Thank you.

19 JUDGE MOSS: I had a few comments on
20 settlement that I wanted to make today, and I do want
21 to share a few words with you. Based on conversations
22 we had after our recent Bench Bar conference, it became
23 apparent that there was perhaps some confusion
24 regarding certain comments that were made during the
25 colloquy on the settlement process, and I want to try

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1 to clarify this afternoon the point that there has been
2 no change in the Commission's policy concerning
3 settlements.

4 The Commission continues to encourage
5 stipulations, both as to facts and to issues that can
6 be resolved, via settlement or other means of
7 alternative dispute resolution, and having said that,
8 this does not mean that the Commission necessarily
9 favors settlements over fully litigated cases.

10 Personally, I like a fully litigated case now and then,
11 but that's just me, so the Commission is prepared to go
12 forward with a well-developed record under either
13 procedural approach or some blend of them, if that's
14 what's appropriate.

15 After the commissioners' remarks during our
16 Bench Bar, they were directed principally to concerns
17 about the fullness or completeness of the record. In
18 certain prior cases that we choose not to identify, the
19 essential take-away point for you all was that when a
20 settlement is filed early, as they sometimes are, as
21 part of the response case, for example, then more is
22 necessary in terms of the evidence that the parties
23 settling matters, more is necessary in terms of
24 substantive testimony to support the settlement
25 stipulation to give the Commission the understanding of

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1 what it's doing in terms of conditioning a settlement
2 leads to results that are in the public interest.

3 So we not only need to be satisfied that the
4 overall outcome in terms of the revenue requirement is
5 a reasonable one but also that we understand some of
6 the more significant points of interest in the rate
7 case. For example, and I think this is an easy one for
8 you to identify, the cost of capital and the capital
9 structure issues, those typically are major drivers
10 with respect to revenue requirement, and the Commission
11 would want to hear without the necessity for litigation
12 positions to be disclosed what went in to the process
13 of determining the settled returns for the various
14 components and the various proportions of those
15 components in the capital structure. If your expert
16 has performed a DCF analysis, you can tell us that
17 without having to tell us the results, but it's nice to
18 know that the analysis was done and that you as good
19 negotiators have taken all of this important
20 information into account in arriving at a settled
21 figure.

22 Settlement negotiations then for the time
23 being will continue to be something that we leave in
24 the control of the parties. You may, of course,
25 request a settlement judge. That opportunity has been

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1 available to you for some years now. It's not often
2 taken advantage of, but it has produced some good
3 results in the past when it has been used.

4 If a settlement judge will help you to move a
5 process along and insure everyone is participating in
6 good faith and is prepared to talk seriously about
7 settlement, then we certainly can do that, and the
8 judge can serve as a mediation function as well and
9 perhaps bring about solutions that are not apparent to
10 the parties.

11 So if you ask for that, we will do our best,
12 subject to the limitations of time and personnel, so
13 let us know and we will go forward with that, and
14 that's about all I had to say on that. I suppose you
15 should offer an opportunity for anyone that wants to to
16 comment on it. No; all right.

17 Is there any other business we need to take
18 care of today from the parties? All right. With that,
19 I'll have closing remarks. We need an original and 16
20 copies for internal distribution at the Commission of
21 any filings you make. If the filings include
22 information designated as confidential or highly
23 confidential under the protective order, you should
24 file an original and 16 copies of the fully
25 confidential version, the version that includes both

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1 the confidential and the highly confidential. That's
2 what we want, an original and 16 copies, because the
3 internal distribution will be primarily if not
4 exclusively to people in the Commission who are
5 entitled to see both levels, including the Bench.

6 As to the others, we would like an original
7 and one copy of any partly redacted version. That
8 would be one, for example, that included confidential
9 but not highly confidential, and the original and one
10 copy of the fully redacted version, which of course
11 would include all levels of confidential information,
12 and of course you are all very familiar with the
13 process by which you make your filings through the
14 Commission secretary at the address for this building,
15 records center, directed to Mr. Danner.

16 Electronic format requirements you are all
17 very familiar with so I won't repeat them. My practice
18 is to include that towards the date of the hearing,
19 I'll ask you to provide me with a witness list with
20 order of presentation, estimates of time required for
21 cross-examination of each witness, the
22 cross-examination exhibits and exhibit lists, and then
23 I'll prepare a preliminary exhibit list and get that
24 distributed to you before the hearing.

25 We are going to follow the numbering

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1 convention that we adopted a year or so ago, so you all
2 will perhaps make it easier for your witnesses, their
3 numbers will be the same in the hearing room as on the
4 witness's testimony.

5 If necessary, we will hold a prehearing
6 conference shortly before the evidentiary hearing, but
7 that hasn't been necessary for a number of years. I'm
8 hoping that will continue, because I know I can count
9 on all of you cooperating and helping us handle this
10 case in a fashion to which we've become accustomed.

11 I will enter a prehearing conference order in
12 the next day or so, and that will memorialize all of
13 our discussions today, and I'll ask again if there is
14 any other business. Mr. ffitch has some.

15 MR. FFITCH: Your Honor, I just thought of
16 one routine matter. You have allowed us leave to
17 submit names for the electronic service list for our
18 staff, and I would like to request that again on behalf
19 of Public Counsel, and I would assume other parties as
20 well.

21 JUDGE MOSS: I think that's helpful if we can
22 compile that all in one place. You can send those in.
23 Can the parties do that tomorrow?

24 MR. FFITCH: Yes, Your Honor.

25 JUDGE MOSS: If all goes according to plan,

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1 I'll be out of town the latter part of this week, so if
2 I can get it tomorrow, I can get the order out by
3 Wednesday. Mr. Furuta, you had something?

4 MR. FURUTA: Regarding the notice of waiver
5 of paper copy service, I may have jumped the gun on
6 that, and I included a paragraph in my intervention
7 petition waiving service. If our consultants and if we
8 could electronic copies to the e-mail address, is that
9 sufficient?

10 JUDGE MOSS: That's sufficient. We need to
11 have something on record here in case the gendarmes
12 come after us.

13 MR. FURUTA: Thank you.

14 JUDGE MOSS: Mr. Cedarbaum?

15 MR. CEDARBAUM: I will try to get to you this
16 afternoon the dates we've scheduled for settlement
17 conference. I would ask the parties to stay in the
18 hearing room for a few minutes to resolve that.

19 JUDGE MOSS: Great. Anything else? Thank
20 you all for being here today. I'll look forward to
21 moving through the schedule with you all and bringing
22 this to a satisfactory resolution in due course.

23 (Prehearing adjourned at 2:15 p.m.)

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