

Docket No. UG-190857 - Vol. I

Seattle Children's Hospital, et al. v. Puget Sound
Energy

November 25, 2019



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

SEATTLE CHILDREN'S HOSPITAL;) Docket UG-190857
 OVERLAKE HOSPITAL MEDICAL)
 CENTER; HOSPITAL CENTRAL)
 SERVICES ASSOCIATION; COSTCO)
 WHOLESALE CORPORATION; NORTHWEST)
 BAKING LIMITED PARTNERSHIP,)
 d/b/a NORTHWEST BAKING COMPANY;)
 FIRST CALL PLUS OF WASHINGTON,)
 L.L.C.; REPAUL TEXTILES LLC)
 d/b/a STERILE SURGICAL SYSTEMS;)
 SHINING OCEAN, INC; TUCCI &)
 SONS, INC; WESTROCK CP, LLC;)
 NUCOR STEEL SEATTLE INC.; ACE)
 GALVANIZING, INC.; GARDNER)
 ASPHALT CORPORATION; and WESTERN)
 WOOD PRESERVING CO.,)
)
 Complainants,)
)
 v.)
)
 PUGET SOUND ENERGY,)
)
 Respondent.)

PREHEARING CONFERENCE, VOLUME I

Pages 1 - 13

ADMINISTRATIVE LAW JUDGE NELLI DOROSHKIN

November 25, 2019

2:06 p.m.

Washington Utilities and Transportation Commission
621 Woodland Square Loop Southeast
Lacey, Washington

REPORTED BY: CRYSTAL R. McAULIFFE, RPR, CCR 2121

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PRECONFERENCE HEARING

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- None Marked -

1 LACEY, WASHINGTON; NOVEMBER 25, 2019

2 2:06 p.m.

3 -o0o-

4 JUDGE DOROSHKIN: Let's be on the record.

5 Good afternoon, everyone. My name is Nelli

6 Doroshkin. I'm the Administrative Law Judge on

7 commission and I'll be presiding this matter.

8 This is a prehearing conference on docket

9 UG-190857, regarding complaint filed against Puget Sound

10 Energy or PSE by 14 PSE natural gas customers as noted

11 in the docket caption.

12 I'll refer to the complaints here as "the

13 customers" in this prehearing conference.

14 We will address petitions in the discovery,

15 the service list, filing of service requirements, and

16 the procedural scheduling in this case. Afterwards, I

17 will issue an order on these topics.

18 So to begin, we'll take appearances and then

19 address the petition for intervention. We will begin

20 with the customers.

21 MR. STOKES: Good afternoon. My name is

22 Chad Stokes from the Cable Huston law firm. The address

23 is 1455 Southwest Broadway, Suite 1500, in Portland,

24 Oregon 97201-3412.

25 JUDGE DOROSHKIN: Thank you, Mr. Stokes.

1 You can give short formal appearances from
2 PSE.

3 MS. CARSON: Good afternoon, Your Honor.
4 Sheree Strom Carson from Perkins Coie representing Puget
5 Sound Energy.

6 MR. CALLAGHAN: Nash Callaghan, Assistant
7 Attorney General, on behalf of Commission staff.

8 JUDGE DOROSHKIN: And Mr. Stokes, I'm
9 assuming you're representing the Tulalip Tribe?

10 MR. STOKES: Yes, Your Honor.

11 JUDGE DOROSHKIN: So I understand there's no
12 one on the conference line.

13 All right. So I have reviewed the timely
14 filed petition to intervene with the Tulalip Tribe in
15 Washington or Tulalip Tribe, and there were no written
16 objections to that petition.

17 Would anyone like to enter an objection now?

18 MS. CARSON: No objections.

19 JUDGE DOROSHKIN: Okay. Hearing nothing,
20 Tulalip Tribe's petition is granted.

21 MR. STOKES: Thank you.

22 JUDGE DOROSHKIN: And I understand from the
23 Tulalip Tribe's position that they are similarly
24 situated to the customers and that their participation
25 in the complaint was limited by the timing of certain

1 approvals from the Bureau of Indian Affairs.

2 MR. STOKES: Yes, Your Honor.

3 JUDGE DOROSHKIN: Okay. I am inclined to
4 allow the customers leave to amend their complaint for
5 the limited purpose of including the Tulalip Tribe as a
6 complainant to encourage sufficiency in the proceeding.

7 Would there be interest in doing so?

8 MR. STOKES: Yes, Your Honor.

9 JUDGE DOROSHKIN: Would there be any
10 objections from any other parties?

11 MS. CARSON: No, Your Honor.

12 MR. CALLAGHAN: No, Your Honor.

13 MR. STOKES: Just to be clear, though, that
14 will just be the caption and the body where -- like, the
15 page where they are listed as a party and everything
16 else.

17 JUDGE DOROSHKIN: Yes, exactly.

18 Would an amendment deadline of December 2nd
19 be sufficient?

20 MR. STOKES: Yes, Your Honor.

21 JUDGE DOROSHKIN: Okay. Regarding
22 discovery, will protective orders be necessary in this
23 proceeding?

24 MS. CARSON: Your Honor, we think there may
25 be a need for a protective order, so we would ask for

1 one to be issued.

2 JUDGE DOROSHKIN: And do the parties
3 anticipate exchanging highly confidential information?

4 MR. STOKES: No, Your Honor. I wouldn't
5 think so.

6 MR. CALLAGHAN: No, Your Honor.

7 MS. CARSON: No, Your Honor.

8 JUDGE DOROSHKIN: All right. Then I will
9 enter a protective order in this docket.

10 Regarding this discovery, the subpoena
11 meeting the criteria of WAC 480-07-425 for the
12 availability of discovery. So discovery rule will be
13 conducted pursuant to the petition to the discovery
14 rules in WAC 480-07-400 through 425.

15 WAC 480-07-405 subsection (2) requires
16 parties to serve all data requests upon all parties in
17 the case.

18 Does any party object making -- the
19 Commission making the exchange of data request responses
20 and requirement for parties for discovery in this case?

21 MS. CARSON: No objection.

22 MR. CALLAGHAN: No objection.

23 MR. STOKES: No.

24 JUDGE DOROSHKIN: Hearing none, I'll
25 incorporate that requirement into the prehearing

1 conference order.

2 Regarding the service list, if any party has
3 not yet designated a lead representative for service,
4 please do so in e-mail to me as soon as possible,
5 preferably by the end of today. And my e-mail address
6 is nelli.doroshkin@utc.wa.gov.

7 Also, if you would like to have any other
8 representatives or support staff receive electronic
9 courtesy copies of all documents filed in this
10 proceeding, please e-mail me their names and addresses
11 as well.

12 Regarding electronic filing and electronic
13 service, the Commission requires electronic filing of
14 documents for formal filings. In this proceeding, the
15 Commission will require to filing of the original and
16 three paper copies for internal distribution.

17 Now, filings include information designated
18 as confidential and some made. Please file the original
19 and three copies of the fully unredacted version and no
20 paper copy is necessary for partly redacted or fully
21 redacted. Please file those originals in electronic
22 format and the Commission's rules, please note for
23 electronic services of documents as well. So the
24 Commission will serve the parties electronically and the
25 parties will serve each other electronically.

1 Again, as a reminder, when serving filings
2 upon parties, please also send courtesy copies of the
3 filings to me.

4 Now, prior to going on the record, the
5 parties provided me with a proposed procedural schedule.
6 And I understand that, there is agreement on the
7 proposed schedule.

8 MR. CALLAGHAN: There is, Your Honor, but I
9 will add that staff does not believe that their
10 participation in this case is necessary given that both
11 parties are ably represented by counsel.

12 So staff would ask leave to have no longer
13 have any involvement in this case going forward. But
14 with that said, the procedural schedule would fit with
15 staff's schedule.

16 JUDGE DOROSHKIN: Okay. I can address that
17 in a minute then.

18 There's consensus. So most of the noticing
19 parties if they --

20 MS. CARSON: Well, we hadn't actually talked
21 together much about that. Counsel for staff had
22 mentioned that was a possibility when we talked on the
23 phone.

24 In talking with my client, we do think it
25 would be helpful to have staff involved. We will have a

1 settlement conference coming up. There are issues in
2 terms of any penalties that have been paid, have been
3 passed through --

4 JUDGE DOROSHKIN: Ms. Carson, I'm asking
5 about the procedural schedule right now. We can address
6 staff's request to withdraw later.

7 MS. CARSON: I'm sorry.

8 JUDGE DOROSHKIN: So the procedural
9 schedule, is there agreement between PSE and the
10 complainants including the Tulalip Tribe?

11 MR. STOKES: Yes, Your Honor.

12 JUDGE DOROSHKIN: Okay. Why don't we read
13 that into the record and then go on to staff's request
14 for withdrawal.

15 MR. STOKES: So the dates that we've agreed
16 upon, we have settlement conference the week of
17 December 9th. Was that December 10th?

18 MS. CARSON: We're agreeable to
19 December 10th.

20 MR. STOKES: Okay. So December 10th will be
21 the settlement conference.

22 The cutoff for the discovery deadline is
23 January 21st.

24 January 31st we'll reach agreement on
25 stipulated facts for summary determination if possible.

1 February 18th, will be opening testimony, if
2 needed.

3 March 2nd, will be cross-answering
4 testimony, if needed.

5 March 19th, will be the hearing, if it's
6 needed, or whatever date that the Commission is
7 available.

8 April 9, 2020, will be the date to file
9 motions for summary determination or an opening brief,
10 whichever is appropriate.

11 April 30th, 2020, file responses to motions
12 for summary determination or responses to the opening
13 brief.

14 And May 14, 2020, filed replies to responses
15 to motions for summary determination, or replies to
16 responses to opening brief.

17 Discovery turnaround will be seven business
18 days.

19 JUDGE DOROSHKIN: Okay. Thank you.

20 So, I will incorporate that request to
21 procedural schedule into the prehearing conference order
22 including the deadline for amending the complaint to
23 include Tulalip Tribe.

24 Now returning to staff's desire to not
25 participate in this proceeding.

1 Ms. Carson, you were beginning to address
2 that point.

3 MS. CARSON: Yes. Thank you, Your Honor.

4 Having now talked with my client about that,
5 we think that it would be helpful to have staff as a
6 party. The penalties at issue here were passed through
7 the PSE's purchase gas adjustment, PGA, mechanism; and
8 to the extent there's any kind of refund, if there were
9 decided to be to these customers, we would want staff to
10 be a part of that decision as well. So we ask that
11 staff remain a party to this case.

12 JUDGE DOROSHKIN: Mr. Stokes, do you have
13 anything to add?

14 MR. STOKES: I don't have an objection to
15 that. It may make sense to at least have them do the
16 settlement conference; and then if we get beyond that,
17 maybe they drop out then. That's another approach.

18 MS. CARSON: That's a possibility.

19 JUDGE DOROSHKIN: Okay. And does staff have
20 a response?

21 MR. CALLAGHAN: Thank you, Your Honor.

22 After staff reviewed the complaint, it just
23 seemed like there was very little in the way of facts in
24 disputes, and this is simply a matter of interpreting
25 the tariff.

1 As I said before, both parties are ably
2 represented by counsel, and so staff was confident that
3 this issue could be resolved without their intervention.

4 But that being said, obviously if ALD would
5 like them to be involved, they will be. Thank you.

6 JUDGE DOROSHKIN: All right. I will take
7 that issue under advisement and address that in the
8 prehearing conference order.

9 Does anyone else have anything to add on
10 that?

11 MR. STOKES: No.

12 JUDGE DOROSHKIN: Is there anything else
13 that we need to address today?

14 MR. STOKES: No, Your Honor.

15 MR. CALLAGHAN: No, Your Honor.

16 MS. CARSON: No, Your Honor.

17 JUDGE DOROSHKIN: Okay. Then I will issue
18 an order shortly with the procedural schedule and the
19 other matters that we discussed here shortly.

20 So we are adjourned. Thank you.

21 MR. STOKES: Thank you.

22 MR. CALLAGHAN: Thank you.

23 MS. CARSON: Thank you.

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25 (Hearing adjourned at 2:13 p.m.)

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CERTIFICATE

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

I, CRYSTAL R. McAULIFFE, a Certified Court Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the prehearing conference held on NOVEMBER 25, 2019, 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 5th day of December, 2019.

CRYSTAL R. McAULIFFE, RPR, CCR #2121