

8 98225. Also Present: Michael Karp, Dini Duclos.

9 CITY OF BREMERTON, by ANGELA L. OLSEN,
Assistant City Attorney, McGavick Graves, 1102
Broadway, Suite 500, Tacoma, Washington 98401.

10 KING COUNTY, by DONALD C. WOODWORTH, Deputy
11 Prosecuting Attorney, 500 Fourth Avenue, Suite 900,
Seattle, Washington 98104.

12 PUBLIC COUNSEL, by SIMON J. FFITCH, Assistant
13 Attorney General, 900 Fourth Avenue, Suite 2000,
14 Seattle, Washington 98164.

15 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,
by S. BRADLEY VAN CLEVE, Attorney at Law, Davison Van
16 Cleve, 1000 Southwest Broadway, Suite 2460, Portland,
Oregon 97205.

17 SEATTLE STEAM COMPANY, by JUDITH A. ENDEJAN
18 and MICHAEL TOBIASON, Attorneys at Law, Graham & Dunn,
1420 Fifth Avenue, 33rd Floor, Seattle, Washington
19 98101.

20 NORTHWEST INDUSTRIAL GAS USERS, by EDWARD A.
FINKLEA, Attorney at Law, Energy Advocates, LLP, 526
21 Northwest 18th Avenue, Portland, Oregon 97209.

22 COGENERATION COALITION OF WASHINGTON, by
DONALD BROOKHYSER, Attorney at Law, Alcantar & Kahl,
23 1300 Southwest Fifth Avenue, Suite 1750, Portland,
Oregon 97201. (Via bridge line)

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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, everyone. We have a full house today. We
4 are convened for our first prehearing conference in the
5 matter styled Washington Utilities and Transportation
6 Commission against Puget Sound Energy, Inc., Docket
7 Nos. UE-011570 and UG-011571, this being a general rate
8 proceeding and also encompassing the matter of the
9 request for interim rates by Puget Sound Energy.

10 We'll take appearances. We'll take up the
11 petitions to intervene, the eight that have been
12 prefiled. We will take up other motions and requests
13 related to process, and we will talk about the process
14 and procedural schedule, and there will be a few other
15 matters of business we will take up.

16 By way of introduction for any of you that do
17 not know me, I'm Dennis Moss, and I'm an administrative
18 law judge with the Commission. I will be presiding,
19 assisting the Bench in this case. The commissioners
20 will be sitting today. I believe Commissioner Hemstad
21 will be joining us presently. He had another
22 commitment that did not allow him to be present at the
23 beginning today, but he will be joining us as soon as
24 he is available. So with that, let's begin with the
25 appearances, and I would like to start with the

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1 company, and then we will just proceed around the room.

2 MR. QUEHRN: Good afternoon. Mark Quehrn
3 here on behalf of Puget Sound Energy.

4 JUDGE MOSS: Since this is our first
5 prehearing, we will go ahead and ask for the full form
6 of appearance, which will include your firm
7 affiliation, address, telephone number, fax number, and
8 e-mail, so we will have that in the record for future
9 reference.

10 MR. QUERHN: Mark Quehrn, Perkins Coie, 411
11 108th Avenue Northeast, Suite 1800, Bellevue, 98004.
12 Phone number is (425) 453-7307; fax number, (425)
13 453-7350. E-mail is quehm@perkinscoie.com.

14 MS. DODGE: Kirstin Dodge with Perkins Coie
15 representing Puget Sound Energy. Same address as Mark
16 Quehrn. My phone is (425) 453-7326. E-mail is dodgi@
17 perkinscoie.com; fax, (425) 453-7350, and we do ask
18 that both names be put on anything to the company
19 that's served on the company.

20 JUDGE MOSS: That would be a single
21 submission but with both names on the address line?

22 MS. DODGE: Yes.

23 MR. FINKLEA: My name is Edward Finklea. I'm
24 counsel for the Northwest Industrial Gas Users. My
25 firm name is Energy Advocates, LLP. Our business

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1 address is 526 Northwest 18th Avenue, Portland, Oregon,
2 97209. My phone number is (503) 721-9118. Fax is
3 (503) 721-9121, and e-mail is
4 efinklea@energyadvocates.com.

5 MS. ENDEJAN: My name is Judith Endejan, and
6 also appearing with me on behalf of Seattle Steam is my
7 partner Michael Tobiason, and we are with the firm of
8 Graham and Dunn in Seattle. That's 1420 Fifth Avenue,
9 Seattle, Washington, 98101. Phone number,
10 (206) 624-8300; fax, (206) 340-9599. My e-mail is
11 jendejan@grahamdunn.com.

12 JUDGE MOSS: Mr. Tobiason would be
13 "mtobiason" for the record?

14 MS. ENDEJAN: That's correct.

15 MR. CAMERON: Good afternoon, Judge Moss.
16 I'm John Cameron, also entering the appearance of my
17 colleague, Traci Kirkpatrick, T-r-a-c-i. We are with
18 Davis Wright Tremaine, 1300 Southwest Fifth Avenue,
19 Suite 2300, Portland, Oregon, 97201. My phone number
20 is (503) 778-5206; fax (503) 778-5299; e-mail,
21 johncameron@dwt.com. We are here today appearing for
22 two electric customers of Puget Sound Energy - AT&T
23 Wireless and also the Seattle Times Company.

24 JUDGE MOSS: Mr. Cameron, I noted that there
25 was a petition to intervene by AT&T Wireless. Was

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1 there one for the Seattle Times that I missed?

2 MR. CAMERON: You didn't miss it yesterday.
3 I brought originals and copies for each this afternoon.

4 MS. DIXON: Danielle Dixon appearing for a

5 petition to cointervene by Northwest Energy Coalition
6 and Natural Resources Defense Council. My affiliation
7 is with the Northwest Energy Coalition. The business
8 address for them is 219 First Avenue South, Suite 100
9 in Seattle, Washington, 98104. The phone number is
10 (206) 621-0094. Fax number is (206) 621-0097, and my
11 e-mail is danielle@nwenergy.org, and I can also provide
12 Natural Resources Defense Council at this time, if that
13 would be helpful. The NRDC is 71 Stevenson Street,
14 Suite 1825 in San Francisco, California, and the Zip is
15 94114, and phone number...

16 JUDGE MOSS: That's all right, Ms. Dixon.
17 You will be the primary contact for both these parties?

18 MS. DIXON: Yes. I've been listed as the
19 designated representative; although, Rob Cavanaugh at
20 Natural Resources Defense Council would also like to
21 receive the paperwork associated with this proceeding.

22 JUDGE MOSS: We have one primary contact for
23 purposes of service. You can make arrangements with
24 counsel as appropriate.

25 MS. DIXON: I do have this other information
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1 if you would like that. The phone number is
2 (415) 777-0220, and the fax number is (415)495-5996,
3 and the e-mail is rcavanagh@nrdc.org.

4 MS. DUCLOS: I'm Dini Duclos, the CEO of the
5 Multi-Service Center. I'm here on behalf of nine other
6 community action agencies representing weatherization
7 and lighting, and Mr. Chuck Eberdt is also here, and he
8 will be giving his information in a moment. My agency
9 is the Multi-Service Center. It's address is 1200
10 South 336th Street in Federal Way, Washington, 98003.
11 The phone number is (253) 835-7678, and the fax number
12 is (253) 835-7511. My e-mail is dinid@skcmsc.com.

13 MR. EBERDT: I'm Chuck Eberdt. I'm with the
14 Energy Project, 314 East Holly Street, Bellingham,
15 Washington, 98225, area code (360) 734-5121, extension
16 332; fax, (360) 671-0541; e-mail,
17 chuck eberdt@oppco.org.

18 MS. ARNOLD: Carol Arnold, Preston Gates and
19 Ellis, 701 Fifth Avenue, Suite 5000, Seattle, 98104;
20 phone, (206) 623-7580; fax, (206) 623-7022; e-mail,
21 carnold@prestongates.com. I'm here on behalf of the
22 cities of Auburn, Des Moines, Federal Way, Redmond,
23 Renton, SeaTac, and Tukwila who have petitioned to
24 intervene in UE-011570, and also upon behalf of Cost
25 Management Services that has petitioned to intervene in

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1 UG-011571.

2 MR. VAN CLEVE: I'm Brad Van Cleve. I'm here
3 on behalf of the Industrial Customers of Northwest
4 Utilities. I'm with the firm of Davis and Van Cleve,
5 PC. My address is 1000 Southwest Broadway, Suite 2460,
6 Portland, Oregon, 97205. My telephone number is (503)
7 241-7242. My fax number is (503) 241-8160, and my
8 e-mail address is mail@dvclaw.com.

9 JUDGE MOSS: Do we have other intervenors

10 present? Several. I guess it's a little crowded up
11 here at counsel table, but you will have to speak
12 loudly, I suppose. You might want to move up towards
13 the front.

14 MR. WOODWORTH: Your Honor, I'm Don
15 Woodworth, King County Prosecutor's office appearing on
16 behalf of King County. Address is 900 King County
17 Administration Building, 500 Fourth Avenue, Seattle,
18 Washington, 98104. Telephone is (206) 296-0430. Fax
19 is (206) 296-0415. E-mail is
20 don.woodworth@metrokc.gov.

21 JUDGE MOSS: Somebody else back there?

22 MS. OLSEN: Angela Olsen, and I'm here on
23 behalf of the City of Bremerton. I'm with the law firm
24 of McGavick Graves at 1102 Broadway Street, Suite 500
25 in Tacoma, Washington, 98401. Phone number is (253)

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1 627-1181. Fax number is (253) 627-2247, and my e-mail
2 alo@mcgavic.com.

3 JUDGE MOSS: Any other intervenors? For
4 public counsel?

5 MR. FFITCH: Simon ffitich, assistant attorney
6 general, public counsel section, 900 Fourth Avenue,
7 Suite 2000, Seattle, Washington, 98164. Phone number
8 is area code (206) 389-2055. Fax number is area code
9 (206) 389-2058, and e-mail is simonf@atg.wa.gov.

10 JUDGE MOSS: For staff?

11 MR. CEDARBAUM: Robert Cedarbaum and Shannon
12 Smith, assistant attorneys general for Commission
13 staff. Our business address is the Heritage Plaza
14 Building, 1400 South Evergreen Park Drive Southwest in
15 Olympia, Washington, 98504. Our fax number is area
16 code (360) 586-5522. My telephone number is area code
17 (360) 664-1188. Ms Smith's telephone number is area
18 code (360) 664-1192. My e-mail is
19 bcedarba@wutc.wa.gov, and Ms. Smith's e-mail is
20 ssmith@wutc.wa.gov.

21 JUDGE MOSS: Thank you very much,
22 Mr. Cedarbaum. We do have, I think I have received
23 eight written petitions to intervene. I think in light
24 of the fact that we have the commissioners on the Bench
25 and we have everybody present, it probably would be

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1 quicker to simply go through these one at a time, have
2 the parties seeking intervention state briefly the
3 basis for their request to intervene, and we'll hear
4 any argument with respect to each one, and then we will
5 take the interventions under advisement and render
6 appropriate decisions on each of those petitions during
7 the course of our proceedings today. I tried to get
8 them all down as you all were speaking, and if I missed
9 any, you will have to tell me at the end that I missed
10 you, and then we'll blame it on my inability to write
11 quickly enough.

12 I do have one question, and that was whether
13 the Multi-Service Center and Energy Project were
14 entering as a single party or whether those would be

15 separate interventions?

16 MR. EBERDT: A third party would be the
17 Opportunity Council from Bellingham, Washington.

18 JUDGE MOSS: We'll take that up as a single
19 petition then. I'm going to begin with the Industrial
20 Customers of Northwest Utilities; Mr. Van Cleve?

21 MR. VAN CLEVE: ICNU has approximately 10
22 members who are industrial customers located in Puget
23 Sound Energy's service territory. Some of those
24 customers purchased distribution service under Schedule
25 449. Some of those customers purchased completely

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1 bundled product under Schedule 49, and some customers
2 are on both tariffs as well as some smaller loads on
3 other commercial tariffs.

4 These customers will potentially be impacted
5 by the rate increases proposed in the general rate case
6 as well as the interim request. Therefore, they have a
7 substantial interest in the case, and we move to
8 intervene.

9 JUDGE MOSS: Any objection to the petition by
10 the Industrial Customers of Northwest Utilities?
11 There being no objection -- I think we can handle it
12 that way. Where there is no objection, we will grant
13 the petition. Mr. Van Cleve for the Industrial
14 Customers of Northwest Utilities has stated a
15 substantial interest, so the petition will be granted.
16 Next on my list is the Northwest Energy Coalition,
17 Ms. Dixon, and that will also encompass the Natural
18 Resources Defense Council.

19 MS. DIXON: The Northwest Energy Coalition
20 has approximately 200 individual members and 35
21 organizational members in Washington representing more
22 than 300,000 citizens in Washington, a large majority
23 of whom are in the Puget Sound area and Puget Sound
24 Energy's service territory.

25 Natural Resources Defense Council has more

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1 than 17,000 individual members in Washington; again, a
2 substantial portion of those are in the Puget Sound
3 area and in PSE's service territory. Those members
4 will clearly be affected by any change in rate design
5 or rate increases that come about as a result of this
6 rate case. Thus, we believe that we can represent
7 those special interests in this proceeding.

8 JUDGE MOSS: Let's hear whether there is any
9 objection to the petition to intervene by Northwest
10 Energy Coalition and the NRDC. Hearing no objection,
11 the petitioner having stated a substantial interest,
12 the petition will be granted.

13 I've been informed that there is someone on
14 the teleconference bridge line who wishes to enter an
15 appearance, and I apologize that I did not previously
16 ask if that was the case, so let me ask for that
17 appearance now.

18 MR. BROOKHYSER: My name is Donald
19 Brookhyser. I'm appearing on behalf of the

20 Cogeneration Coalition of Washington. I'm associated
21 with the law firm of Alcantar and Kahl. My address is
22 Suite 1750, 1300 Southwest Fifth Avenue in Portland,
23 Oregon, 97201. My phone number is (503) 402-8702. My
24 fax is (503) 402-8882, and my e-mail address is
25 deb@a-klaw.com.

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1 JUDGE MOSS: Thank you, Mr. Brookhyser. I
2 want to continue with my list so I don't lose my sense
3 of order here. The Northwest Industrial Gas Users is
4 the next on my list.

5 MR. FINKLEA: Ed Finklea for the Northwest
6 Industrial Gas Users. Our association is an
7 association of 32 industrial users of natural gas in
8 Oregon, Washington, and Idaho. Six of our members are
9 customers of Puget Sound Energy purchasing natural gas
10 distribution service under Schedule 57 and bundled
11 natural gas sales service under Schedule 87, and we
12 have moved to intervene on behalf of these customers
13 who would be substantially affected by the proposed
14 natural gas rate increase as part of this docket.

15 JUDGE MOSS: Is there any objection to the
16 Northwest Industrial Gas Users' intervention? Hearing
17 no objection, petition is granted.

18 Now, Mr. Brookhyser, we are to the
19 Cogeneration Coalition of Washington.

20 MR. BROOKHYSER: Thank you, Your Honor. The
21 Cogeneration Coalition of Washington is composed of
22 several cogenerators located within the Puget Sound
23 service area. Each of them has a long-term sales
24 contract with Puget Sound. Our primary interest is in
25 assuring that Puget Sound Energy has sufficient revenue

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1 to pay for the energy they receive from our client. I
2 think that's our major interest in intervening. We
3 also have one client who purchases gas through Puget
4 Sound. It's unclear at this time whether the rate
5 increase would affect their contract, but we intervened
6 to monitor that portion of the proceeding also.

7 JUDGE MOSS: Any objection to the
8 intervention by the Cogeneration Coalition of
9 Washington? Hearing no objection, the petition will be
10 granted. Seattle Steam Company?

11 MS. ENDEJAN: Thank you, Your Honor. Judy
12 Endejan here from Graham and Dunn representing Seattle
13 Steam, and we filed to intervene in both Docket No.
14 UE-011570 and UG-011571. Seattle Steam also is a
15 significant customer of Puget Sound Energy purchasing
16 services under Tariffs 57 and 87, and it has a
17 substantial interest here in any impact on the rates
18 that are set forth in those tariffs.

19 In addition, Seattle Steam believes that
20 there are issues that are common between both the rate
21 case for gas and for electric in the sense that there
22 is a question of common allocations of costs that may
23 be at issue in both, and the request for interim rate
24 relief by Puget Sound Energy may also have a bearing on

25 PSE's overall cost of capital in the gas case --
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1 JUDGE MOSS: This is an interesting
2 development here. Someone was piping music into our
3 sound system, but I believe it's been stopped. Go
4 ahead, Ms. Endejan.

5 MS. ENDEJAN: I believe I've adequately
6 stated Seattle Steam's interest in both proceedings.
7 Thank you.

8 JUDGE MOSS: Is there any objection to
9 Seattle Steam Company's petition? Hearing no
10 objection, the petition will be granted. Cost
11 Management Services, Inc.?

12 MS. ARNOLD: Cost Management Services is an
13 agent for 33 Puget Sound Energy natural gas
14 transportation customers who take service under
15 Schedule 57. These customers are small industrial and
16 commercial customers, are not otherwise represented in
17 this proceeding, and have a direct interest in the
18 costs and charges to Schedule 57 and related tariffs,
19 so Cost Management Service has petitioned to intervene
20 in UG-011571.

21 JUDGE MOSS: Thank you. Any objection to the
22 intervention of Cost Management Services, Inc.?

23 MS. DODGE: Just a question for
24 clarification. How is Cost Management Services in a
25 different position than -- we've got the Northwest

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1 Industrial Gas Users on Schedule 57 and 87 and Seattle
2 Steam Company on 57 and 87, and yours are on 57 as
3 well?

4 MS. ARNOLD: Yes, and I think the difference
5 between Mr. Finklea's clients and Cost Management
6 Service is that Cost Management Service customers are
7 small industrial customers or commercial customers.

8 MS. DODGE: Is Cost Management Services
9 selling -- passing through gas to its customers? The
10 end-user customers are not Cost Management; is that
11 right?

12 MS. ARNOLD: Cost Management Services is the
13 agent for natural gas purposes for these 32 customers
14 of Puget Sound Energy. Cost Management Services deals
15 directly with Puget Sound Energy on behalf of these
16 customers through an agency agreement, which is on file
17 in Puget Sound Energy's offices.

18 JUDGE MOSS: Your questions were for the
19 purpose of clarification only, Ms. Dodge?

20 MS. DODGE: Yes.

21 JUDGE MOSS: So there is no objection to the
22 intervention, and the petition will be granted. AT&T
23 Wireless?

24 MR. CAMERON: Thank you, Your Honor. John
25 Cameron once again. AT&T Wireless is interested

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1 principally with regard to its Internet data center
2 facility in Bothell. As you may recall, the Commission
3 approved special contracts for AT&T Wireless and

4 several other similar customers in October. In terms
5 of those contracts expire at the end of this general
6 rate case, Wireless has an interest in taking positions
7 on the rate that would apply to it at the end of this
8 case.

9 I have been asked to inform you by Washington
10 D.C. counsel for MCI WorldCom, another customer under
11 the same special contract, that that company has just
12 not been able to complete its internal process before
13 intervention. They would expect to intervene in short
14 order and be aligned with AT&T Wireless were they to
15 intervene. They understand that they would have to
16 separately petition for intervention.

17 JUDGE MOSS: Would it be their intention to
18 be represented by other counsel; do you know?

19 MR. CAMERON: Don't know yet.

20 JUDGE MOSS: But you are not representing
21 them at this time?

22 MR. CAMERON: Not today.

23 JUDGE MOSS: With respect to the petition of
24 AT&T Wireless, is there any objection? Hearing no
25 objection, that petition will be granted. City of

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1 Bremerton?

2 MS. OLSEN: Andrea Olsen on behalf of the
3 City of Bremerton, and we are seeking a petition to
4 intervene under the UE cause number. We are seeking to
5 intervene on behalf of the City of Bremerton, who has a
6 contract for electricity, as well as on behalf of the
7 citizens of Bremerton. Our main concerns involve
8 Schedule 71 and 70 and the proposed tariff revisions
9 under those.

10 JUDGE MOSS: Any objection to the petition by
11 the City of Bremerton? There being no objection, the
12 petition will be granted.

13 MS. DODGE: Did she also say that on behalf
14 of the citizens of Bremerton?

15 MS. OLSEN: At this time, yes.

16 MS. DODGE: How does that differ from public
17 counsel's role with respect to all other cities that
18 might be in the territory?

19 MS. OLSEN: Probably not much. Just wanted
20 to make sure we covered all of our bases.

21 JUDGE MOSS: The petition, as I understand,
22 is on behalf of the City of Bremerton and may be
23 representing the citizens by the transity of property
24 of mathematics but not perhaps in name.

25 MS. OLSEN: Correct.

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1 JUDGE MOSS: The City of Bremerton is the
2 party, and that will be the intervenor. Now we are
3 moving into my notes, less certain ground. Cities of
4 Auburn and others, I did not get them all down.
5 Ms. Arnold, perhaps you could repeat them slowly for
6 me.

7 MS. ARNOLD: Auburn, Des Moines, Federal Way,
8 Redmond, Renton, SeaTac, and Tukwila. These cities are

9 customers of Puget Sound Energy. The principle concern
10 in this proceeding and the reason for intervening is
11 that these cities all are engaged in street improvement
12 projects that require underground conversion of Puget's
13 aerial facilities. The company has substantially, in
14 fact completely revised Schedule 70 and 71 that govern
15 conversion from aerial to underground.

16 The cities are very concerned about the
17 changes that Puget has made. A number of these issues
18 are under the Commission's consideration in other
19 dockets, and for this reason, the cities are
20 intervening to address their concerns with Schedule 70
21 and 71. They have also reserved the opportunity to
22 comment on other matters, but that's their principle
23 concern.

24 JUDGE MOSS: Any objection to the petition to
25 intervene by the Cities of Auburn and others as

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1 indicated? Hearing no objection --

2 MS. DODGE: I guess we would have to reserve
3 any objection as to other comments that might stray
4 beyond Schedule 70 and 71. I don't know if each
5 intervenor is going to get up and weigh in. That may
6 not be productive in the overall proceeding.

7 JUDGE MOSS: We typically do not limit the
8 scope of intervention at the outset. To the extent we
9 get into a problem down the line with anything that
10 might be redundant, repetitive, or otherwise
11 unnecessary, we will manage that as needed. So if
12 there is no objection to the intervention then, the
13 petition will be granted. Multi-Service Center and
14 Energy Project? Who will speak?

15 MS. DUCLOS: This is Dini Duclos from the
16 Multi-Service Center. Actually, I'm here with the
17 authority to represent nine other community action
18 agencies and the housing authority.

19 JUDGE MOSS: Let's be clear about who is
20 seeking intervention status here.

21 MS. DUCLOS: The Multi-Service Center is
22 seeking the intervention status.

23 JUDGE MOSS: Also you're speaking on behalf
24 of the Energy Project.

25 MS. DUCLOS: Yes.

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1 JUDGE MOSS: Was there any other
2 organizations?

3 MS. DUCLOS: Yes, the Opportunity Council.

4 JUDGE MOSS: Those three.

5 MS. DUCLOS: Right, and we are seeking to
6 intervene in both UE-011570 and UG-011571. The
7 Multi-Service Center, the Opportunity Council, and the
8 Energy Project have experience in working with and
9 providing energy assistance and weatherization programs
10 to low-income households in Puget Sound Energy's
11 service territory and have been doing so for a number
12 of years. We feel that this rate increase will have a
13 profound effect, and therefore, we are seeking

14 intervention status.

15 JUDGE MOSS: Any objections? Hearing no
16 objection, the parties as named will be granted
17 intervention. King County, and Mr. Woodworth, I'll ask
18 if you could come up to the counsel table here for
19 purposes of this moment in the sun.

20 MR. WOODWORTH: Thank you, Your Honor. King
21 County is a general purpose county government of the
22 State of Washington operating under our home rule
23 charter. As such, it provides a variety of services to
24 the citizens of the county, including several public
25 utility services. It is a notable customer of Puget

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1 Sound Energy at its wastewater treatment facility in
2 Renton where it is a large customer purchasing service
3 pursuant to a special contract with Puget Sound Energy.

4 It also takes service from Puget at other
5 wastewater and other public utility services under a
6 variety of other commercial rates, including Schedules
7 26 and 31 and probably others. We wish to intervene to
8 pursue a fair, just, and reasonable rate schedule for
9 the future for the people of King County.

10 JUDGE MOSS: Any objection to the petition to
11 intervene by King County? Hearing no objection, that
12 petition will be granted. Have I missed anyone? Let's
13 go ahead and hear about the Seattle Times' interest in
14 the proceeding.

15 MR. CAMERON: As I said a few moments ago,
16 Your Honor, I did prefile earlier this afternoon the
17 intervention for Seattle Times. The Times is
18 interested principally with regard to its printing
19 plant in Bothell, which is a significant load of Puget
20 Sound Energy. A lot of our electric consumption is
21 concentrated in the night when the newspapers are
22 printed. The Times also has the opportunity to shift
23 some of its load into the nighttime if given a proper
24 price signal by Puget.

25 At our request, Puget included in its filing

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1 a proposal to time differentiate the energy charges
2 under Schedule 49, which is the schedule the Times is
3 interested in exploring Puget's proposal and possibly
4 offering suggested improvements during the course of
5 the case.

6 JUDGE MOSS: Any objection to the petition by
7 the Seattle Times? Hearing no objection, that petition
8 will be granted. Now, have I missed any others?
9 Apparently not, so that will bring us to our next point
10 of business.

11 Typically here, we take up questions
12 concerning discovery and protective orders, but I
13 notice, I believe, the discovery rule was invoked in
14 the Commission's suspension order in this proceeding
15 and so we don't need to take that question up again.
16 The discovery rule will be in effect for this
17 proceeding, which is something I think we might have
18 expected in any event. As far as a protective order is

19 concerned --

20 MR. CEDARBAUM: I'm sorry, Your Honor. I did
21 have one discovery matter to bring up. I realize the
22 discovery rule has been triggered and we are operating
23 under the three-day turnaround. There is one discovery
24 issue that we had discussed with the company on the
25 12th of December prior to the Commission's open meeting

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1 about how to handle what we call informal staff audit
2 requests, those being when the Commission staff is at
3 the company's offices and doing their audit of the
4 books and records during a rate case. We often times
5 ask for copies of information that we are looking at
6 right then.

7 The discussions we had with the Company was
8 for a process where the Company would provide those
9 copies at the time they were requested, and then we
10 would follow that up with a formal data request to
11 memorialize things. I just wanted to state that on the
12 record so that if I misunderstood the agreement, the
13 company could respond, and we could discuss it if
14 necessary.

15 JUDGE MOSS: Mr. Quehrn, Ms. Dodge, did
16 Mr. Cedarbaum accurately portray the understanding of
17 the parties on this point from your perspective?

18 MS. DODGE: I think with the difference that
19 -- I don't believe that the agreement was in every case
20 you would get it that day. There was concern about
21 expediting that process, and we are going to work to
22 expedite the process. Depending on the number of
23 documents involved, the need for attorney review and so
24 forth, it may be that they go out for copying that
25 night and come out the next day, something like that,

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1 but the idea being they wouldn't have to go back and
2 write the request, send it in to even get the process
3 going and that they wouldn't necessarily be subject to
4 three days or 10 days before they are received by
5 staff.

6 MR. CEDARBAUM: I think that's basically
7 correct. It may not be that we would get those back
8 that day but the next day, because it may be that we
9 have voluminous records, but again, these are documents
10 that are existing books and records of the company, not
11 analysis that we've asked to be created, so that no
12 more than that one big turnaround is extremely
13 important to us. If that's our understanding, that's
14 fine.

15 JUDGE MOSS: Do you think that's generally
16 doable, Ms. Dodge?

17 MS. DODGE: I can't say it's generally
18 doable, because even in the case of existing documents,
19 there can be just fewer administrative difficulties in
20 turning it around in that short period of time. There
21 may be cases where there is three pages, and it's very
22 easy to do that, and it will be done.

23 There will be other times where it's not easy

24 to do it, where there may be confidentiality issues, we
25 are short of staff, and so forth. So committing from
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1 10 business days being the normal turnaround to all of
2 a sudden one day and we are going to be accused of
3 violating an agreement and discovery rule when it's
4 purely we just physically can't do it that fast.

5 MR. CEDARBAUM: Your Honor, I guess I'm more
6 comfortable in having a ruling on how this will be
7 handled, because again, even outside of a rate case,
8 these are documents that the Commission staff has legal
9 authority to look at and bring back to its offices in
10 Olympia. We are just trying to get assurance that
11 through this discovery process, especially in the
12 interim filing, that we are going to be able to process
13 this case, and it seems to me when we ask for copies of
14 documents that staff is looking at at the moment that
15 is required to be stamped confidential and they can be
16 copied on the spot, and if an overnight is required for
17 that to happen, fine, but to say that's going to take
18 more than that amount of time, and the company can
19 always reserve relevance objections, but without some
20 kind of as assurance as to how that's handled or what
21 we thought was our understanding, I think we need a
22 determination from the Commission on how this will be
23 handled.

24 JUDGE MOSS: What exactly would you want that
25 ruling to be?

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1 MR. CEDARBAUM: As I indicated, that the
2 company would be ordered to respond to staff audit
3 requests within one day, provide copies of those
4 documents, and staff would follow those requests up
5 with formal data requests so it's memorialized as to
6 what we've asked for and it can be tracked for
7 recordkeeping purposes. That's the type of arrangement
8 we think needs to be ordered.

9 JUDGE MOSS: Let me understand. These are
10 documents that staff is actually looking at at the
11 moment and saying, "We want a copy of this."

12 MR. CEDARBAUM: That's right. We aren't
13 talking about an analysis that we are asking to be
14 created. We are talking about existing books and
15 records that our staff is sitting in a conference room
16 up in Puget's office and saying, "We want a copy of
17 that page. We want a copy of that document. We want a
18 copy of those three pages out of that 100-page
19 document."

20 JUDGE MOSS: Ms. Dodge, is the problem you
21 are describing one of volume?

22 MS. DODGE: It becomes a question of volume.
23 It becomes a question of, again, trying to have an
24 orderly process. I guess what we don't want to see is
25 does that mean that staff will be making an audit

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1 request for all the documents they want rather than any
2 data requests. If they are up there every day looking

3 at documents, and this becomes kind of an end run
4 around the normal process, we are going to have to work
5 that in.

6 Again, the company is very willing to say,
7 If you've got an audit and want to come up and we don't
8 need to stick you with the formal requirements of go
9 back to your office, write a request, send it and then
10 we will respond, that's fine. We understand that's the
11 request and we've indicated a willingness to work with
12 that, but it's a whole other thing to say it will be an
13 order of the Commission that by the next business day
14 on any given audit, you will have the document in hand.
15 I believe it's too burdensome, and it's so far beyond
16 the normal process, and we object.

17 MR. CEDARBAUM: Two quick responses. One is
18 it's entirely offensive to me to have counsel's
19 statement that we would end run the normal data process
20 through typical audits that the staff does of every
21 company this commission regulates. My understanding
22 from staff is that every company this commission
23 regulates is more than cooperative in turning around
24 these types of requests on the spot.

25 This is a very common procedure, and for the
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1 company to resist that implies that we would somehow
2 abuse that process is offensive and certainly makes we
3 worry about the discovery process through the case.

4 JUDGE MOSS: Let me just say generally that I
5 think I would not want to see the usual spirit of
6 cooperation that I have experienced with parties in
7 many prior proceedings eroded by the taking of offense
8 at an early stage, so let's try not to be offended but
9 simply to work out a process that will produce the sort
10 of cooperation that is needed in order to get through
11 the case.

12 I believe that it is does not seem
13 unreasonable to me on the face of things for us to
14 begin this process on the basis suggested by
15 Mr. Cedarbaum's comments. I certainly have the highest
16 faith that the staff, as other parties, will certainly
17 comport itself in a reasonable fashion and not try to
18 impose upon the company some unreasonable burden, and
19 I'm not going to go into this with that sort of
20 expectation, and so I think it is reasonable that under
21 the circumstances as Mr. Cedarbaum as described them
22 that the company endeavor to turn the material around
23 on a next-business-day basis.

24 If that becomes problematic for the company,
25 the company may certainly let me know, and we might
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1 have to have some further discussion on this point, but
2 at the start at least, that will be the ruling, that
3 this should be done on a one-business-day turnaround
4 basis and same-day basis where possible to limit the
5 amount of time that the company and staff have to spend
6 going through this significant volume of material. So
7 is that satisfactory to everyone and understood?

8 MR. CEDARBAUM: Yes, it is. Thank you, Your
9 Honor.

10 JUDGE MOSS: Was there anything else on the
11 question of discovery that we needed to take up before
12 I move on to the question of protective order?

13 MS. DODGE: Yes, Your Honor. At the open
14 meeting when the discovery rule was invoked, there was
15 discussion that we were quite concerned about the
16 three-business-day turnaround on documents, and it was
17 stated that that issue would be revisited at the
18 prehearing conference depending on the schedules that
19 we are looking at.

20 I can see from the schedule that's been
21 handed out as a suggested schedule that the Commission
22 is looking most likely at hearings and moving through
23 the process by the end of February, so certainly, it's
24 appropriate to keep the data request process highly
25 expedited, so that makes a lot of sense. We did have

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1 some specific suggestions and requests for working with
2 that three-day process that ought to expedite it and
3 also make it more workable for the company.

4 JUDGE MOSS: Tell us what those are.

5 MS. DODGE: We had already had some
6 discussions with Commission staff, and their data
7 requests to date have implemented a system where they
8 designate after a request number either capital "I" for
9 "interim" or "G" for "general," because the
10 three-business-day turnaround has only been invoked in
11 the interim case, not the general case, and that's very
12 helpful because then we can immediately see which
13 requests staff believes need immediate attention in a
14 three-day turnaround and which can be subject to a more
15 standard process. We would ask that all parties use
16 that system in designating requests, and then
17 obviously, maybe there will be disagreements here and
18 there, but in general, that ought to work quite well.

19 We would also ask that data requests be faxed
20 to counsel for the company and also e-mailed. I'll
21 give an e-mail address. We've created a distribution
22 spot that will help expedite the process. It's
23 psedrs@perkinscoie.com.

24 MR. CEDARBAUM: Just a clarification
25 question. Up to now, we have also been, I think,

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1 faxing and e-mailing to Steve Secrist. Should we stop
2 doing that?

3 MS. DODGE: The fax to Steve Secrist is quite
4 helpful, but there will be no need to e-mail him as
5 well.

6 JUDGE MOSS: Did you have a third proposal?

7 MS. DODGE: I did, but those are more in the
8 nature of mechanics. I did have a couple of requests
9 on timing that may take long discussion.

10 JUDGE MOSS: Let's consider the logistical
11 questions then. Does anybody have comments on the
12 suggestions to marking the data requests as either

13 related to the interim or the general and the other
14 suggestion that the facsimile and e-mail be used to
15 expedite the process and increase its efficiency?

16 MR. CEDARBAUM: Just one clarification for
17 the record. We had agreed to the "I" and "G"
18 designation, but we also in our first data requests
19 made it clear that just because we were making those
20 designations didn't mean that we wouldn't use
21 information we got in the interim case and the general
22 case or perhaps vice versa, not that we would try to
23 get things for the general case faster by putting an
24 "I" on them, but we want people to know that we were
25 going to go back and forth.

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1 JUDGE MOSS: The degree of cooperation and
2 good faith is required for these processes to work
3 effectively, and I'm sure that everyone will follow
4 that, and yes, I think it's also important to observe
5 that just because something is requested with an "I"
6 designation does not mean it cannot be used in the
7 general case of vice versa. It is not a limitation on
8 the use of the information but just on its initial
9 significance. I saw hands; Mr. Cameron?

10 MR. CAMERON: I had two questions for
11 Ms. Dodge. First, when you respond, will you be
12 e-mailing responses to us?

13 MS. DODGE: No. That was kind of the next
14 part of the discussion. Our suggestion was going to be
15 that if we could have requests received by noon on the
16 day they are received rather than at 5 p.m., and the
17 other thing is we want to, rather than hand-delivery on
18 the date they are due to be able to Fed Ex the day they
19 are due so the requesting party gets them by 10 a.m. or
20 whatever the next morning as opposed to 5 p.m. the day
21 they are due.

22 MR. CAMERON: With regard to e-mails, and
23 this doesn't have to be the exclusive protocol, but it
24 occurs to me that to the extent responses lend
25 themselves to e-mail communication, wouldn't it be

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1 helpful to receive them that way, and two, if you could
2 standardize the label on your e-mail response, we could
3 establish rules on Outlook to automatically capture
4 those e-mails and put them into a file, which would
5 greatly convenience our processing of your responses.

6 If you are familiar with the feature of the
7 Outlook program, we can predefine a protocol that
8 captures any e-mail with a certain key word in it.
9 That would greatly convenience our work in the case.

10 MS. DODGE: I think we've generally been
11 using "DR," and if everybody uses that in subject
12 lines, it would probably be helpful and alert people
13 when something is coming in that is data-request
14 related.

15 JUDGE MOSS: We may be getting a little ahead
16 here, but I'll ask whether company responses via e-mail
17 for responses that are susceptible to that type of

18 transmission is something that might also expedite the
19 discovery exchange process and save you a fair amount
20 of Fed Ex perhaps; right?

21 MS. DODGE: That may work in the cases where
22 you don't have attached documents, I suppose, sure.

23 JUDGE MOSS: As we discuss schedule, we may
24 indeed want to revisit some of the issues of how we are
25 going to exchange information during the course of this
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1 proceeding so as to gain the maximum efficiency and
2 expedite the exchange of information among the parties
3 and the Commission.

4 I'm going to divert here, and this is a small
5 point, and it's not problematic, and I don't mean to
6 imply that it is, but I do want to ask all counsel to
7 remember to address their remarks to the Bench so that
8 we don't fall into the practice of side bar, which
9 sometimes can lead to disruption in proceedings. So I
10 will remind everyone of that point in the beginning.

11 So we had some discussion about following the
12 convention of marking data requests with an "I" or "G"
13 and also the process of using facsimile and e-mail for
14 request of the company as described and also
15 considering that process for responses, and that should
16 be used where it can be effectively done. I recognize
17 that sometimes there are attachments or other documents
18 that's not susceptible to that kind of exchange, and
19 that will have to be handled by hard copy. As to those
20 points, is everybody agreeable to those things?

21 MR. FFITCH: Can you repeat those, Your
22 Honor?

23 JUDGE MOSS: The one point was that data
24 requests should be marked with either a capital "I" --
25 so Public Counsel Data Request No. 4.1, and that can be

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1 followed by the capital "I" if it's something in
2 connection with interim proceedings, which would then
3 require the three-day turnaround for the response, and
4 if it is something that is required more in connection
5 with the general, then there should be a capital "G"
6 designation, and that will be under the 10-day
7 turnaround that is the standard turnaround.

8 Now, these procedures may end up having to be
9 modified at some point, but that's something you can
10 always bring back to me, and I imagine I will have some
11 role in managing the discovery process to the extent
12 there are any problems, so we will take that up. The
13 second point was that the company asked that data
14 requests be faxed to it, and I assume that number has
15 been shared with everyone.

16 MS. DODGE: I should add, Steve Secrist's fax
17 number at the company is (425) 462-3414.

18 JUDGE MOSS: So the facsimile should be
19 directed to that number as well as to the
20 representatives of Perkins Coie and also e-mailed to
21 the designated e-mail address, psedrs@perkinscoie.com,
22 and Ms. Dodge spelled that. It's on the transcript, so

23 if you don't have it, you can get her card afterwards.
24 Any other questions on those two points
25 before we move on?

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1 MR. FFITCH: To whom are the faxes directed
2 at Perkins Coie?
3 MS. DODGE: Mark Quehrn and Kirstin Dodge.
4 JUDGE MOSS: Ms. Dodge, you had some
5 additional suggestions for the management of discovery.
6 MS. DODGE: Yes. Because of the three-day
7 turnaround and the mechanics of looking at allocating,
8 distributing, returning, reviewing, copying, we would
9 like a little bit of leeway on each end. We would ask
10 that requests be received by noon the day of the
11 request and that we can provide the response either by
12 e-mail, I suppose, where possible, the day it's due
13 rather than in hand or Fed Ex, send out the day it's
14 due, which then would be received the following morning
15 rather than that evening.

16 We do have intervenors in Portland and staff
17 in Olympia, so pure mechanics of getting something
18 hand-delivered could mean it has to be out in the
19 morning it's due, and that can be quite difficult on a
20 three-day turnaround.

21 MR. CEDARBAUM: Your Honor, first of all, I
22 think it's reasonable to ask us to try to get our data
23 requests in by noon, and we will try to do that. As to
24 the second part of it though, having materials Fed Ex'd
25 on the day documents are due so that we receive them

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1 the next day is really a four-day turnaround for
2 responses. That is not acceptable. It may be that in
3 a particular case it would be, and I think staff
4 counsel are willing to receive a phone call from
5 Mr. Quehrn or Ms. Dodge that said, "Is it okay if a box
6 comes tomorrow instead of today?"

7 In fact, that happened with respect to some
8 data requests that were due yesterday that were
9 actually received today, and we agreed to that, so I
10 think on a case-by-case basis, there might be some
11 flexibility, but I think we can handle that informally.
12 The formal rule should maintain the three-day
13 turnaround on the third business day, not the fourth
14 business day.

15 JUDGE MOSS: Anybody else on this?

16 MR. FFITCH: Simon ffitch for public counsel.
17 I disagree or would differ with staff counsel on the
18 first point. I agree with staff counsel on the second
19 point of the timing of answers; however, we would
20 object to any mandatory requirement that data requests
21 be provided to the company by noon of any given day.
22 We don't think that it's reasonable to impose that kind
23 of inflexible requirement given the kinds of time
24 schedules we are all working under, the multiple number
25 of proceedings, the multiple number of consultants,

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1 some of whom are not located in the same state.

2 One of the things I can see happening here is
3 you get something ready to go midafternoon,
4 essentially, you then -- I don't quite understand how
5 this would work, but it sounds like you would then not
6 send it that day, or if you did send it, it somehow
7 doesn't trigger the three-day turnaround until the
8 following day. It sort of counts as something received
9 by noon the following day. So we could certainly try
10 to do this on a consensual basis, I think, but I would
11 know like to see that incorporated as an inflexible
12 rule.

13 JUDGE MOSS: Anybody else want to be heard on
14 this point? We are dealing with some fairly tight time
15 constraints here, and we can expect there will be a
16 fairly significant volume of discovery, particularly
17 perhaps in the early stages, so I think it is
18 reasonable to require that those data requests that are
19 delivered prior to noon that the company, or if the
20 discovery is in some other direction, that the response
21 be in hand under the three-day rule, but as to data
22 requests that are received in the afternoon that the
23 company suggestion of basically picking up some extra
24 time through Fed Ex'ing for delivery on the fourth day
25 as opposed to on the third day or otherwise affecting

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1 delivery on the morning of the fourth day; would that
2 work, Ms. Dodge, as a compromise position?

3 MS. DODGE: I think we can do our best to
4 meet that.

5 JUDGE MOSS: Again, everyone, I'm sure, will
6 do their best, and if it becomes a problem, then you
7 will let me know, and we may have to make some
8 modifications, but for now, I think the parties can
9 endeavor to follow the principle of trying to get their
10 data requests in before noon if they want the response
11 in hand on the third day following, and if they don't
12 get them there by noon, then they won't expect them
13 until the fourth day. Next point, if there are
14 additional points.

15 MS. DODGE: We did have one more point on the
16 three-day turnaround. We would ask that the Commission
17 designate Christmas Eve and New Year's Eve as
18 nonbusiness days, even though I don't think they are
19 legal holidays.

20 JUDGE MOSS: I've never been put in the
21 position of being the Grinch before.

22 MS. DODGE: Among other things, this year, it
23 happens to fall on the Monday with the holiday on
24 Tuesday. Many, many people hope to be away those
25 weekends.

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1 JUDGE MOSS: It's true. Nevertheless, I
2 would say that in our culture, it is reasonable as a
3 convention of culture to treat that Monday the 24th and
4 Monday the 31st as nonbusiness days, and perhaps that
5 will not creep into some rule book or dictionary in any
6 point in time in the future, but for purposes of 2001,

7 that will be the rule.
8 Anything else? I'm assuming there is no
9 objection to that.

10 MR. FFITCH: I just wanted to inquire whether
11 that rule applied to all pending Puget proceedings or
12 just the one that's before you in this prehearing
13 today?

14 JUDGE MOSS: The only rulings we can make are
15 those in these proceedings, but you all will work
16 something out in the others without the necessity for
17 Commission intervention, I'm sure. I can't order
18 blanket truce in the context of two dockets, but I'm
19 sure reasonableness will prevail as the rule of the
20 day. Anything else on discovery?

21 MS. ENDEJAN: Your Honor, Judy Endejan for
22 Seattle Steam. I guess I would request some guidance
23 from the Bench in terms of how to handle data requests
24 from the standpoint of being an intervenor, because
25 everyone here has different interests, and they don't

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1 necessarily want to receive everything from Puget that
2 everybody else asks for.

3 So what sort of protocol should we establish
4 so that we can do this efficiently? If there are data
5 requests propounded by other parties that you might
6 like to see the answers of, but not all of them, what
7 sorts of protocol would be productive, short of killing
8 every tree in the State of Washington to make copies?

9 JUDGE MOSS: I do think we want to avoid
10 wiping out the forests if we can, so I would be happy
11 to hear suggestions from the parties as to how we might
12 create sort of an efficiency that Ms. Endejan is
13 suggesting whereby parties could identify data requests
14 propounded by others, specific data requests to which
15 they might like to see the answers rather than
16 propounding the, "Please provide me the response to
17 every other data request propounded by every other
18 party since the beginning of time." So do we have some
19 suggestions on that?

20 MS. ENDEJAN: I have a suggestion.

21 JUDGE MOSS: Go ahead.

22 MS. ENDEJAN: My thought would be if a
23 distribution list is prepared, if we could make a list
24 served of the parties so that the data requests are
25 identified as indicated, "I" or "G" for either the

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1 interim or general, and you indicate the party at the
2 top, everybody will receive the data request. They can
3 review the data request and see if they are interested
4 in that data request and getting a copy of the response
5 to that. It's a thought. I don't know any other way
6 to effectively log the data requests.

7 JUDGE MOSS: A list served or Web page might
8 work just as effectively. Is that something that could
9 be set up? It does seem to me that it has some
10 promise.

11 MS. DODGE: I don't know about the Web page.

12 I would think -- I don't know how this works.

13 MS. ENDEJAN: How it works is you create a
14 list of all the parties who would be interested in
15 getting data requests, just the requests, an e-mail
16 list.

17 JUDGE MOSS: It's basically creating a group
18 for e-mail, and you copy everybody on the data
19 requests, and they can study those data requests and
20 save you having to respond to six different data
21 requests that are essentially asking for the same
22 information.

23 MS. DODGE: So then it's a question of
24 whether I am forwarding on psedrs that spits that out
25 to people.

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1 MR. CEDARBAUM: Maybe I'm not computer
2 literate enough, but the Commission's data request rule
3 now requires every party to serve all other parties
4 with their data requests, and the rule may also require
5 counsel to review data requests and make sure we are
6 not asking for duplicative information. So Ms. Endejan
7 is going to get a paper copy or an e-mail, and she can
8 look at that and decide what she wants or doesn't want
9 them.

10 JUDGE MOSS: I think that's correct. What we
11 are looking for here is a way to do this most
12 efficiently, and the e-mail list approach does sound
13 like a good one to me. Everybody has that capability
14 these days, and so I'm not going to try to work out all
15 the technical requirements because I will quickly
16 demonstrate I'm out of my element as well to the
17 understanding of how these things work.

18 But a simple approach that I often use myself
19 when I want to communicate with all the parties on a
20 very short turnaround basis, I'll just e-mail all of
21 you. I will just create an e-mail a list, so if you
22 will all each do that, and they will have it instantly
23 instead of having to wait for paper copy or get it
24 perhaps in two or three different ways. Is that
25 something staff would be able to do as well?

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1 MR. CEDARBAUM: We could do that. I would
2 like though, if we do that, that that replaces our
3 mailing paper copies so we don't have to have the
4 secretaries go through that hassle.

5 JUDGE MOSS: I think perhaps the rules and
6 regulations and even the statutes perhaps are a little
7 bit behind the times, and let me just ask to the extent
8 that that procedure could be substituted but might run
9 afoul of some legal requirement regarding paper copies
10 and so forth if parties would waive the receipt of the
11 paper copies in favor of the electronic copies. Is
12 there anybody who would not want to do that?

13 MS. DIXON: One clarification. That would be
14 on the data request questions themselves, or would that
15 be for any electronic form of data response would also
16 be waiving paper copies?

17 JUDGE MOSS: No. Just this one subject we
18 were talking about for the moment, and we may want to
19 discuss this more in a broader context in a few
20 moments, perhaps in connection with our discussion of
21 the schedule. We have adopted a convention in another
22 proceeding that's provided for some electronic service
23 of documents, but we are just talking about with
24 respect to the discovery requests.

25 MR. FINKLEA: I think there is some concern
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1 with e-mail, because as sophisticated and as impressed
2 as we all are with e-mail, I do find there are times
3 when at any given time, somebody's e-mail is down, and
4 what concerns me with e-mail is if it is sent and you
5 happen to be down that day, these seem to wind up in
6 caves in Afghanistan, and you never know where they
7 are.

8 Where if we have paper copies mailed, even
9 though it might take days to get there, it does
10 eventually get to you, and one is receiving the data
11 request. I have some concern with that. I know from
12 other experiences that there have been times when my
13 e-mail is down. There have been times others are down,
14 so I just wonder if we can really rely on e-mail as a
15 substitute for paper.

16 JUDGE MOSS: We are certainly drifting into
17 some new territory, and we do have to be concerned
18 about the adequacy of technology. I don't want to
19 extend this discussion too long, given the hour, but it
20 does seem to me that certainly my personal experience
21 is when an e-mail is not delivered, I receive a
22 delivery failure report from a server, so I would
23 expect that would happen and that whoever sent it would
24 recognize that you had, for example, not received it
25 and could resend it so that when your e-mail was

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1 recovered, you would get it.

2 MR. FINKLEA: That's correct. My
3 understanding as well, and the sender receives
4 something as well on their system that says something.

5 JUDGE MOSS: People would have to follow up,
6 and again, in good faith I'm sure they would do that,
7 and also if you probably went a day or two without
8 receiving a e-mail without data requests in the early
9 stages of the proceeding, you might begin to get
10 suspicious and pick up the phone and call Mr. Cedarbaum
11 and ask if there has been some choke in the system.
12 Check with other parties if you have some doubt.

13 MR. FINKLEA: If I go for an hour without
14 getting an e-mail, I assume something is wrong.

15 MR. FFITCH: Your Honor, we do have a concern
16 with this replacement of the hard copy service.
17 Perhaps Mr. Finklea is now at this point, but I was
18 going to support him in his questions about the
19 efficacy of e-mail. One of the factors that we would
20 ask you to consider is that, I guess, shifting of
21 inefficiency within the office. You can certainly

22 transmit all of these things by e-mail, but one of the
23 things that does is create a bottleneck at the support
24 staff, at the printer where you have everything coming
25 into the office, basically through one pipeline,

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1 perhaps through one secretary's desk. If you have very
2 large numbers of documents that then have to be printed
3 out through one printer in an office, you've created an
4 inefficiency. Whereas if we have documents coming in
5 in hard copy, they are immediately ready for
6 distribution throughout the office and for filing.

7 We don't have any problem with Ms. Endejan's
8 suggestion as an efficiency for people who want to do
9 that, but to do away with the other system, which has
10 worked pretty well and works well for us, has some
11 advantages in terms of case management, we've got a
12 concern about that.

13 CHAIRWOMAN SHOWALTER: I thought we were only
14 talking so far about requests, data requests, not the
15 responses.

16 MR. FFITCH: That's what I'm talking about.
17 There are a lot of parties here where we've had cases
18 where there have been hundreds of data requests from
19 one party. Just the mere process of identifying those
20 on the screen and printing them out and so on can be
21 problematic.

22 MS. DIXON: I guess one other suggestion to
23 consider, in another adjudicative proceeding we've been
24 involved in, the service list was marked for
25 individuals who wanted e-mail only. For example, for

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1 those that wanted e-mail only, it was marked as such.
2 Those that wanted e-mail and a mail delivery, that was
3 marked, and just from the sound of what's going on
4 here, that might be a useful tool in this proceeding.

5 JUDGE MOSS: I'm not going to impose this
6 electronic exchange requirement on you today. I don't
7 think we are that far along that we are able to do that
8 with complete confidence, so what I'm going to suggest
9 is along the lines of what Ms. Dixon was saying. I'm
10 going to ask that the parties work amongst themselves.
11 Those of you who would prefer to do this electronically
12 and gain the efficiencies that can be gained in that
13 fashion, please communicate that to the other parties.
14 Those of you who feel that you need to have paper
15 copies, then indicate that, and that is what our rules
16 provide, so I don't really feel comfortable ordering
17 everybody into the world of cyber communication, but
18 I'm hoping that we get there someday, but we are not
19 there yet.

20 CHAIRWOMAN SHOWALTER: I just want to
21 clarify. It seems for the person making the request,
22 it should at least be by e-mail to everyone else.
23 Otherwise, everyone else can't respond quickly in order
24 also to get the response, and as a follow-up to that, I
25 would guess that when anyone gets a reply, maybe it's

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1 24 hours after the first e-mail and then the clock for
2 them would start ticking at the time that "me too"
3 request was received, but if the initial requests
4 aren't on e-mail, it's going to be awfully hard for
5 others to quickly reply.

6 MS. ENDEJAN: I guess you could take a belt
7 and suspenders approach to this, which is everybody
8 agree we are going to do this by e-mail, and for those
9 who also want to get a fax copy because of logistical
10 concerns, maybe they can also at the same time fax the
11 data requests at least to the party who has to respond
12 and to other people who might indicate. I think for
13 our purposes, getting it via e-mail should be
14 sufficient.

15 I think the real problem is going to come
16 in, which is how to deal with the responses and
17 distributing the responses to the people who want it,
18 because if Mr. Cedarbaum is correct, I know the rule
19 says all parties get copies, and given the magnitude of
20 this case, I think we should give some consideration to
21 some sort of protocol that limits the amount of paper
22 that has to get distributed to every party in this
23 room.

24 MR. CEDARBAUM: The rule doesn't require
25 copies of responses to go to everyone other than those

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1 that ask for them. It only requires copies of data
2 requests to go to everyone.

3 MS. ENDEJAN: In other words, with the
4 protocol being if you get the data request via e-mail
5 and then ping them back and say, "I would like to get
6 for my clients responses to Data Requests No. 1, 7, 12,
7 whatever.

8 JUDGE MOSS: Those then become your data
9 requests, and again, I'm going to ask counsel to direct
10 their comments to the Bench. So what we will require
11 is that the parties will have to indicate if they
12 require belt and suspenders. I think we will use the
13 electronic as sort of the default, if you will. There
14 seems to be a strong preference for that. Most of the
15 parties and the company has indicated it wants to be
16 e-mailed and faxed, so those do seem to be very
17 efficient ways to do it.

18 Those that require paper copies should
19 indicate to the counterparties in the discovery process
20 that that is something they need, and if Mr. ffitich
21 requires paper copies, then he can say so, and those
22 will need to be provided, because again, that is what's
23 contemplated under our existing rules. So we won't
24 undo the rules today. Ms. Arnold?

25
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1 the parties to send an e-mail to all of the other
2 parties, maybe the company, so we will have a list that
3 we just reply to?

4 MS. DODGE: We will attempt to do so. I
5 think that we caught most of the e-mail addresses. It

6 might be quite helpful if everybody, when you go home
7 or to your computer, if you would e-mail
8 psedrs@perkinscoie.com with the e-mail address that you
9 would like to have, we will endeavor to somehow "cc"
10 those or put a list together and send it out to
11 everybody. We will at a minimum put a list together
12 and e-mail everybody with a complete list.

13 MR. FFITCH: My only thought on that is that
14 typically, the official service list in the case is
15 generated by the Bench, and we get a service list
16 that's attached to the prehearing conference order, and
17 that may take a little bit, but we have always relied
18 on the records center and the Commission service list.
19 With all good intentions, we sometimes, parties, don't
20 quite get it right or have variations.

21 JUDGE MOSS: Here's what we will do.
22 Everybody should e-mail me with their contact
23 information. My e-mail address is dmoss@wutc.wa.gov.
24 I will compile a service list such as Mr. ffitich
25 described, and I will communicate it to you by e-mail.

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1 I'll also attach it to the prehearing conference order.
2 Anything else on discovery?

3 A protective order has previously been
4 entered in the proceeding, so we don't need to have any
5 discussion about that, I suppose, but I will ask if
6 there does need to be some discussion.

7 MS. DODGE: Yes. We would ask that an order
8 amending that protective order be entered that is
9 consistent with the Fourth Supplemental Order, order
10 amending protective order that was issued last fall in
11 the company's first interim case.

12 The purpose of that order was to insure that
13 there would be no future dispute about whether the
14 Commission's standard protective order was sufficiently
15 brought or detailed to cover some documentation that
16 had been submitted by the company to the Federal Energy
17 Regulatory Commission under some pretty specific
18 provisions that basically limit the protections off of
19 documents if they are distributed elsewhere without
20 very particular protections in place.

21 That would not be necessarily a concern here
22 yet, except that staff asked as part of its initial
23 data requests that the requests that it issued last
24 fall be incorporated by reference in this -- they ask
25 them again in this proceeding with permission to

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1 incorporate by reference the company's answers before.
2 That's an efficient way to get those documents and
3 requests basically into this proceeding without having
4 the problem you are going to another record, but it's
5 occurred to us that simultaneously, we probably need to
6 also have the protective order in this proceeding than
7 the mere protective order that was entered in that
8 proceeding, so the same protections apply to that set
9 of documents where there was some concern. I've got
10 multicopies of that order if it would be helpful to

11 pass it out to people.

12 JUDGE MOSS: Not everyone here today was a
13 party to that prior proceeding, and they should have an
14 opportunity to review the proposed amendment. So why
15 don't you distribute your copies and return me to this
16 point before we close today. I'll ask that those
17 parties who wish to do so review that, and we will
18 return to it momentarily. Anything else on the
19 protective order? Let me just ask Mr. Cedarbaum since
20 you were involved in the prior proceeding whether it's
21 problematic for you.

22 MR. CEDARBAUM: I'm sorry. I would just have
23 to refresh my memory.

24 JUDGE MOSS: Take a look at it, and we'll
25 return to this momentarily.

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1 MR. CAMERON: I would like to note the
2 continuing relevance of this proceeding. I can
3 understand the possible relevance with regard to
4 documents that were previously tendered to FERC, but is
5 that process still ongoing?

6 JUDGE MOSS: Which process is that?

7 MR. CAMERON: The FERC process that Ms. Dodge
8 referenced.

9 JUDGE MOSS: Is that still ongoing?

10 MS. DODGE: I believe it's been stayed, but
11 there are still things happening. I think of greater
12 concern is that some documents were submitted in that
13 context that ought to continue to be protected under
14 that protective order, and we don't want to waive any
15 protection there by moving forward here without
16 protections in place.

17 JUDGE MOSS: My experience with the FERC is
18 any guide if it's less than 10 years old, it's still
19 ongoing.

20 MR. CEDARBAUM: I'm not sure if I got what
21 everyone else got, but all I received from the company
22 is the first page of the Fourth Supplemental Order, not
23 the whole order.

24 MS. DODGE: You will be missing the backside.

25 JUDGE MOSS: Why don't we take a five-minute

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1 recess to allow copies to be made, and we will start
2 promptly again at 15 after the hour by the wall clock.

3 (Recess.)

4 JUDGE MOSS: Let's be back on the record.
5 During our brief recess, copies were made of the Fourth
6 Supplemental Order in Docket No. UE-011163, which is
7 the order Ms. Dodge referred to that includes language
8 amending a protective order in that proceeding, and the
9 suggestion is to similarly amend the protective order
10 in this proceeding, and if everybody has had a chance
11 to look at that, we can dispose of this now. Is there
12 any suggestion that we should not amend the order as
13 requested?

14 MR. FFITCH: Your Honor, I would just note
15 that the matter was raised previously in the earlier

16 docket. We had stated some assumptions on the record
17 at that time regarding the interplay of the federal and
18 state proceedings, and I would just incorporate those
19 statements for the record here, and under the same
20 understanding that we had at that time, the same
21 assumptions that we had expressed at that time, we
22 don't have any objection.

23 JUDGE MOSS: Anything else?

24 MR. CEDARBAUM: Staff doesn't object to the
25 amendment with the understanding that the amendment

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1 does not affect the substance of the procedure on how
2 confidential information is handled by this commission
3 in this docket. It's just a matter that assists the
4 company in its federal proceedings.

5 JUDGE MOSS: That's how I understand it as
6 well. With those understandings, clarifications, the
7 protective order will be amended as requested, and we
8 will enter something to that effect, I would
9 anticipate, next week, and I would also anticipate, by
10 the way, that our prehearing order in this proceeding
11 will not be entered until sometime next week given the
12 holidays and so forth. It will be a few days instead
13 of the usual next day.

14 So does that complete our discussion of the
15 protective order matters then? One other matter that I
16 wish to bring up under the general item of motions and
17 requests is the subject of consolidation, and we do
18 have two dockets. We have the electric docket and the
19 gas docket. They are not formally consolidated, and I
20 will hear any objection, but it would be the Bench's
21 motion to consolidate the dockets. Apparently, there
22 is no objection or need to discuss that, so those will
23 be consolidated. Parties have indicated their interest
24 in one docket or the other, but there is some interplay
25 between them certainly, and this will be another way in

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1 which we gain a certain degree of efficiency. So the
2 prehearing order will note the consolidation. Before
3 we turn to discussion of our process and procedural
4 schedule, I wanted to turn to Commissioner Hemstad.

5 COMMISSIONER HEMSTAD: This morning at the
6 conclusion of our open meeting of Puget's petition for
7 a referral account, we made some extensive remarks that
8 I don't intend to repeat here, but the burden of that
9 was to make reference to a document which is entitled
10 Puget Sound Energy's Shareholder for Fairness in which
11 a group of shareholder organizations solicit the
12 shareholders to contact the Commission and the governor
13 and the state legislators, and at least it seemed to me
14 inferentially to encourage ex parte contacts with the
15 Commission.

16 I urge the attorneys for the company and the
17 company to see that that kind of conduct not be
18 pursued. The document also had substantive discussion
19 of the issue, so I feel it is essential that I put this
20 on the record here as, in fact, the equivalent of

21 essentially the form of ex parte and so that also the
22 other parties here will be aware of its contents.

23 Just a further comment too, we have a lot of
24 parties here, and some of them new parties who in turn
25 have either large numbers of members or employees who

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1 may themselves not be particularly familiar with the ex
2 parte constraints under which we operate as a
3 quasi-judicial body, and somebody admonish all of the
4 counsel here to the extent that it is appropriate for
5 you to have communication or be aware of either to
6 alert your clients to the constraints under which we
7 operate as a quasi-judicial body, and we act like any
8 other judges and cannot take ex parte communications
9 from anybody, and your clients need to be making their
10 communications to us through you as their
11 representatives.

12 CHAIRWOMAN SHOWALTER: I concur in those
13 remarks, but I will add that the rules say not only
14 that we cannot accept this information by this route
15 but that the parties may not make attempts to
16 communicate through that route, so the counsel here
17 need to review the ex parte rules and make sure they
18 and their clients don't violate the rules.

19 JUDGE MOSS: Thank you.

20 COMMISSIONER HEMSTAD: I don't know how this
21 should be offered as an exhibit. In any each event, it
22 needs to be put on the record.

23 JUDGE MOSS: I'll consider the appropriate
24 disposition in terms of making it a part of the record,
25 and we will insure that is properly done.

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1 CHAIRWOMAN SHOWALTER: And allowing the
2 parties a chance to respond to it under the rules.

3 MR. FFITCH: May I make one comment in
4 connection with that?

5 JUDGE MOSS: Yes, Mr. ffitch.

6 MR. FFITCH: Letters received from
7 shareholders, I believe, are coming into the
8 Commission, and in the ordinary course of a rate
9 proceeding, public counsel offers public letters as a
10 public exhibit. I would just like to reserve the
11 ability to perhaps adopt a different approach here,
12 maybe ask PSE to submit its own shareholder letters as
13 an exhibit of its own.

14 I'm not sure it's appropriate to treat them
15 in the ordinary fashion that we have in the past. I'm
16 just thinking about that now, but I'll note for the
17 record that we may take a different approach here with
18 regard to the shareholder letters, and we'll consult
19 further with the other parties about that and advise
20 the Bench how we would like to proceed.

21 JUDGE MOSS: Thank you, Mr. ffitch, and I
22 think it's appropriate that you made that remark. We
23 do, of course, the Commission receives all sorts of
24 correspondence. In connection with a case that is a
25 formal adjudicative proceeding, for anything to be

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1 considered, it must be made of record, and the way that
2 that occurs is for it to be submitted, and subject to
3 any objections, be made an exhibit in the proceeding,
4 and, of course, public counsel does take on the role of
5 taking the public comments that are received at the
6 Commission or in his office or in connection with our
7 public comment hearings and submits those as an
8 exhibit, and they are routinely received, again,
9 subject to any objection that might be heard.

10 On the face of it, I see nothing that would
11 prohibit, and indeed, letters both opposed and in
12 support of petitions and applications are typically
13 included, so we certainly can find a process to receive
14 that sort of information appropriately so that it will
15 be made a part of the record, and all parties will have
16 an opportunity to respond. Mr. Cameron?

17 MR. CAMERON: Two things. First, several of
18 us don't have a copy of the letter, so if we are to
19 respond, I would sure appreciate a copy being
20 distributed, and second, just a question about the
21 entry of the letter into the record. Does that mean
22 that it will become a part of the record for purposes
23 of your decision in this case?

24 COMMISSIONER HEMSTAD: The answer is no. It
25 was simply for public disclosure purposes.

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1 JUDGE MOSS: As far as the letter, that
2 specific communication that Commissioner Hemstad
3 referred to and has handed me a copy of, I will take
4 steps to make that a public record. It will be in our
5 records center, and copies can be made available
6 through that means. Now, I have to pause here, and
7 let's go off the record.

8 (Discussion off the record.)

9 CHAIRWOMAN SHOWALTER: The Commission is very
10 pressed with many different matters both in terms of
11 dates and physical facilities and that type of thing,
12 so we will be getting into that soon, but we don't have
13 a lot of wiggle room.

14 JUDGE MOSS: I will segue into my preliminary
15 comment about process and procedural schedule, which I
16 do want to note and emphasize that from the
17 Commission's perspective and from the perspective of
18 any number of you participating in this proceeding, we
19 have to consider in scheduling not only the demands of
20 this case but also the press of a large volume of other
21 business, including significantly that we have Avista
22 before us with a general and interim rate case in a
23 prudence proceeding. We have the Olympic Pipeline
24 Company before us in a general and interim rate
25 proceeding. Also want a statutory schedule, I might

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1 add. We have various dockets pending in the
2 telecommunications sector that are of considerable
3 significance and a host of other matters that require
4 the Commission's attention during calendar year 2002

5 and for the balance of 2001.

6 We have a proposed schedule that I circulated
7 to you at the outset of our proceedings this afternoon.
8 I know that there will need to be some discussion about
9 this. Do not regard what's been passed out as graven
10 in stone, but it is something we worked out by dint of
11 significant labor in looking at all of these pending
12 matters and trying to work a schedule out that would
13 fit within the context of everything else but also
14 satisfy everyone's needs in this proceeding.

15 So I think what we need to do is open the
16 floor for discussion. We want to hear from you about
17 your concerns, if any, with respect to the schedule
18 that's been proposed, and we will take those comments
19 and concerns under advisement. We will not set the
20 schedule today. We are going to have prehearing
21 proceedings in other matters through this week, and so
22 we will be setting a schedule next week, and we will
23 announce that through the prehearing order, and that's
24 just a necessary way to proceed given all this business
25 that's before the Commission, so I think I would like

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1 to open the floor with respect to the proposed
2 procedural schedule, and I guess probably a lot of
3 people want to comment on this. I will start with
4 Mr. Cedarbaum.

5 MR. CEDARBAUM: Thank you, Your Honor. Did
6 you want me to talk about the interim schedule that's
7 been proposed first and then the general or both of
8 them together?

9 JUDGE MOSS: I suppose it would make some
10 sense to discuss them separately; although, you may
11 have some comments that bear on them both, but yes, if
12 you could distinguish.

13 MR. CEDARBAUM: I'll give the floor to
14 Mr. Ffitch. Apparently he has a question.

15 MR. FFITCH: Your Honor, I just wanted to
16 ask, if it were possible, to have access to the
17 proposed schedule, if there is one, in the Avista
18 proceeding as some of us are involved in both, and it
19 makes it perhaps easier. Some witnesses may be
20 involved in both cases, and it makes it easier to
21 evaluate this if it's possible to make that available.

22 JUDGE MOSS: Would it be most useful, I
23 wonder, if we have a document that reflects proposed
24 and actual schedules in Olympic, Avista, and PSE.
25 Would that be most helpful?

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1 CHAIRWOMAN SHOWALTER: We will add that from
2 our point of view, that doesn't include everything
3 that's on our plate. We have another calendar with all
4 the telecom stuff on it, so just because it's a vacant
5 day...

6 JUDGE MOSS: Judge Wallis has kindly offered
7 to do a little bit of editorial work that will be
8 necessary before we can distribute this document that
9 was produced for our internal purposes, and he's going

10 to do that and bring those back to the hearing room, so
11 you will have that momentarily, but perhaps there are
12 some preliminary comments that could be offered at this
13 juncture that would keep us moving along here.

14 Mr. Cedarbaum?

15 MR. CEDARBAUM: I think I can save my
16 comments for the interim schedule because they are more
17 general at this point, at least. I should start out
18 that obviously the Commission staff and its counsel are
19 acutely aware of all the pressures that are being
20 brought to bear on the commissioners and staff and on
21 the other parties, that the practical and legal
22 limitations that are evident in all these cases is
23 difficult to deal with, so we've tried to balance that
24 with some practical needs of preparing cases which we
25 feel are complete and helpful and will assist the

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1 Commission in deciding these cases.

2 With respect to the interim schedule that has
3 been tentatively proposed by the Commission, I've had
4 discussions with the Commission staff about the general
5 time frames in which they felt they would need to
6 prepare direct testimony on the interim case and
7 complete in a way that all the issues will be discussed
8 and the testimony would be rendered in a way that would
9 be helpful to the Commission in deciding that case, and
10 I think that the January 23rd time frame that you show
11 there is too expedited for staff by a week or two.

12 And I would also note that this morning the
13 Commission did grant the companies deferred accounting
14 petition with a condition that deferred accounting
15 would be approved and allowed through March 31st, if
16 necessary, as opposed to March 1st, which is when the
17 company asked for interim rates to be in effect, so
18 that would appear to provide some wiggle room looking
19 at the schedule in isolation, which I realize is not
20 possible to do, but our comments from staff on the
21 interim schedule is that since the Commission
22 essentially has until March 31st to issue an order on
23 the interim rate proceeding, given the deferred
24 accounting approval that was given this morning, there
25 would not appear to be any harm to the company if the

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1 Commission were to essentially add two weeks to each of
2 the dates that are listed on the schedule under the
3 interim rate column.

4 I don't have a calendar in front of me to
5 know what they are, but that would still provide if you
6 at least show oral arguments on February 22nd, add two
7 weeks to that, it would still leave the Commission
8 about three weeks or so to render an order before the
9 end of March. That is a schedule that appears to be
10 practical for staff's purposes, not harmful to the
11 company, and more helpful for the Commission's purposes
12 in terms of a full record.

13 JUDGE MOSS: So you would suggest moving the
14 oral argument for the interim proceeding to March 8.

15 MR. CEDARBAUM: Again, I don't have a
16 calendar with me.
17 JUDGE MOSS: That's two weeks exactly.
18 MR. CEDARBAUM: Each of the dates you show
19 just push them, delay them each two weeks, if March 8th
20 is that date.
21 JUDGE MOSS: I think maybe we should just go
22 around the room.
23 MR. CEDARBAUM: If I could, I would note in
24 support of this idea, the Commission is asking for
25 prehearing briefs and posthearing oral argument, which

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1 is unusual, but it seems like a good idea, so that
2 certainly is -- the issues ought to be fairly refined
3 for the Commission's decision by the time we've reached
4 oral argument. That would be an advantage to getting
5 the order out by the end of March while at the same
6 time delaying schedules as I've suggested.

7 JUDGE MOSS: Mr. Ffitch, do you have some
8 comments?

9 MR. FFITCH: Yes, Your Honor. First all, we
10 agree that the schedule is extremely expedited and
11 would encourage the Commission in slipping the schedule
12 a bit; however, not quite as much as staff has
13 suggested because we would have some witness
14 availability problems, it appears, if we go out to that
15 particular week. So we would advocate for having a
16 hearing the last week of February because we have
17 witnesses who are not available the first two weeks of
18 March that we expect would be participating in the
19 case.

20 A second comment, Your Honor, is we noted
21 that there is no time listed for a public comment
22 hearing, and we request that the Commission have at
23 least one public comment hearing in the interim phase
24 of the case, either somewhere in probably the greater
25 Seattle area, perhaps, Bellevue or the southern

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1 metropolitan area or in Olympia. Other parties may
2 have some suggestions or preferences on that. We would
3 prefer to have that scheduled after the testimony has
4 been filed, at least the staff and intervenor
5 testimony.

6 The third point, Your Honor, on the interim
7 is that we would actually -- I'm beginning to sound
8 this afternoon like a folly of innovation, but we would
9 prefer to have posthearing briefs in the traditional
10 good old-fashioned traditional fashion. I'm not sure
11 that would change the schedule that much. It might
12 actually free up some time for parties right before the
13 hearing.

14 Just briefly, I think we find it most useful
15 if the parties can refer to both the testimony at the
16 hearing as well as the prefile testimony, and if you
17 file briefs after the written testimony has been filed,
18 our concern is that they would be largely redundant of
19 what's been filed already by the witnesses and might

20 not advance the ball as much as posthearing briefs
21 after we've had cross-examination.

22 The only other general comment, Your Honor,
23 is that we just haven't seen the Avista prudence or
24 general or interim hearing schedules, and we also have
25 the public counsel complaints case pending; although,

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1 I'm not sure that based on dates that we proposed in
2 that prehearing conference, I don't see a problem with
3 that docket here, but that's just a caveat that there
4 is a lot of other balls in the air.

5 JUDGE MOSS: I can assure you that all of
6 those floating balls have been considered in setting
7 these proposals. Thank you for your comments. Mr. Van
8 Cleve?

9 MR. VAN CLEVE: Just a couple of quick
10 points. One is January the 23rd date does cause a
11 little bit of a problem for Mr. Schoenbeck because he
12 has testimony due in the Oregon proceeding relating to
13 the PacifiCorp proposed corporate restructuring, so we
14 could support either the staff or public counsel
15 revised dates, but the 23rd would be a little
16 problematic. Also, we, I think, would support having
17 posthearing briefs rather than prehearing briefs. I
18 agree with public counsel that it's a little more
19 useful when you can refer to the evidence you've
20 argued.

21 JUDGE MOSS: Anything else, Mr. Van Cleve?
22 Ms. Arnold?

23 MS. ARNOLD: No comments.

24 JUDGE MOSS: Mr. Eberdt?

25 MR. EBERDT: We are concerned, as is public

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1 counsel, over the lack of a public hearing in the
2 interim schedule.

3 JUDGE MOSS: Mr. ffitch mentioned the
4 possibility of doing that in Olympia.

5 MR. EBERDT: I definitely like the idea of
6 the greater Seattle area better because there is a
7 higher concentration of customers in that general area,
8 both gas and electric, but I wouldn't be adverse to
9 Olympia.

10 JUDGE MOSS: Ms. Dixon?

11 MS. DIXON: I'm going to echo Mr. ffitch's
12 and Mr. Eberdt's request for a public comments hearing
13 in the interim case, again, preferably in the greater
14 King County area, but Olympia would be acceptable as
15 well. I'm going to further propose on that that the
16 hearing take place at a time which is considered
17 generally convenient for the public to attend.
18 Normally, a 6 to 9 p.m. type of hearing seems to be the
19 best for the public and on a non Friday weekday and
20 preferably not February 14th.

21 JUDGE MOSS: Mr. Cameron?

22 MR. CAMERON: Nothing to add on the interim
23 schedule.

24 JUDGE MOSS: Ms. Endejan?

25 MS. ENDEJAN: No. My client is perfectly

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1 agreeable to any schedule you propose. We will work
2 with it.

3 JUDGE MOSS: Everyone take note what was just
4 said. Mr. Finklea?

5 MR. FINKLEA: No comments on the interim
6 schedule. I do want to comment on the general
7 schedule.

8 JUDGE MOSS: Let's take that one up in a
9 moment. Does anybody else want to comment on this
10 interim schedule? No? Thank you.

11 CHAIRWOMAN SHOWALTER: I just want to
12 interject a comment. This schedule doesn't anticipate
13 necessarily an order by March 1st, if that's what
14 people were thinking. Because of other events, it
15 anticipates an order closer to March 15th. I want
16 parties to know that so Puget can respond that if we
17 slip it two weeks, depending on everything else, then
18 we might get to the March 31st.

19 MR. CEDARBAUM: If I could just add in
20 response to that, any slippage to the schedule could be
21 helpful. Two weeks is optimal. If it was a week, that
22 would certainly still be helpful and might still be in
23 the March time frame.

24 JUDGE MOSS: I think we probably heard from
25 everybody except the company, so I would like to have

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1 the company's comments.

2 MS. DODGE: First, the company would very
3 much ask that an order be entered by the end of
4 February for the reasons set forth in the petition. It
5 does have an impact on the company. We recognize that
6 it's helpful to insure there is no gap in the deferral
7 period in the event an order doesn't issue in time, but
8 nevertheless, for all the time that passes, the company
9 is not actually receiving funds or able to book funds
10 because those are simply things set aside as an
11 accounting matter.

12 Also, prolonging or deferring the time when
13 that potential recovery begins will impact customers
14 potentially in terms of possibly the recovery as being
15 advertised over a shorter period of time. So we would
16 just ask that the Commission issue an order that would
17 have the interim rate go into effect by March 1. In
18 terms of the --

19 CHAIRWOMAN SHOWALTER: Can I stop you?
20 Really the question to you with this schedule is how
21 serious an objection do you have if it is, let's say,
22 no later than March 15th, and that's according to this
23 schedule, which people have requested that we slip.

24 We are trying extremely hard to accommodate
25 all parties here and other parties in other cases, and

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1 it is extremely difficult to meet a March 1 deadline.
2 This schedule has everything completed before that, but
3 it also has us jumping right into other hearings right

4 after that, so I'm asking the company whether it sees a
5 significant difference between March 1st and March
6 15th, given the treatment of the deferral this morning.

7 MS. DODGE: The company understands that the
8 Commission has a number of matters before it. I was
9 hopeful -- in looking at the interim schedule, it
10 looked like a schedule that would be accomplished by
11 the end of February, where there would at least be the
12 possibility that the Commission could issue an order by
13 the end of the month. Obviously, it may be that that
14 is simply not feasible, but the later you slip the
15 schedule, you are simply insuring that that date would
16 not be met because you wouldn't have finished the
17 process.

18 So we ask the schedule be kept on a more
19 expedited basis so you at least have a chance of
20 issuing that order as soon as possible, and we would
21 ask that it be done by the end of the month. If it's
22 simply not possible, then it's not possible and the
23 order won't issue, but we would ask that the schedule
24 not be slipped because then you are insuring that that
25 order is done later and later.

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1 CHAIRWOMAN SHOWALTER: We do have a number of
2 balls in the air. What our current thinking is is that
3 immediately after the Puget hearings in the last week
4 of February, we jump immediately to the Avista
5 hearings, in which it would be quite difficult for us
6 to get an order out. We haven't had the Avista
7 prehearing conference yet, so we will be trying to put
8 this all together and come up with something that's
9 cohesive.

10 COMMISSIONER HEMSTAD: I was unclear. It's
11 not that you are not clear. It's that I'm foggy. You
12 don't want the schedule slipped, but the point that the
13 staff is making is that the January 23rd date for staff
14 to prepare its case would be too tight. We have to
15 have dates that are fixed. Are you suggesting that we
16 stick with this and then slip it if it has to slip? I
17 didn't quite understand your point.

18 MS. DODGE: No. I think it's probably
19 important that once we have a schedule that everyone
20 sticks to it because there are so many things
21 interacting at one time. It's simply in terms of how
22 much time the Commission would need as of the end of
23 the process to then deliberate and issue an order.

24 If the schedule can stay more expedited and
25 not start being shifted back by a couple of weeks, it

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1 at least gives us the possibility that it can
2 deliberate an order sooner rather than later because
3 that deliberative process will necessarily not begin
4 until after all the hearings and briefing.

5 CHAIRWOMAN SHOWALTER: There is also the
6 interplay of when the hearings are and whether there is
7 posthearing briefs or prehearing briefs, because to
8 have posthearing briefs adds more time on the end, so

9 if we both slip the hearing date and have posthearing
10 briefs, that slips everything by something more than
11 two weeks.

12 MS. DODGE: Maybe I could make a couple of
13 other comments, because there is some interplay between
14 them all. We would be fine looking at posthearing
15 briefs rather than prehearing briefs. Public meeting
16 sounds fine. We would just ask that it not be set
17 between the date that the staff and intervenor response
18 is filed and the Commission's rebuttal because under
19 any scenario, it's likely to be a tight period of time,
20 and it seems to me that there is no reason why it
21 couldn't come at some point before or after the
22 evidentiary hearing, and we would also ask that rather
23 than having an eight-day period -- whenever staff's
24 brief is due that the company have two weeks rather
25 than eight days. With the number of intervenors

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1 involved and looking at staff's and public counsel's,
2 we wouldn't have time to even issue data requests and
3 get the responses back and work those into a rebuttal
4 on an eight-day turnaround because of the rules and
5 because of the need to look at the response before we
6 can issue data requests.

7 So taking all that into account, I think the
8 Commission, obviously, Judge Moss will need to juggle a
9 little bit, but if staff needs to come in a little bit
10 later and the rebuttal is pushed just a little bit
11 later, but yet we don't have prehearing briefs, that
12 takes the date out of the middle of the schedule such
13 that we may yet still meet that hearing that's been set
14 or possibly just push it back a day or leave it where
15 it is, and we can still fit posthearing briefs directly
16 after the hearings.

17 JUDGE MOSS: Picking up on Chairwoman
18 Showalter's remarks, this proposal in part was to save
19 time. If we go to posthearing briefs, we are adding at
20 least two weeks after the end of the evidentiary
21 hearing. You have to have time for the transcripts.
22 You have to have time to draft the briefs. So this
23 process proposal was meant to shorten everything by
24 about a minimum of two weeks, so I just want you to
25 understand the idea behind that as you perhaps advocate

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1 something else.

2 Let me ask this, and probably should have
3 asked it at the outset. We have set aside for the
4 evidentiary hearing five days. Does anybody have a
5 sense that this might be a three-day hearing instead of
6 a five day hearing? Staff and perhaps the company
7 would have a good insight.

8 MR. CEDARBAUM: It's anybody's educated
9 guess, I guess. Ms. Dodge indicated, I think it's
10 anticipating that all intervenors in the case are going
11 to be filing testimony in the interim case. I don't
12 know if that's true or not. I would be surprised if
13 it's true. So I guess I've been operating under the

14 assumption of the main players in the case filing the
15 testimony would be staff, company, and public counsel.
16 That may be untrue, but if that's the case, I think we
17 would not need five days of hearing.

18 The company has four witnesses on direct. I
19 assume they will have more than that, probably the same
20 witnesses or less than that on rebuttal. I think staff
21 is in the neighborhood somewhere of two to three
22 witnesses. I don't know about public counsel.

23 JUDGE MOSS: Mr. Ffitch, in terms of the
24 interim case, how many witnesses?

25 MR. FFITCH: Most likely two witnesses, Your
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1 Honor, perhaps three is our current estimate.

2 JUDGE MOSS: Maybe I should, rather than
3 polling everybody separately, just ask for a show of
4 hands of intervenors who at the present have an
5 intention of putting on a witness during the interim
6 phase. ICNU, how many?

7 MR. VAN CLEVE: One witness, Your Honor.

8 JUDGE MOSS: It does sound to me we are
9 talking about a three-day instead of a five-day
10 hearing, maybe four. I'm just trying to look for ways
11 where we can save perhaps a day or so. The related
12 point that was in my mind, and I'm thinking out loud
13 here, another possibility would be for the company to
14 do its rebuttal live as opposed to prefiling. Go
15 ahead, Mr. Cedarbaum.

16 MR. CEDARBAUM: I would hope that you would
17 not order that. We would have no discovery on that.
18 Obviously, hearing it for the first time in cases like
19 this of this magnitude, I think that would be unfair to
20 all of the parties.

21 JUDGE MOSS: I'm just throwing ideas out,
22 Mr. Cedarbaum. I wasn't suggesting that I would order
23 that. Ms. Dodge, just your thought on that.

24 MS. DODGE: I think the company would be open
25 to doing that as part of expediting the schedule.

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1 JUDGE MOSS: We do have to consider the full
2 range of possibilities to accommodate parties' needs,
3 and I will return to you on that point, Mr. Cedarbaum.
4 What do you think would be a better situation for the
5 staff? Let's say the only way we could find to buy a
6 couple of weeks on your response case would be to say,
7 Well, we are going to have the company's rebuttal live.
8 What would be the worst case for you?

9 MR. CEDARBAUM: In that case, I think we
10 would prefer to have a two-week delay cut in half, just
11 to go with a one-week delay. Having live rebuttal is
12 extremely difficult with this complicated information
13 coming from expert witnesses where you have no chance
14 for discovery.

15 If you recall from the Air Liquide case
16 earlier this year, we had live rebuttal, and it was a
17 physically grueling experience, setting aside the lack
18 of discovery. We were here until midnight for

19 hearings. I just think it's unfair to parties because
20 they can't prepare, and it's difficult on people's
21 emotions and bodies and appetites.

22 COMMISSIONER HEMSTAD: And general health.

23 JUDGE MOSS: I think you all rose admirably
24 to the occasion.

25 MS. DODGE: If I could just throw something

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1 out by way of some ideas about this. Posthearing
2 briefs typically do wait for the transcript so that you
3 have transcript cites and so forth, but here, the
4 Commission had contemplated perhaps prehearing briefs
5 where you have no reference at all to hearings, and
6 perhaps there is a compromise on having posthearing
7 briefs that don't necessarily have transcript cites,
8 but people that have been in the hearings will be able
9 to make reference to testimony in the hearings.

10 If the Commission felt it critical, you may
11 want to look in the transcript at some point when it
12 comes out, but it would seem to be perhaps better to
13 have a brief that you can at least mention testimony
14 without even cites than a prehearing brief where you
15 don't even have that information yet at the time you
16 submit it.

17 CHAIRWOMAN SHOWALTER: One of the things you
18 can do and has been done in other proceedings in oral
19 argument is that people do make reference to the
20 hearing, and sometimes in oral argument, they hand up
21 little lists of points. It's a semi-written document.
22 It is a written document, but it's a little bit of a
23 combination of a written brief and/or oral argument.

24 MS. DODGE: Just to follow on, here there is
25 oral arguments set, which is not necessarily always the

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1 case, and oral argument could be dispensed with in
2 favor of the posthearing brief, which would save a
3 couple days there as well.

4 JUDGE MOSS: We went to hear the parties'
5 ideas. We are working very hard to make this work for
6 everyone, so if you have useful comments, we want to
7 hear them.

8 MR. CEDARBAUM: I would hope that the
9 Commission would not have posthearing briefs which do
10 not rely on written transcripts. I think oral argument
11 when that happens is a little bit looser with the type
12 of mobility to characterize testimony, and the
13 Commission can take that as it wishes, but when you are
14 writing a posthearing brief and attribute a statement
15 to a witness, you want to be able to point to the
16 evidence that said that. So I don't think that
17 posthearing briefs without the transcript is a very
18 good compromise.

19 I did hear the comments of Mr. ffitich and
20 others about whether or not written prehearing briefs
21 would be a good idea. I didn't actually think of their
22 comments beforehand, so staff would not be opposed of
23 dispensing the prehearing written briefs if that helps

24 free up some time for written posthearing briefs but
25 based on transcript. Although, I understand that's

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1 difficult to do because that just extends by a lot the
2 amount of time after the hearing.

3 COMMISSIONER HEMSTAD: Transcript references
4 are useful to the Commission as it writes an opinion,
5 but it also is pertinent in the event of appeals.

6 CHAIRWOMAN SHOWALTER: I have a very specific
7 question. It has to do with February 18. At the
8 moment, that would be the week that these hearings are
9 heard, and we will figure out when they will be, but
10 February 18th is a state holiday, so there is nothing
11 put on there. I would say it's not a holiday for the
12 legislature. It's not a holiday for the governor's
13 office or the budget office and various other agencies
14 having work to do with the legislature.

15 I pose the question whether people would
16 object to using that day. If it's a state employee,
17 they will, as others do, get it in comp time, but does
18 anyone object to using that day, and it may be this
19 case. It may be another case.

20 JUDGE MOSS: That's President's Day.

21 CHAIRWOMAN SHOWALTER: I would expect if we
22 use it, that would mean we would lop off another day
23 somewhere else.

24 JUDGE MOSS: Potentially two. We could
25 perhaps pick up February 14th and 15th and eliminate

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1 them from the hearing schedule, which would build some
2 flexibility into the middle dates, which I think is
3 what everyone is interested in.

4 CHAIRWOMAN SHOWALTER: In effect, we would
5 gain four days by moving the beginning of the hearing
6 from the 14th to the 18th, and likely, it would be
7 Puget's witnesses because it would then be the
8 beginning of the hearing.

9 MR. CEDARBAUM: I think our thoughts are that
10 if that was necessary to do that we could do that. I
11 would say that based on the year that I think we are
12 looking at, even if we are not in hearing on the 18th,
13 I have a feeling that some of us might be working on
14 the 18th. So it could be done, but I guess the
15 preference would be for it not to be.

16 JUDGE MOSS: Anybody else want to be heard on
17 this question?

18 MR. FFITCH: I was going to address something
19 else, but I would concur that it would be preferable
20 not to schedule proceedings on legal holidays, if at
21 all possible, and again, we are asking that the hearing
22 get started in the last week of February. If that's
23 done, I agree with Mr. Cedarbaum. We might be
24 informally voluntarily working on the 18th.

25 The other thing I was going to say with

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1 regard to the posthearing briefs, you posited it's a
2 two-week turnaround. I agree that's a realistic

3 number, but it is possible to get expedited
4 transcripts, and it is possible to start writing briefs
5 before you have the transcript to plug in the page
6 number. Most of us take notes, and you often know and
7 at least have your rough draft and fill in the
8 transcript cites and specific references later in the
9 process, and it may not take a full two weeks.

10 It would be nice to have, but in the
11 interests of having a posthearing brief with
12 availability of the transcript and squeezing it down
13 from two weeks might be workable. I just wanted to
14 make that observation. I'm not sure, but I think we
15 can get transcripts within approximately three days
16 after the hearing.

17 CHAIRWOMAN SHOWALTER: Do you think if a set
18 of hearings ended on a Friday, or maybe a Wednesday but
19 let's say Friday, that it is reasonable to ask for
20 briefs to be due one week later on a Friday?

21 MR. FFITCH: I'm assuming that we get a
22 transcript by perhaps the Tuesday before the Friday.
23 Reasonable only in this bizarre world that we are
24 living in now, minimally workable, perhaps. I guess it
25 would be nice to have seven working days instead of

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1 business days, excluding February 14th. That should
2 also be a nonbusiness day.

3 JUDGE MOSS: The suggestion has been a
4 one-week turnaround on posthearing briefs. Several
5 parties' have suggested they would prefer to have
6 posthearing briefs. Anybody else want to comment on
7 turning them around in a week?

8 MS. ARNOLD: I would like to contribute a
9 suggestion here that it might be possible to turn them
10 around in a week if there was a page limit on the
11 briefs of, say, 25 pages. Sometimes briefs get to be
12 50 or 60 pages, and that's difficult to do in a week,
13 but if everybody was limited to a shorter brief, that
14 might be possible.

15 MR. CEDARBAUM: My comment is that if having
16 a one-week turnaround for written posthearing briefs
17 makes it possible to let the prefilings of the staff
18 case slip, then staff counsel will take the burden of
19 that, and we'll comply with that schedule.

20 As to a page limitation on briefs, I think
21 that's a good idea, but I would suggest that we wait
22 until the hearing to figure that out instead of now,
23 because 25 pages might be fine, but maybe 30 or 20 is
24 better.

25 JUDGE MOSS: We'll set that at the conclusion
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1 of the hearing, but being mindful that we would have to
2 be fairly tight on something like that. If we are
3 going to contemplate this process, we have to take that
4 into account as well.

5 Let me ask a logistical question that has
6 financial implications. You all are talking about
7 having expedited transcripts, which many of you who

8 have ever purchased those in the past understand is a
9 considerably more expensive process in getting it than
10 in the normal turnaround. I wonder if those parties
11 who are advocating posthearing briefs would be
12 interested in working among themselves to somehow share
13 the expense of that process. It is a considerable
14 expense.

15 MS. DODGE: I think the company would be
16 willing to. I don't know exactly the mechanics for the
17 court reporter or what the expense is, how we do that,
18 but I think the company would be open to making sure
19 that people can get the transcript on an expedited
20 basis, and it's not a financial issue that they can't.

21 JUDGE MOSS: In that connection too, we now
22 have the technology available for the realtime
23 transcript, which can be a single charge, enhanced
24 charge for that type of transcript. That might be the
25 best of all possible worlds, and everybody would have

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1 the transcript in realtime as would the Commission, I
2 might add. Is that something that would be in the
3 compass of your...

4 MS. DODGE: I think that is definitely worth
5 exploring. I don't know much about how to make that
6 happen, but we can pursue that.

7 JUDGE MOSS: If you would, perhaps you could
8 stay after a few moments. We could have a chat with
9 Ms. Wilson and discuss this a little bit more and
10 perhaps include Judge Wallis in that discussion as
11 well, and then we will have perhaps some further
12 communication on that, but I think we can make
13 something happen that will work if this appears to be
14 the right way to go, considering all the other factors
15 we have to consider. We will at least have the
16 information.

17 MR. VAN CLEVE: I just wanted some
18 clarification. Is the company committing to pay for
19 expedited transcripts for any party that may want that?

20 JUDGE MOSS: There is a single charge for
21 that. If it's available to one, it's available to all.
22 That would be true, for example, with the realtime
23 transcript. We will have further discussion about that
24 off the record today, so anybody that wants to be
25 involved in that discussion is welcome. The point

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1 simply being there are some mechanisms we can use to
2 help this process along.

3 Anything else on the interim schedule that
4 people would like for the Commission to have in mind as
5 it takes all of this into account? Ms. Dixon.

6 MS. DIXON: For the public hearing, we would
7 also like to have some input into customer notice that
8 is sent out, assuming the Commission does include
9 having a public hearing in the interim portion of the
10 case.

11 JUDGE MOSS: Doesn't the public counsel
12 typically have something to do with that?

13 MR. FFITCH: Yes, Your Honor. I had intended
14 to address this after we finished the scheduling
15 discussion just generally. We have worked with the
16 company and the Commission public affairs staff on
17 public notices in the past. In fact, in this case,
18 that was discussed at the open meeting. My
19 understanding from Commission staff informally is there
20 hasn't been a draft issue notice yet. We would be
21 happy to work with other parties if that's acceptable
22 in facilitating input on the customer notice.

23 JUDGE MOSS: If the Commission includes a
24 public comment hearing as part of the schedule, parties
25 can coordinate with Mr. ffitch in terms of that, and he

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1 will be the point person for that. I appreciate you
2 offering that, Mr. ffitch.

3 Anything else on the interim? We can talk
4 about the general.

5 MS. DODGE: Just one further comment. I'm
6 not sure if I included in mine that the company would
7 also support public hearings in the greater Seattle
8 area as being more center of the territory.

9 CHAIRWOMAN SHOWALTER: I want to make a
10 comment. We are going to do our very best to
11 accommodate parties, but I think unlike some other
12 proceedings, this is going to be more like a court
13 saying, Here's the schedule, and the reason is to make
14 room for other schedules.

15 The second thing, I just hope people will
16 keep in mind this is an interim proceeding for interim
17 relief subject to refund on a short timetable. It's
18 not going to be possible to have the time on one end or
19 the other of different steps of the proceeding that we
20 would all like. It's the nature of the beast and the
21 nature of our times here, so I hope you will be
22 understanding of whatever schedule we come out with,
23 because I'm sure it's going to be hard. We have many
24 parties, and if we had to accommodate all of the
25 witnesses and all the vacation schedules that people

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1 wanted to have, we actually couldn't do it, so we are
2 going to have to do our best and people will have to
3 respond.

4 JUDGE MOSS: With that, I think we can segue
5 into some discussion concerning the general rate
6 schedule, and again, I'll start with Mr. Cedarbaum and
7 we will work our way around the room.

8 MR. CEDARBAUM: I'll try to make this brief.
9 There are a couple of general comments about the
10 general rate column that I would like to make. The
11 first is that staff and staff counsel does have some
12 existing conflicts for the hearing dates that are shown
13 for April and July. We also think that the amount of
14 time between the company's filing of rebuttal on July
15 3rd and when the hearing would start on July 15th is
16 much too short for appropriate discovery and
17 preparation, and we also note that the Commission, at

18 least in this tentative schedule, has incorporated a
19 two-month time frame between filing of briefs and when
20 an order must be issued.

21 So given those concerns, we had a proposed
22 alternative to the schedule, and part of that would
23 be -- we have assumed that the hearings that you show
24 for April 17th to 23rd were put in there perhaps
25 because staff has expressed in the past for rate cases

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1 of this magnitude and potential controversy, especially
2 when a long period of time has elapsed since the rate
3 case, that a session of hearings for the
4 cross-examination of the company's direct case is
5 necessary.

6 We would be willing to forego that if that
7 was the reason why that is there and no other party
8 objects, or even if they do object and you overrule the
9 objection, but in exchange for that or in place of
10 that, it may be and likely would be that we would want
11 to schedule depositions of the company's direct
12 testimony witnesses, and we would assume that we would
13 have agreement to do that on a convenient basis for all
14 parties and that those could be just scheduled whenever
15 the witness and the parties who wish to question those
16 witnesses can be available. So that would not require
17 the Commission sitting in the hearing room.

18 We would also propose that since those
19 depositions would likely take place well ahead of
20 whenever evidentiary hearings took place later on that
21 we would arrange to file whatever transcripts we were
22 intending to offer into evidence well ahead of those
23 hearings so that the commissioners, yourself, and your
24 adviser would have access to those to see what we asked
25 during the deposition, so that would be sort of

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1 Revision No. 1.

2 Then looking down your column, and I guess
3 that would also mean we would eliminate the need for a
4 prehearing conference on April 16th, and we would also
5 assume that the public comments hearings would be
6 delayed later on in the schedule, and I assume public
7 counsel might have some comments on that. We would
8 change the June 7th pre-filing of staff and intervenors
9 to June 17th, the pre-filing of the company's rebuttal
10 to July 3rd. I'm sorry, July 12th. Then we would have
11 a prehearing conference whenever is convenient, and
12 cross-examination of all testimony the weeks of August
13 5th through 9th and 12th through 16th, approximately
14 three weeks after rebuttal is filed.

15 Then three weeks after the conclusions of the
16 hearings, posthearing written briefs would be filed, so
17 that, I believe, would be no later than September 6th,
18 which would then give the Commission about seven weeks
19 to issue an order by October 27th. Perhaps I should
20 repeat those dates.

21 JUDGE MOSS: I think I got them.

22 MR. CEDARBAUM: Eliminate the April hearings.

23 Staff intervenor prefile direct on June 17th, the
24 company prefiled rebuttal July 12th, hearings the weeks
25 of August 5th and August 12th, briefs three weeks after
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1 the conclusions of hearings, and three weeks after the
2 16th of August would be September 6th, so that would be
3 the latest time it would come in.

4 So that would accommodate our schedules and
5 the conflicts we have, get you out of the hearing room
6 for a week. We thought it would provide you sufficient
7 time to issue an order after briefs.

8 CHAIRWOMAN SHOWALTER: We can hear from the
9 other parties on this. One of the things we tried to
10 keep the first week of August particularly light since
11 it's the prime vacation time for everyone in the
12 Northwest, so it's not that we can't do it, but if that
13 means we do it, everybody here and the witnesses have
14 to be prepared as well.

15 MR. CEDARBAUM: I understand that this is our
16 proposal perhaps in isolation from other people's
17 conflicts and concerns. That was all I had. Thank
18 you.

19 JUDGE MOSS: Mr. ffitch?

20 MR. FFITCH: Thank you, Your Honor. First of
21 all, we appreciate the last comment of the chairwoman
22 with regard to an attempt to go with the scheduling
23 here, and I couldn't quite believe when I looked at the
24 schedule that it seemed to really accommodate some time
25 in August.

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1 Just a general comment that the schedule
2 looks pretty good for public counsel as far as I can
3 determine at this point. Just a few comments. We have
4 generally supported two rounds of hearings in cases of
5 this scale, and we would be very comfortable with the
6 Commission establishment of the two rounds of hearings
7 that have been set here. I've just really heard about
8 staff's proposal today. I'm cautiously open to the
9 idea that those first rounds of questioning would occur
10 through deposition. I'm not really prepared to object
11 to that today. We are quite comfortable with the
12 hearings that are proposed there but be cautiously open
13 to a new idea.

14 We do notice, Your Honor, a couple of things
15 with regard to public comments hearings. The public
16 comments hearings are set prior to the testimony of
17 staff and public counsel and other intervenors, and we
18 request that they be scheduled after that testimony is
19 filed. That has been the practice, and the reason for
20 that is so that the public can be advised in
21 informational materials of the formal positions the
22 parties have taken in the case, and they are able to be
23 given a more complete picture of the status of the case
24 at the time of the public hearings. So we would ask
25 that those be pushed back perhaps into the June time

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1 frame.

2 Also, just by the dates here, the two days
3 have been noted for the public comments hearings, we
4 would be recommending five public comments hearings for
5 this case, and so that would take more time, more than
6 two days. We would request that the Commission set the
7 public comments hearings in Bremerton, Bellingham,
8 Bellevue, or Bellevue and another Seattle area
9 location, for example, Federal Way, somewhere in the
10 southern metropolitan area, and Olympia.

11 May I check one thing, Your Honor? I had
12 noted a possible witness conflict the first round of
13 April hearings. Yes, we do have actually a witness who
14 is unavailable for precisely those days of hearings.
15 They are scheduled for that first round.

16 CHAIRWOMAN SHOWALTER: Which week are you
17 talking about now?

18 MR. FFITCH: April 17th through the 23rd.

19 CHAIRWOMAN SHOWALTER: Is this the set of
20 hearings that Mr. Cedarbaum was willing to forego and
21 you were thinking about?

22 MR. FFITCH: That's correct, and I'm just
23 reminded that this would be a witness that we would
24 perhaps have assisting us but would be under
25 cross-examination at this point, so the conflict is not

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1 as serious for us as it turns out, but thanks for
2 letting me check that.

3 JUDGE MOSS: Does that complete your remarks?

4 MR. FFITCH: Yes, Your Honor.

5 JUDGE MOSS: Mr. Van Cleve?

6 MR. VAN CLEVE: Your Honor, we would support
7 the proposal laid out by Mr. Cedarbaum, including
8 replacing the initial round of hearings with
9 depositions.

10 JUDGE MOSS: Ms. Arnold?

11 MS. ARNOLD: Your Honor, we are comfortable
12 with the schedule as approved by the Bench, but we have
13 no objection to Mr. Cedarbaum's proposal either.

14 JUDGE MOSS: Mr. Eberdt?

15 MR. EBERDT: We as well don't have any
16 objections to Mr. Cedarbaum's proposal and would
17 concur. You may recall that during the open meeting,
18 you actually advocated for five public hearings at that
19 time. Without sounding extremely callous to the
20 Commission's schedule and appreciating the difficulties
21 with scheduling this sort of thing, we do still feel
22 that's extremely important.

23 When the utility has as large a service
24 territory as Puget does, coming all the way from
25 Cle Elum to Port Townsend, certainly the people out on

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1 the Peninsula getting to Olympia or Seattle for a
2 hearing is very difficult and not very convenient, and
3 we would like the public to be able to actually have
4 input into the situation. That's all I have.

5 JUDGE MOSS: Ms. Dixon?

6 MS. DIXON: We have no objection to either

7 the calendar proposed by the Bench or by staff. Again,
8 in appreciating the 2002 time crunch, which we really
9 do, we do agree with Mr. ffitich and Mr. Eberdt that
10 missing from the schedule is sufficient and adequate
11 opportunity for public input through public comments
12 hearings.

13 Puget serves about 1.2 million accounts, if
14 my memory is correct there, and many more individuals
15 than that, and it's an extensive service territory. We
16 would agree five public comments hearings should be
17 held. We agree with the locations that Mr. ffitich
18 recommended, and perhaps for the greater Seattle area
19 that he mentioned, Tukwila might be a good place to
20 have one of those hearings. Again, we would also
21 suggest that those hearings take place in the evenings
22 when people can attend, 6 to 9 p.m. not Friday
23 weekends, not on holidays.

24 Along with that as well, we would still be
25 interested in the customer notice discussion, including
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1 not only the content of that customer notice but also
2 how that customer notice is disseminated to Puget's
3 accounts, and we would suggest that for that general
4 rate case that customers be notified in an insert that
5 goes in their bills, and that that be to their homes or
6 businesses within at least two to three weeks prior to
7 the hearings beginning. The last point on that is the
8 ideal time for public hearings, if you are looking at
9 the summer months, is June. In terms of actually being
10 able to engage the public and facilitate public
11 involvement, it becomes more difficult in July and
12 August because of summer schedules, so we would make a
13 plug for June.

14 JUDGE MOSS: Mr. Cameron?

15 CHAIRWOMAN SHOWALTER: I recognize some
16 people prefer evening hearings. Not everyone prefers
17 evening hearings. I would say that evening hearings
18 are hard on the commissioners and staff who have to
19 travel if we are supposed to get back the next day and
20 start work.

21 Also, by having supposedly two hearings over
22 the course of two days, we might have one in the
23 evening in one location and then another in the daytime
24 in another location. In other words, we might be more
25 efficient if we had a mix of day and evening, and I'm
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1 just wondering if you could be understanding but also
2 recognize that there are lots of people who don't like
3 to stay up late, and I'm not talking only about the
4 commissioners. It's never been clear to me that we
5 really do get more people. We have had hearings where
6 no one comes.

7 COMMISSIONER HEMSTAD: It really is a no-win,
8 because if we hold them in the evening, we get
9 criticized because people don't want to come out. If
10 we hold them in the daytime, we get criticized because
11 people can't come out, so it really is a lose-lose

12 proposition.

13 MS. DIXON: I do agree with you there, and
14 maybe there is some room for having a mix of times. I
15 will add that I spoke with several outreach folks who
16 specialize in this type of thing in trying to come up
17 with out proposal for the hearings, and I made the
18 exact same pitch that you just did, Commissioner, and
19 the response I got back was, well, ideally, 6 to 9 p.m.
20 is supposed to be the best time for public hearings.
21 You get people after work. They don't have to take
22 time off from work. They are more able to go. My
23 response was, well, that messes with their dinner, so
24 that's what I heard back from the outreach perspective.

25 JUDGE MOSS: Let me interrupt. Let's go off

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1 the record.

2 (Discussion off the record.)

3 JUDGE MOSS: Mr. Cameron?

4 MR. CAMERON: The schedule as originally
5 proposed by the Bench is acceptable. The modifications
6 proposed by staff would also be acceptable. It seems
7 to me the idea of depositions might be a little more
8 efficient than a live hearing. I certainly appreciate
9 the desire of the Bench to accommodate some vacation
10 time in August, and I would ask you to keep that in
11 mind as you nail down the final schedule.

12 JUDGE MOSS: Ms. Endejan?

13 MS. ENDEJAN: Your Honor, Seattle Steam is
14 flexible and will accommodate whatever schedule the
15 Bench decides upon, and I would inquire, Your Honor, if
16 this is the final matter of the day which you are going
17 to be addressing is scheduling, because I have to pick
18 up a child at six o'clock in Seattle or he will be
19 thrown in the street.

20 JUDGE MOSS: Other than a few remarks
21 regarding settlement ADR and some technical
22 requirements that will be included in the prehearing
23 order, this will be the final order of business today.

24 MR. FFITCH: We did want to address notice as
25 well. It might not take a long time, but customer

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1 notice issue.

2 JUDGE MOSS: There is the other business
3 category on the agenda, and I suppose it comes up under
4 that.

5 MR. FINKLEA: I will note this because this
6 might be of interest to her as well. The one thing
7 that the Northwest Industrial Gas Users would request
8 regarding the schedule, and we could go with either
9 one, it's proposed in the current schedule that the
10 company would file rebuttal, and our experience in the
11 past has been that there should be rebuttal for the
12 parties to rebut each other as well as the company
13 rebutting the parties, because there are inevitably
14 issues involving cross customer, whether customer group
15 X or customer group Y pays, and those issues will no
16 doubt surface in this proceeding, and in our experience

17 from previous cases, if we try to get all of that
18 through cross-examination rather than through prepared
19 rebuttal, it makes for a cumbersome cross-examination
20 process.

21 So not to be presumptuous, but if by any
22 chance public counsel were to suggest issues in their
23 testimony that we might take issue with or we might
24 suggest issues that they take issue with, if the
25 schedule accommodates rebuttal of each other as well as

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1 the company rebutting the parties, I think it makes for
2 a better schedule.

3 JUDGE MOSS: The suggestion simply is to
4 expand and raise the company rebuttal to contemplate
5 cross-rebuttal among the parties, which in a proceeding
6 of this nature is a sensible solution, so yes, I think
7 we can just expand that process opportunity.

8 MR. FINKLEA: The other thing we would note,
9 and we don't have to get into which days are which now,
10 but given that this is both a gas and electric case,
11 and as a representative of gas customers, we sort of
12 assume that the electric case portion of it is quite a
13 bit larger than the gas case -- although, both are very
14 significant rate increases -- if when we are scheduling
15 witnesses we can try to accommodate it so that those
16 that are electric only witnesses are on particular days
17 and gas witnesses are on particular days, that would
18 lend quite a bit of efficiency for those of us that are
19 trying to be more of a rifle shot than a shotgun in the
20 proceeding.

21 JUDGE MOSS: We will have some further
22 prehearing conferences as we go along and we will talk
23 about witness order and witness lists and that kind of
24 thing as we get a little further along, so that's a
25 good remark, and we should be mindful of that as we get

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1 to that point a little closer in time to hearings.

2 We have some folks in the gallery back there.
3 You may wish to speak. No? Then the company.

4 MS. DODGE: Thank you, Your Honor. I think
5 the most significant concern in any variation would be
6 the amount of time between the staff and intervenor
7 response and the company rebuttal under either the
8 original proposed or staff's proposed amendment to
9 that, the company has under four weeks to submit its
10 case. I'm not actually aware of any prior case where
11 there has been such a short time line in a general rate
12 case for company rebuttal. I think that six weeks is a
13 much more reasonable and realistic period of time. The
14 general case will not be under an expedited time line,
15 and we ask that the company be given six weeks, however
16 the schedule turns out, between response and rebuttal
17 to have adequate time to prepare its rebuttal and issue
18 data requests and so forth.

19 In terms of how the schedule proceeds on
20 timing, I think we are willing to work with many
21 different variations and will accommodate the

22 Commission's schedule. Just to throw into the mix, if
23 there are evidentiary hearings on Puget's direct, I'll
24 just throw out there that these particular dates are
25 difficult for counsel. We will accommodate if we have

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1 to, but if there is an ability to move those hearings,
2 for example, to the beginning of April rather than
3 later in the month, we would appreciate it.

4 CHAIRWOMAN SHOWALTER: Does that apply only
5 if there are hearings, or if we do away with the
6 hearings and have depositions instead, are you more
7 flexible?

8 MS. DODGE: If there are depositions, then
9 that schedule is easier to accommodate because you
10 reach an agreed solution on dates. In terms of whether
11 to have depositions rather than cross-examination, we
12 would actually like to think about that a little bit
13 more. It may be more efficient to do that. On the
14 other hand, the commissioners then don't have an
15 opportunity to ask questions in that forum or to
16 observe the questioning, and there may be something
17 lost there.

18 We would like an opportunity to go back and
19 talk about that and consult with our client and each
20 other and perhaps by tomorrow provide a fax statement
21 on whether that seems to make sense or with all things
22 considered, we would prefer to go forward with hearings
23 and then leave it to the Commission to decide.

24 COMMISSIONER HEMSTAD: I didn't really
25 understand, Mr. Cedarbaum, your description of that.

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1 Is it your suggestion that instead of formal
2 cross-examination, depositions would be held, and then
3 those depositions would be filed, not used for
4 impeachment but filed in lieu of formal cross?

5 MR. CEDARBAUM: Often times, the practice
6 that I've been involved in before the Commission is
7 that we have used depositions in place of
8 cross-examination on company's direct case, and then
9 those are offered as cross-examination exhibits for
10 impeachment purposes or just in place of cross-exam,
11 and then the company is entitled to redirect based on
12 those exhibits.

13 So it can be for either of those purposes,
14 but in the past, it's provided a more efficient
15 mechanism for us to get what we need in terms of the
16 record without bringing the commissioners into the
17 hearing room for a week of hearings at the beginning of
18 the case when you get a chance later on in the case
19 anyway to ask your questions of all the same witnesses
20 who will be there for the rebuttal hearings.

21 CHAIRWOMAN SHOWALTER: So with your idea, the
22 commissioners don't really lose total opportunity to
23 ask their own questions. They just lose one
24 opportunity.

25 MR. CEDARBAUM: Right. I guess my thought,

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1 and maybe it's because my memory may not be as good as
2 yours, but you would still get to ask your questions of
3 all parties' direct cases, rebuttal cases, and if
4 cross-answering cases are allowed, those cases, but you
5 get to do that closer in time to when your order gets
6 issued than earlier in the case, and perhaps that's a
7 benefit because everything is fresher in your mind.

8 And I would just add that we certainly have
9 had cases where we've cross-examined company's direct
10 cases as a separate hearing phase, but that has become
11 less and less of a practice before the Commission.
12 We've gone more and more to a one full-blown hearing of
13 everything and everybody. Not to say that type of
14 hearing is unnecessary all the time, but practice has
15 been to move away from it. If I could now just respond
16 to a couple of points that Ms. Dodge made or wait.

17 JUDGE MOSS: I think Ms. Dodge may have some
18 additional points and, so let's turn back to her and
19 see if she has some additional points. In response,
20 Ms. Dodge, if you could, say, communicate something by
21 early afternoon tomorrow as to the company's view on
22 this. We are, of course, gathering information here,
23 and I see no reason why we can't continue that into the
24 early afternoon tomorrow, and you could simply e-mail
25 something to me that's a procedural matter. I don't

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1 think it raises any ex parte concerns, but serve it on
2 the parties and let them see whatever you send me.

3 MS. DODGE: Okay. Other than those comments
4 with respect to potentially moving the hearings
5 earlier, staff's proposed schedule generally sounded
6 fine. There may have to be some adjustment made in
7 order to give the company the requested six weeks in
8 terms of either moving their brief due slightly earlier
9 or the evidentiary hearing slightly later so that
10 people feel they have sufficient time to prepare
11 between Puget's rebuttal, the parties' rebuttal, and
12 the cross-examination hearings at the end, but again,
13 we are very flexible on that.

14 JUDGE MOSS: How much time do parties
15 generally think they require to prepare for their
16 cross-examination after the last round of testimony is
17 filed? I've had to do it the Monday following a Friday
18 filing. That's pretty short, but maybe parties could
19 give me some guidance on that, a week, two weeks?

20 MS. DODGE: Your Honor, typically in cases in
21 the past, it's been something like three to five weeks,
22 because certainly for the company, filing major
23 rebuttal, then you need to look at what anyone else
24 filed in rebuttal to each other, and then we have like
25 15 witnesses to prepare for the hearings, so then you

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1 turn from the briefing to the preparation on the
2 hearings, and it does take time, so maybe you don't
3 need six weeks, but certainly more than file on Friday
4 and you are in the hearing on Monday.

5 JUDGE MOSS: Mr. Cedarbaum, could you give me

6 some feedback?

7 MR. CEDARBAUM: That was in the area of the
8 comments I had to Ms. Dodge's prior comments. First of
9 all, she had asked about a longer period of time after
10 staff intervenors file direct before the company files
11 rebuttal. I think built into both the proposed
12 schedule of the Commission and what I set forth before
13 was about four weeks, which I think has been pretty
14 typical.

15 Of course, if you are going to give the
16 company more time, that's within your discretion, but
17 the critical point for us is a minimum of three weeks
18 after the filing of rebuttal before the hearing is
19 required, and that might take on even more significance
20 in this case if cross-answering on the testimony is
21 going to be allowed, because we are discovering not
22 only the company's rebuttal, which tends to be
23 significant, but we are doing discovery on other
24 parties' cross-answering testimony, and so to do all
25 that and prepare for the hearing, prepare our

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1 witnesses, a minimum of three weeks, we believe, is
2 necessary, but I don't believe five weeks is necessary.

3 JUDGE MOSS: That gives me some sense of it.
4 Unless somebody has a wildly different estimate, I
5 don't need to hear any more on that. I think staff's
6 proposal suggested that without the first hearing
7 round -- that is to say, with a single hearing
8 session -- I'm looking at a two-week hearing. Is there
9 general agreement that that can be accomplished? We do
10 have quite a few witnesses prefiled for PSE, and I
11 expect a cumulative number will be maybe twice that
12 number?

13 MR. CEDARBAUM: I think that there is some
14 question about that, but both the schedule that you
15 provided and that I've provided assumes two weeks.
16 Hopefully that with the rounds of depositions that we
17 have and perhaps the cross-answering, that helps in
18 that regard. I guess I can't say that I'm completely
19 comfortable with that, but it's worth a try.

20 JUDGE MOSS: I think the Commission schedule
21 contemplated two weeks just on the staff and intervenor
22 response and the company rebuttal with the prior week
23 on the company direct, which is 20 witnesses, something
24 like that.

25 MR. CEDARBAUM: We would be doing depositions

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1 on that prior direct under our --

2 JUDGE MOSS: But those witnesses still have
3 to be put on the stand and cross-examined with respect
4 to their rebuttal. In other words, we save some, but I
5 wonder if two weeks is going to be adequate.

6 MR. CEDARBAUM: My feeling is it may not be,
7 so perhaps we could factor in another half a week.

8 JUDGE MOSS: Ms. Arnold?

9 MS. ARNOLD: I would like to clarify
10 Mr. Cedarbaum's proposal. I'm understanding that the

11 depositions are in addition to the opportunity to
12 cross-examine the company's witnesses on their direct
13 testimony. I may be wrong about that, but some of the
14 intervenors have fairly narrow issues that they are
15 concerned with and will want to cross-examine the
16 company witnesses on their direct testimony but might
17 not want to get involved with the depositions, so I
18 would hope that we would be able to cross-examine the
19 company witnesses under direct in addition to the
20 depositions.

21 CHAIRWOMAN SHOWALTER: I understood the
22 proposal to be that the depositions would be a
23 substitute for the hearings, so you could ask your
24 question, your cross-examination type question in a
25 deposition and then file it.

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1 MS. ARNOLD: I would be concerned about that
2 because the Commission isn't there, and my experience
3 is sometimes cross-examination questions lead to
4 questions by the Commission, and the topic gets
5 expanded in a way that it doesn't in a deposition. A
6 deposition is more typically getting information,
7 finding out what the basis of their testimony is rather
8 than cross-examining it for impeachment purposes.

9 JUDGE MOSS: Anybody else want to be heard?

10 MR. FFITCH: On the idea of depositions in
11 lieu of cross, I think that I expressed cautious
12 consideration of the idea. One of my concerns is that
13 when you have a hearing schedule, the witnesses are
14 available and there is an efficiency in that, and I
15 would be concerned if we did go to depositions in lieu
16 of hearing that we still have the company witnesses
17 being made available in a very efficient fashion, given
18 the fact that we are working with a large number of
19 proceedings all going on at the same time.

20 We could get into a situation where if we go
21 to depositions, we suddenly have the witnesses being
22 spread all throughout a much more diffuse time period
23 that starts to conflict with other proceedings, and I'm
24 hoping that the company would cooperate still with
25 trying to target making witnesses available for

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1 depositions in roughly the same time frame here, and
2 that would be a concern I would have getting away from
3 a cross-examination hearing.

4 JUDGE MOSS: What if we considered a
5 compromise approach of having depositions potentially
6 supplemented by some additional cross-examination but
7 place strict time limits on parties with respect to
8 that supplemental cross-examination? My concern being
9 that some might have a tendency to redo everything they
10 did in a deposition live and in color and that we don't
11 really need that, and I frankly don't want to have to
12 control it minute by minute. I would rather consider a
13 process such as I just suggested that might bring some
14 sense of control to that but not cut anybody off who
15 might have limited issues that could be accommodated in

16 a fairly brief cross-examination. What do the parties
17 think about that idea? Ms. Arnold is nodding her head
18 affirmatively. Anybody else want to comment?

19 MR. FINKLEA: The Industrial Gas Users could
20 certainly support that over the notion of having
21 depositions as a substitute for cross. It's never been
22 my experience in previous hearings that depositions
23 were a substitute for cross on the company's direct.
24 It was more a question of whether the company's direct
25 was crossed before or after parties put on their direct

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1 cases, so I was taking Mr. Cedarbaum's suggestion as
2 more of a timing one than the notion that the parties
3 would waive cross of the direct cases of the company
4 and substitute depositions for cross-examination.

5 MS. ARNOLD: I think it's helpful to have the
6 administrative law judge present during some part of
7 cross-examination in case there are discussions over
8 whether particular exhibits can be admitted into
9 evidence. Exhibits will be admitted into evidence on
10 cross-examination, and I don't know how that would work
11 in a deposition if there was some dispute about whether
12 an exhibit was admissible.

13 JUDGE MOSS: If we decide to go the
14 deposition route, we could as what specific procedures
15 should be followed. My typical practice has been to
16 make myself continuously available during the course of
17 depositions, and if I'm needed, I'm called in. I don't
18 think I have ever been called in. Parties seem to be
19 able to work these things out, but we'll see. Do we
20 have other ideas, suggestions on the question of the
21 schedule as it relates to the general rate case?

22 CHAIRWOMAN SHOWALTER: Can we hear from
23 Mr. Cedarbaum?

24 MR. CEDARBAUM: What I meant was I think even
25 in situations where the Commission has had a round of

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1 cross or the company's direct case followed weeks or
2 months later by the remaining cross, parties have still
3 at that last hearing phase been allowed to ask
4 questions on the direct testimony, but it's been fairly
5 limited because the rebuttals and issues are more
6 focused, kind of rubber hits the road more to a greater
7 extent, so it wasn't intended to limit cross entirely.
8 I still think limited cross happens. It's just a
9 timing issue that will allow the parties a little more
10 flexibility at the front end to schedule depositions,
11 and I agree with Mr. Fitch that we have to have
12 cooperation about doing that, maybe the ALJ's
13 assistance if necessary, so that was what I had in
14 mind.

15 One of the drivers that got me there was we
16 do have some scheduling conflicts in April for the
17 April hearings that you show here. We just have people
18 gone, and so it would be difficult to cover that. We
19 thought depositions would allow us and all the parties
20 the flexibility to schedule around that.

21 JUDGE MOSS: Anything else from the parties
22 on the subject of scheduling? Any further comments
23 from the Bench on the subject?

24 COMMISSIONER HEMSTAD: I would just make the
25 general comment, we are really doing two cases here,
0116

1 the interim case and then the general case, so because
2 of the interim case pressure, on top of the first
3 general case in almost 10 years and then a very complex
4 case in both gas and electric, something has got to
5 give here. Everybody can't have everything they like
6 and every opportunity.

7 JUDGE MOSS: I think that concludes our
8 discussion for today of scheduling matters, and we can
9 take all of this under advisement along with the
10 information we will gather through other prehearing
11 conferences tomorrow, and again, we will be working on
12 the final schedule, and that will be part of a
13 prehearing order.

14 There are a few other small matters of
15 business we need to take up. It shouldn't take very
16 long, I think. We won't need to talk about it in any
17 detail today. It's more in the nature of a heads-up.
18 I do contemplate that we will have a bit later in the
19 proceeding, certainly in connection with the general, a
20 common issues list that will form the basis for a
21 common outline for the briefs, and sometimes that is
22 something the parties can accomplish among themselves
23 fairly readily and sometimes it is not. In the event
24 that becomes difficult, we are prepared to make
25 available to the parties or indeed perhaps even require
0117

1 the parties to use the service of what I will call a
2 process mediators who will help you achieve neutral
3 language for a statement of issues.

4 I do use that remark to segue into the
5 reminder that we typically give in these proceedings
6 that the Commission's rules do provide for alternative
7 dispute resolution and settlement agreements, partial
8 or full, and that the Commission has in the past couple
9 of years made available to the parties a mediator if
10 the parties believe that will facilitate any such
11 discussions, and we are prepared to try to assist you
12 in this way, and we will do what we can to help that
13 along.

14 You are all familiar with the filing
15 requirements, the Commission's filing requirements as
16 set forth in its rule. Because of the nature of the
17 proceeding, I'm going to have to ask that the parties
18 do file an original and 19 copies of their filings in
19 this proceeding to meet our internal distribution
20 requirements. Remember that your filings need to be
21 addressed to the Commission secretary at our street and
22 P.O. Box address, which I'm sure you all have.

23 I want to stress that filings of substance
24 need to be provided electronically either on a
25 three-and-a-half-inch diskette formatted for MS Word

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1 6.0 or later or Word Perfect 5.0 or later or PDF
2 format, or those documents can be sent by e-mail. I
3 noticed we have one party who uses Macintosh systems,
4 but they found a way to accommodate us, so whoever that
5 is, please continue to accommodate us. We post these
6 things to the Internet, so this is important.

7 I've mentioned we will enter a prehearing
8 conference order. That will be sometime next week. We
9 will have further prehearing conferences to discuss
10 things like exhibit lists, witness lists, exchange of
11 same, that sort of thing, and I believe that's all I
12 have. Anything further from the other members of the
13 Bench here today? Anything further from the parties?
14 Mr. ffitch, you have something.

15 MR. FFITCH: Yes, Your Honor. I'm sorry. I
16 know that it's late. I'll try to be efficient. This
17 is a very significant matter, I believe, and that is
18 the question of notice to the company's customers
19 regarding the nature of the company's requests and the
20 manner in which they can provide input to the
21 Commission and how they can participate in the process.

22 We would request that the company be required
23 to issue two notices, one for the interim case and one
24 for the general case; that every effort be made that
25 the notices be timed so that they can include specific

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1 information about the public hearings that are to be
2 scheduled. We also believe that it's important that
3 the public notice be specifically limited to the
4 company's particular request in this case. In many of
5 its public media statements, the company has subtracted
6 the BPA residential exchange from the total magnitude
7 of its request, which we think would be inappropriate
8 for the formal public notice in this case.

9 And finally, we think it's extremely critical
10 that the company's new rate restructuring proposal, the
11 realtime pricing type of proposals, personal energy
12 management proposals be explained very clearly to the
13 public. It's a broad and dramatic new approach, and we
14 think it's really important that the notice explain it
15 as clearly as it can be.

16 We briefly got into this before, Your Honor,
17 and the process has been, and we have had initial
18 discussion with the company and the public affairs
19 staff. The process has been that -- I believe this is
20 the plan again in this case -- that the company submit
21 a draft notice or prepare a draft notice and then
22 consult with the staff and public counsel and invite
23 into that process as well to come up with an acceptable
24 notice, and I believe the company indicated at the open
25 meeting last week, and I spoke with Mr. Lynn Logan and

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1 Penny Hansen at that time about that process, that so
2 far, there is not a draft to my knowledge. We haven't
3 seen one, but we would look forward to participating in
4 that process and offer to facilitate any input that

5 other intervenors want to have in the notice process.
6 So I'm not sure how the Commission would like
7 to approach the specific requests or issues I've made.
8 It may be that they are moot. If the format of the
9 notice addresses those concerns, maybe we don't need
10 any guidance from the Bench. My preference would be
11 from the Bench at this point we simply would have some
12 direction on those points with regard to the number of
13 notices and the references to the BPA residential
14 exchange.

15 JUDGE MOSS: Perhaps the company is in
16 agreement with you, Mr. ffitch.

17 MS. DODGE: As to having two notices, one for
18 the interim and one for the general, I think that's
19 what's contemplated, I believe that drafts have been
20 drafted, actually thought they had already gone, but we
21 will follow up on that, and it's imminent that you will
22 have a chance to look at them.

23 I guess I would ask that we maybe take this
24 up later once public counsel and staff have had a
25 chance to actually see the language, make whatever

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1 proposals they like, and then if there is a problem, we
2 can contact the Commission and come back and address it
3 then. I think the only thing of substance that I would
4 like to say right now is with respect to the BPA issue.
5 I think it's our understanding of the purpose of notice
6 that customers understand the impact on them if the
7 rate increase goes through, and I think including not
8 taking account of BPA is confusing. It gives an
9 incorrect picture of the impact on customers.

10 CHAIRWOMAN SHOWALTER: Ms. Dodge, I don't
11 want to get too far into this, but tell me one way or
12 the other, does the increased Bonneville credit go into
13 effect January 1?

14 MS. DODGE: I believe it does, yes.

15 CHAIRWOMAN SHOWALTER: This is an initial
16 observation, but if it's gone into effect before any
17 proposed interim rate increase, then the relative
18 effect of a rate increase does not include that rate.
19 I can understand if two things were happening
20 simultaneously you would want to explain what the
21 effect is, but by the date that any increase is
22 granted, if any is, that Bonneville credit will have
23 been in effect for three months.

24 MS. DODGE: I'll confess I'm probably not the
25 best one to answer the details on BPA.

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1 CHAIRWOMAN SHOWALTER: I want my remarks to
2 be preliminary as well, and I think you should take
3 that into account that these dates are not simultaneous
4 or if they aren't simultaneous.

5 MS. DODGE: I think a portion may go in
6 January 1 and the rest in October, so it's maybe a
7 little more complicated.

8 JUDGE MOSS: Mr. ffitch, my sense of it was
9 the direction you were asking for from the Bench at

10 this juncture is simply that the company work
11 cooperatively with public counsel and the public
12 affairs staff of the Commission on this matter, and
13 what I heard PSE say is that they would do that, and
14 they would like you to review the drafts of the two
15 notices that they do intend, and then if there is a
16 problem and the parties cannot achieve some sort of
17 understanding, perhaps some further direction from the
18 Bench might be required in that connection, but
19 otherwise, the parties might be able to work this out
20 amongst themselves. Is that essentially correct?

21 MR. FFITCH: We believe that the chairwoman
22 has it right, and that's the issue that we are
23 concerned about. We are prepared to take a stab at
24 working with the company and see if we can come up with
25 an agreed draft, and if we can't, we'll come back and

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1 ask for guidance.

2 JUDGE MOSS: I'm sure the company will take
3 everything into account as they work with you on that
4 going forward. Is there any other business that we
5 need to take up this evening; Ms. Dixon?

6 MS. DIXON: I'm assuming this is something we
7 could all work on with the public affairs staff, but we
8 would also recommend that in addition to the customer
9 notice coming from Puget to its customers that the UTC
10 also through their public affairs distributes a news
11 advisory two or three days before each of the public
12 hearings.

13 JUDGE MOSS: You might want to talk with the
14 public affairs staff and perhaps satisfy yourself in
15 that way because I don't know. Any other business?
16 Thank you all very much. Hope you have a pleasant
17 evening.

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19 (Prehearing conference concluded at 5:15 p.m.)

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