

**Docket Nos. UE-180899 and UG-180900 (Consolidated) -
Vol. I**

**Washington Utilities and Transportation Commission v.
Puget Sound Energy**

November 28, 2018



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND) DOCKET NOS. UE-180899 and
TRANSPORTATION COMMISSION,) UG-180900 (Consolidated)
)
Complainant,)
)
v.)
)
PUGET SOUND ENERGY,)
)
)
Respondent.)

PREHEARING CONFERENCE, VOLUME 1

Pages 1-19

ADMINISTRATIVE LAW JUDGES RAYNE PEARSON AND
LAURA CHARTOFF

November 28, 2018

2:00 P.M.

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1 OLYMPIA, WASHINGTON; NOVEMBER 28, 2018

2 2:00 P.M.

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

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6 JUDGE CHARTOFF: Okay. We are on the
7 record. Good afternoon. We're here for a prehearing
8 conference in consolidated Dockets UE-180899 and
9 UG-180900, Washington Utilities and Transportation
10 Commission, complainant, versus Puget Sound Energy,
11 respondent.

12 Today is Wednesday, November 28th, 2018, and
13 the time is 2:00 p.m.

14 My name is Laura Chartoff and sitting next
15 to me is Rayne Pearson. We are administrative law
16 judges with the Washington Utilities and Transportation
17 Commission, and we will be co-presiding in this matter.

18 Let's start by taking short appearances
19 starting with the Company.

20 MS. STROM CARSON: Good afternoon, Your
21 Honors. I'm Sheree Strom Carson with Perkins Coie. I
22 represent Puget Sound Energy, and also representing PSE
23 in this case is David Steele.

24 JUDGE CHARTOFF: Thank you.

25 And Staff?

1 MR. CASEY: Good afternoon, Your Honors. My
2 name is Christopher Casey, Assistant Attorney General,
3 for Commission Staff. And also representing Commission
4 Staff in this case is Jeff Roberson, Harry Fukano, and
5 Joseph Dallas, and all have already put in notices of
6 appearance.

7 JUDGE CHARTOFF: Thank you.
8 Public Counsel?

9 MS. GAFKEN: Good afternoon. I'm Lisa
10 Gafken, Assistant Attorney General, appearing on behalf
11 of Public Counsel. And also appearing with me in this
12 matter will be Nina Suetake.

13 JUDGE CHARTOFF: Thank you.
14 Looks like The Energy Project?

15 MR. FFITCH: Good afternoon, Your Honors.
16 Simon ffitch appearing on behalf of The Energy Project.

17 JUDGE CHARTOFF: AWEC?

18 MR. PEPPLER: Good afternoon. Tyler Pepple
19 for the Alliance of Western Energy Consumers.

20 JUDGE CHARTOFF: Thank you.
21 And Federal Executive Agencies?

22 MS. LIOTTA: Good afternoon, Your Honors.
23 This is Rita Liotta on behalf of the FEA.

24 JUDGE CHARTOFF: Thank you.
25 Do I have Nucor Steel Seattle?

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1 MR. MOHLER: Yes, Your Honor. This is Shaun
2 Mohler from the law firm of Stone Mattheis Xenopoulos &
3 Brew, appearing for Nucor Seattle. And also will be
4 appearing Damon Xenopoulos from our firm.

5 JUDGE CHARTOFF: Thank you.

6 And is there anyone else present in the room
7 or on the bridge line who would like to enter an
8 appearance?

9 Okay. Hearing nothing, that brings us to
10 the petitions to intervene. So far The Energy Project,
11 AWEC, Federal Executive Agencies, and Nucor Steel
12 Seattle have all filed petitions for intervention. Is
13 there anyone else seeking to intervene in this
14 proceeding? Okay. Hearing nothing, is there an
15 objection to any petition to intervene? Okay. Hearing
16 nothing, those petitions are granted.

17 Okay. A few more housekeeping matters. We
18 have already entered a standard protective order and the
19 discovery rules are available.

20 So I would like to address the issue of
21 service. If any party has not yet designated a lead
22 representative for service, please do so via email to
23 Judge Pearson and me as soon as possible.

24 And if there are any other -- with regard to
25 the service list, if there are any other representatives

1 or support staff who should receive electronic courtesy
2 copies for all documents filed in this proceeding,
3 please email that to us as well. However, for those
4 parties who are in the room today, I made -- I have two
5 draft service lists, which I'll leave on counsel table,
6 and if you could take a look at it, make any edits
7 directly to the draft, that would be very helpful. So
8 we can do that at the break.

9 MR. FFITCH: Your Honor?

10 JUDGE CHARTOFF: Yes.

11 MR. FFITCH: Simon ffitch for The Energy
12 Project. We sent an email alerting folks to this that
13 we inadvertently included an out-of-date email address
14 and phone number in our petition to intervene for
15 Mr. Collins. And so we have attempted to remedy that
16 already by email, but I just wanted to, in the excess of
17 caution, flag that again and we'll make the correction
18 as you requested today.

19 JUDGE CHARTOFF: Okay. Thank you.

20 Okay. A few more things. Electronic
21 service. So as a reminder, the Commission has adopted
22 new procedural rules that provide for electronic service
23 of all documents. So absent the request for paper
24 service, the Commission will only serve documents
25 electronically. I also want to remind everyone that the

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1 new rules require parties to serve each other by
2 delivering electronic copies. Paper copies are not
3 sufficient, but paper copies can be delivered to a party
4 that requests paper in addition to the electronic copy.

5 Filing will be in accordance with Commission
6 rules. The Commission requires electronic filing of
7 documents for formal filings; however, in this case, the
8 Commission will also require the original and four paper
9 copies to be filed with the Commission for internal
10 distribution. If filings include information designated
11 as confidential or highly confidential, please file the
12 original and four copies of the fully unredacted
13 version, the original and one copy of any partly
14 redacted version, and the original and one copy of the
15 fully redacted version.

16 And lastly, now I want to address the usual
17 first data requests that parties send out to every other
18 party requesting that every data request and any
19 response to that request be copied to that party. We
20 intend to address this in the prehearing conference
21 order to require that parties send data requests and
22 responses to every other party. So is there any
23 objection to us including that in the order? No.
24 Hearing nothing, we will include that in the prehearing
25 conference order, and now I'm going to turn the rest of

1 the hearing over to Rayne Pearson.

2 JUDGE PEARSON: Okay. So we spoke briefly
3 before the hearing, we were off the record, about the
4 proposed procedural schedules, and it is our
5 understanding that the parties have not reached an
6 agreement on a procedural schedule. We have PSE's
7 proposed schedule that was filed with its original case,
8 and then Public Counsel has proposed a schedule with the
9 hearing date the week of March 18th. And Staff, AWEC,
10 and The Energy Project seem to prefer Staff's schedule
11 but are okay with the Company's schedule; is that
12 accurate? Or AWEC, you prefer Staff, Public Counsel's
13 schedule?

14 MR. PEPPLER: Our position was consistent
15 with Staff's and The Energy Project.

16 JUDGE PEARSON: Okay.

17 MR. PEPPLER: I would say that we would
18 prefer the Public Counsel schedule, but we do not oppose
19 PSE's.

20 JUDGE PEARSON: Okay. All right. So
21 another question I had is, I don't see built into either
22 schedule a public comment hearing.

23 So, Ms. Gafken, did you want to address
24 that?

25 MS. GAFKEN: I was planning on addressing

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1 that, and I didn't put in a date or a proposed date, but
2 I would like to propose that we do hold public comment
3 hearings. As you know, under WAC 480-07-498, the
4 Commission has the authority to convene one or more
5 public comment hearings. Our proposal is that the
6 Commission hold two.

7 So 50 percent of Puget's service territory
8 is in King County and then 50 percent of their service
9 territory is spread throughout the rest of Western
10 Washington. We would propose that one of those public
11 comment hearings be held in King County in Bellevue and
12 the other one be held in Olympia. I would also propose
13 that Public Counsel work with Andrew Roberts of
14 Commission Staff about scheduling those public comment
15 hearings.

16 JUDGE PEARSON: Okay. So based on feedback
17 from the Commissioners, they want to do one public
18 comment hearing and their preference would be to do it
19 here in Olympia. Maybe the evening after the
20 evidentiary hearing depending. So just bear that in
21 mind when you all are discussing schedule.

22 MS. GAFKEN: Okay.

23 JUDGE PEARSON: It was definitely one. They
24 are open to doing it, but their preference is to do it
25 in Olympia. So I would just schedule that accordingly.

1 MR. CASEY: Your Honor, is their preference
2 to do it after the hearing?

3 JUDGE PEARSON: That was something that was
4 just suggested by one of them. I think they would be
5 fine with that but...

6 MR. CASEY: Okay. Thank you.

7 MS. GAFKEN: And I know --

8 JUDGE PEARSON: Another day would be fine
9 too.

10 MS. GAFKEN: And I know we've done public
11 comment hearings in the evening after the evidentiary
12 hearing before in other matters. I don't have a
13 fundamental objection either way on that.

14 JUDGE PEARSON: Okay.

15 MS. GAFKEN: So long as there is one.

16 JUDGE PEARSON: Right. And it looks like
17 both of the parties -- or all of the parties agree that
18 this will only take one day; is that correct? We
19 anticipate only one day for the hearing?

20 MS. STROM CARSON: That's correct.

21 JUDGE PEARSON: Okay. All right. Well,
22 bearing that in mind, we also had an opportunity to
23 speak with the Commissioners about a preferred hearing
24 date. Their timeline matches up more closely with
25 Public Counsel's proposed schedule. We have some

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1 hearing dates for you all to choose from, and then we
2 can take a break, and working with those dates in mind,
3 we can build a procedural schedule backwards from there.
4 And the dates are March 19th, March 20th, March 21st,
5 March 25th, and March 26th.

6 So now that we have provided you with that
7 information, we will take a recess and allow the parties
8 a chance to reach an agreement on a full schedule.

9 And we will be in our office, Mr. Casey, if
10 you could come let us know when you all are ready.

11 MS. STROM CARSON: May I address you ALJs,
12 please?

13 JUDGE PEARSON: Sure.

14 MS. STROM CARSON: I guess it's important
15 for PSE to know if that is a decision that the
16 Commission has made that we will not be able to do the
17 120-day schedule, because this was an important term for
18 PSE in its last general rate case settlement. This was
19 a negotiated term. PSE gave up other things for the
20 ability to have an ERF to be filed within one year and
21 for parties to support or not oppose a 120-day schedule,
22 and nearly every party to the general rate case in 2017
23 agreed to that. And as you heard here, they are not
24 opposing that 120-day schedule with -- with rates to be
25 in effect 120 days after the filing. And indeed they

1 shouldn't because they all agreed to it and they all got
2 benefits from the settlement as a result of that.

3 So some of that was lower ROE, some of that
4 was more revenue requirements, some of that was
5 increased funding for low energy, low -- low income for
6 The Energy Project. So there -- there were a lot of
7 benefits that were negotiated on the other end in
8 exchange for PSE having the right to an ERF with an
9 expedited schedule. And the problem with increasing the
10 timeline for this is you lose the benefits of having an
11 expedited rate filing.

12 With an expedited rate filing, PSE doesn't
13 have the opportunity for pro forma adjustments. And so
14 the longer this drags out, in terms of a, quote,
15 expedited rate filing, when it turns into six months,
16 seven months, it's losing the benefit. And it's doing
17 away with the value of having this tool in the
18 Commissioners' toolbox of an expedited rate filing. So,
19 you know, this has been done in the past on a shortened
20 schedule in 2013. It was very successful and, you know,
21 we encourage the Commission to allow this to go forward
22 on a truly expedited schedule.

23 JUDGE PEARSON: Okay. Well, thank you for
24 your comments. And just actually to speak to Public
25 Counsel's proposed dates, this is a proposed date of

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1 final order of May 24th. This schedule that Judge
2 Chartoff and I developed would have a proposed final
3 order out by May 8th, so it would be 60 additional days.
4 And the simultaneous briefing would be a little bit
5 shorter in term of time between that and the hearing.

6 But, again, you know, we did speak with all
7 three Commissioners, and there was a two-to-one decision
8 that this schedule would work better for both our
9 staffing needs, resources, other things that are going
10 on right now.

11 MS. STROM CARSON: Okay. Well, just for the
12 record, I note PSE's objection to this.

13 JUDGE PEARSON: Okay. It's noted. So we
14 will be in recess.

15 And, Mr. Casey, if you will come get us.
16 Thank you.

17 (Recess taken from 2:17 p.m.
18 until 2:48 p.m.)

19 JUDGE PEARSON: Okay. We will be back on
20 the record following a brief recess, and I understand
21 that the parties have agreed to a procedural schedule?

22 MS. GAFKEN: We have agreed to a procedural
23 schedule.

24 JUDGE PEARSON: Okay.

25 MS. STROM CARSON: Offer the objection of

1 PSE.

2 JUDGE PEARSON: Correct. And I just wanted
3 to say something actually. I don't know if you built
4 the public comment hearing into the schedule or if you
5 have it for the same day as the hearing?

6 MS. GAFKEN: We have a proposal.

7 JUDGE PEARSON: Okay. Because my thought
8 was and what I wanted to let the Company know is that in
9 the event that the parties are able to reach a
10 settlement, we can definitely find probably a two- to
11 three-hour chunk of time where all the Commissioners and
12 Judge Chartoff and I are available sooner than the
13 hearing dates that we proposed where we could hold a
14 settlement hearing. So it may be possible to accomplish
15 this in a shorter time period.

16 MS. STROM CARSON: Great. Thank you. We
17 appreciate that.

18 JUDGE PEARSON: Okay. Ms. Gafken, did you
19 want to read the schedule into the record?

20 MS. GAFKEN: Sure, I also placed a schedule
21 up there with handwritten notes so you can follow along,
22 but I only have one.

23 JUDGE PEARSON: Oh, okay. Thank you.

24 MS. GAFKEN: But we -- so we built off of
25 the schedule that I had proposed.

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1 JUDGE PEARSON: Okay.

2 MS. GAFKEN: With a March 20th hearing date.

3 We are planning on having a settlement conference on
4 January 15th.

5 JUDGE PEARSON: Okay.

6 MS. GAFKEN: Staff and intervenor response
7 testimony will be due on January 25th. These are all
8 2019 dates. Rebuttal and cross-answering testimony
9 would be due on February 22nd, with the discovery
10 cut-off on March 5th, 2019; cross-exhibits and estimates
11 would come in on March 13th; hearing would be March
12 20th; and simultaneous briefing on April 10th.

13 JUDGE PEARSON: Okay. And with the public
14 comment hearing TBD?

15 MS. GAFKEN: Right. Either -- so our
16 thinking was that it could either be held on the night
17 of the 20th after the hearing.

18 JUDGE PEARSON: Okay.

19 MS. GAFKEN: Or perhaps on the 21st if it
20 turns out that the 20th is going to be a full hearing
21 day.

22 JUDGE PEARSON: Okay.

23 MS. GAFKEN: It's totally up to the
24 Commission's preference I think.

25 JUDGE PEARSON: Okay. Well, typically,

1 though, do you like to have those -- you know, if this
2 does move towards settlement, we would rather have it
3 sooner than that and not miss out on it if the parties
4 were to reach a settlement before that date arrived or
5 does that matter to you?

6 MS. GAFKEN: Well, I think we would still
7 have a public comment hearing even if we have a
8 settlement.

9 JUDGE PEARSON: Okay.

10 MS. GAFKEN: That typically happens in the
11 cases.

12 JUDGE PEARSON: Okay.

13 MS. GAFKEN: So I think we should just
14 schedule the public comment hearing as we would based on
15 the --

16 JUDGE PEARSON: Okay.

17 MS. GAFKEN: -- schedule that makes sense
18 and then carry forward. If any modifications need to
19 happen later, we can do that.

20 JUDGE PEARSON: Okay.

21 MS. GAFKEN: A couple other things to note,
22 we -- we talked about discovery response time and we've
23 agreed to seven business days before response testimony,
24 five business days after response testimony, and three
25 business days after rebuttal and cross-answering

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1 testimony. We've also agreed among ourselves that work
2 papers would be filed simultaneously with testimony.

3 JUDGE PEARSON: Okay. So at this point,
4 when we are putting together the prehearing conference
5 order, should we just put the public comment hearing as
6 TBD or do you want us to choose a date?

7 MS. GAFKEN: I don't have a preference
8 either way.

9 JUDGE PEARSON: Okay.

10 MS. GAFKEN: It's oftentimes TBD in the
11 order, the prehearing conference order, and then it's
12 scheduled later.

13 JUDGE PEARSON: Okay. That works for us.
14 And is there anything else that we need to address while
15 we're here today?

16 MS. GAFKEN: No.

17 JUDGE PEARSON: Okay. So we will issue an
18 order shortly that reflects all of the things that we
19 have talked about today and we are adjourned. Thank
20 you.

21 (Adjourned at 2:52 p.m.)

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STATE OF WASHINGTON
COUNTY OF THURSTON

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



Tayler Garlinghouse

Tayler Garlinghouse, CCR 3358

