

# **WUTC v. Washington Water Supply, Inc.**

**Docket Nos. UW-240079 and UW-230598 - Vol. I**

**May 13, 2024**



1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101  
Bellingham | Everett | Tacoma | Olympia | Yakima | Spokane  
Seattle 206.287.9066 Tacoma 253.235.0111 Eastern Washington 509.624.3261

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BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND )  
TRANSPORTATION COMMISSION, )  
)  
Complainant, )  
)  
vs. )DOCKETS UW-240079  
)and UW-230598  
) (Consolidated)  
)  
WASHINGTON WATER SUPPLY, INC., )  
)  
Respondent. )  
)

PREHEARING CONFERENCE - VOL I  
PAGES 1 - 18  
BEFORE ADMINISTRATIVE LAW JUDGE  
CONNOR THOMPSON

Washington Utilities and Transportation Commission  
621 Woodland Square Loop SE  
Lacey, Washington 98504

DATE HELD: May 13, 2024  
TRANSCRIBED BY: ELIZABETH PATTERSON HARVEY, FAPR, RPR,  
WA CCR 2731

1 May 13, 2024 1:31 p.m.  
2 -o0o-

3  
4 JUDGE THOMPSON: On the record. Thank you.  
5 Good afternoon. We're now on the record. The time is  
6 1:31 p.m. My name is Connor Thompson, and I am an  
7 administrative law judge with the Washington Utilities  
8 and Transportation Commission.

9 We are here today for a prehearing conference  
10 in Dockets UW-230598 and UW-240079, consolidated,  
11 captioned respectively In Re Washington Water Supply,  
12 Inc., to approve tariff provisions regarding a temporary  
13 surcharge for recovery of purchased water expenses in  
14 Washington Utilities and Transportation Commission versus  
15 Washington Water Supply, Inc.

16 And I believe I actually -- I think I have it  
17 wrong. I think it's actually tariff revisions regarding  
18 a temporary surcharge for well recovery or work on the  
19 well.

20 Let's go ahead and start by taking  
21 appearances. And we'll start with staff.

22 ATTORNEY GAFKEN: Good afternoon. My name is  
23 Lisa Gafken, assistant attorney general appearing on  
24 behalf of staff, along with Assistant Attorney General  
25 Cassandra Jones.

1 A P P E A R A N C E S:

2 FOR COMMISSION STAFF:

3 Lisa W. Gafken  
4 lisa.gafken@atg.wa.gov  
5 Attorney General of Washington  
6 800 Fifth Avenue, Suite 2000  
7 Seattle, Washington 98104  
8 206.464.7740

9 FOR THE RESPONDENT:

10 Alysa Marie Grimes  
11 alysa@silverdalelawyers.com  
12 Bagwell Law, PLLC  
13 9057 Washington Ave NW Ste 103  
14 Silverdale, Washington 98383  
15 360.516.6799  
16  
17  
18  
19  
20  
21  
22  
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1 JUDGE THOMPSON: Thank you. And the company?

2 ATTORNEY GRIMES: Good afternoon. My name is  
3 Alysa Grimes from Bagwell Law representing Washington  
4 Water Supply, Inc.

5 JUDGE THOMPSON: Okay. Thank you.

6 And Ms. Grimes, do you know if Mr. Ellerbee  
7 is still involved in the case, or has it moved to just  
8 you and Mr. Bagwell?

9 ATTORNEY GRIMES: Mr. Bagwell and I are  
10 taking primary on this, but Mr. Ellerbee is still  
11 attached to the case.

12 JUDGE THOMPSON: Okay. I just wanted to  
13 check for service list. So thank you for clarifying  
14 that.

15 ATTORNEY GRIMES: You're welcome.

16 JUDGE THOMPSON: Do we have any intervenors  
17 here today? I didn't see any petitions for intervention  
18 in the docket.

19 We'll look at our participants. I do not see  
20 any potential intervenors in the room. And so we will go  
21 ahead and proceed.

22 I believe that Order 01/02, which suspended  
23 the tariff revisions in Docket UW-240079 made discovery  
24 available to the parties. If you're looking for that  
25 reference, I believe it's in paragraph 30 of the order.

Page 5	Page 7
<p>1 So discovery is already available to the parties.                  2 However, I wanted to check with the parties                  3 to see if you'd like me to clarify that or include that                  4 in the prehearing conference order, or to check if                  5 discovery has already started amongst the parties.                  6 ATTORNEY GAFKEN: I think it would be helpful                  7 to have it in the prehearing conference order, just to                  8 have everything in one place, even if it did appear in                  9 the initial order in 01/02.                  10 I don't believe we've started active                  11 discovery yet amongst the parties. But it's certainly                  12 something that would be helpful and useful.                  13 JUDGE THOMPSON: Okay. I'll go ahead and                  14 include that in the prehearing conference order.                  15 And would the parties like a protective order                  16 in this docket?                  17 I'll start with the company because you're                  18 the one who likely has sensitive information if it needs                  19 to be protected.                  20 ATTORNEY GRIMES: We aren't looking for a                  21 protective order at this time. Thank you, your Honor.                  22 JUDGE THOMPSON: Okay. And is that okay with                  23 staff?                  24 ATTORNEY GAFKEN: That's fine with staff. If                  25 the need arises later during the case, I'm sure parties</p>	<p>1 ATTORNEY GAFKEN: Okay.                  2 JUDGE THOMPSON: -- if that works for the                  3 parties. And we can sort of work with that date for now.                  4 ATTORNEY GAFKEN: Okay. I guess one other                  5 thing that we wanted to confirm, so we're looking at the                  6 suspension date for this case. And RCW 80.04.130 says                  7 ten months from when the tariff would otherwise go into                  8 effect.                  9 And the effective date for this tariff, the                  10 one in 240079 is September 1, 2024. And so that would                  11 put the suspension date at July 1, 2025.                  12 So we've crafted a schedule that goes out to                  13 that suspension date. And I guess I just wanted to make                  14 sure that the commission's on the same page with the                  15 parties on that.                  16 JUDGE THOMPSON: That's my interpretation as                  17 well, and I looked at that again this morning. And so I                  18 do believe that we have until then.                  19 My only hesitation with scheduling a hearing                  20 date too far in advance is of course the company can come                  21 back and amend filings or propose tariffs under the rate                  22 case, which may have an effective date and preceding that                  23 September 1 date, which would bump us up.                  24 But I think that with the March 18 hearing                  25 date, we will steer clear of any potential issues there,</p>
Page 6	Page 8
<p>1 can make arrangements to get one of those in place.                  2 JUDGE THOMPSON: Wonderful. Okay.                  3 Have the parties had an opportunity to discuss                  4 a procedural schedule?                  5 ATTORNEY GAFKEN: We have discussed a                  6 procedural schedule, and I think we're probably about 95                  7 percent of the way there.                  8 There's a couple of dates that we should nail                  9 down. We have a couple of settlement conferences that we                  10 could find some dates for.                  11 But I did want to check the commission's                  12 calendar. We're looking at March 18 for the evidentiary                  13 hearing.                  14 And then we're also seeking a public comment                  15 hearing. And, you know, we can either find a date for                  16 that here during this prehearing conference or schedule                  17 after as well. But that date will be dependent on the                  18 commission's calendar. So if you're already looking,                  19 maybe we can find a date for the other piece as well.                  20 JUDGE THOMPSON: Okay. I believe that March                  21 18 should work fine from the commission's perspective.                  22 I am also on one of the rate cases, which                  23 should be concluding around that time. So I don't think                  24 that this will interfere with that. So I believe that                  25 March 18 will be more than okay --</p>	<p>1 given where we're at in the calendar now. And so I think                  2 that's a good date to work with.                  3 ATTORNEY GAFKEN: Okay. And I guess to                  4 preview a little bit, I don't want to go through the                  5 entire listing of the dates quite yet. But we're looking                  6 at the first filing date to incorporate the rate case as                  7 well.                  8 So we understand that the -- considering the                  9 tariff filing under 240079 should be done in the context                  10 of a rate case. And so we've talked about having that                  11 first filing be the rate case as well as the supporting                  12 documents for the pending tariff.                  13 JUDGE THOMPSON: Okay. I think that should                  14 put us on a good track.                  15 I was curious to see what the parties felt                  16 regarding the rate case and the lack of filing at this                  17 point in time, and so I think that that puts us on a good                  18 trajectory moving forward.                  19 And, you know, depending on how things go,                  20 and where we're at once that comes in and staff has an                  21 opportunity to review that filing, I think that there is                  22 an opportunity to move up some of the dates at a later                  23 time if we feel that that would be necessary or helpful                  24 to the parties.                  25 And I say that only because March 18, 2025,</p>

Page 9

1 is quite a ways out there. And so if we get that filing  
 2 in and the parties can come to some consensus on a  
 3 limited number of issues or to limit the number of issues  
 4 that might be in dispute, then I would be more than  
 5 willing to revisit all of this and move dates around if  
 6 we need to.  
 7 ATTORNEY GAFKEN: Okay. That's good to know.  
 8 JUDGE THOMPSON: Okay. And so what I'm  
 9 hearing now is that we're 90 or 95 percent of the way  
 10 there. We're probably not going to get there today if we  
 11 do a brief recess; am I correct in that assumption?  
 12 ATTORNEY GAFKEN: No. I'm sorry. I didn't  
 13 mean to imply that.  
 14 I thought we could take a brief recess, and  
 15 then we can look at a couple of dates for the settlement  
 16 conferences.  
 17 And then we have the rest of it hammered out.  
 18 JUDGE THOMPSON: Okay. Perfect. Why don't  
 19 we go ahead and do that at this time, then. We can go  
 20 ahead and take a brief recess. I will jump off of the  
 21 Zoom, and if somebody just wants to let me know via  
 22 e-mail when you have hammered out the rest of the  
 23 schedule, then I'll come back on and we can finish.  
 24 ATTORNEY GAFKEN: Will do.  
 25 JUDGE THOMPSON: Okay. So at this time,

Page 10

1 we'll go ahead and go off the record.  
 2 (Recess.)  
 3 JUDGE THOMPSON: We are now back on the  
 4 record. The parties have agreed on a procedural  
 5 schedule, which I will go ahead and ask staff's counsel  
 6 to now read into the record.  
 7 ATTORNEY GAFKEN: Okay. The first date will  
 8 be for the company's filing on June 27, 2024. And as I  
 9 mentioned before we recessed or took a break, that we're  
 10 contemplating that the rate case filing, along with  
 11 testimony and exhibits supporting both the new general  
 12 tariff rate case and the tariff filing in 240079 would be  
 13 contemplated in that filing.  
 14 The next date is our first settlement  
 15 conference, which will take place on September 17 of  
 16 2014.  
 17 The next date is for response testimony,  
 18 which would be January 22, 2025. And at this point,  
 19 discovery responses would be due within seven business  
 20 days after that filing date.  
 21 The next event is the second settlement  
 22 conference, which will be on February 5, 2025.  
 23 The next -- well, it's usually rebuttal and  
 24 cross-answering, but I guess here we really just need  
 25 rebuttal testimony. So that will occur on February 20 of

Page 11

1 2025.  
 2 And then the public comment hearing being to  
 3 be determined.  
 4 The next deadline is the discovery deadline,  
 5 which is February 27 of 2025.  
 6 The next deadline is the cross exhibits and  
 7 cross-examination estimates, which will be March 11,  
 8 2025.  
 9 And then a hearing on May 18, 2025.  
 10 This next one --  
 11 JUDGE THOMPSON: Excuse me.  
 12 ATTORNEY GAFKEN: I'm sorry.  
 13 JUDGE THOMPSON: March 18 for the hearing?  
 14 ATTORNEY GAFKEN: March 18 for the hearing.  
 15 JUDGE THOMPSON: Okay.  
 16 ATTORNEY GAFKEN: 2025.  
 17 The next deadline addresses the briefing.  
 18 And this one, we do need to have a little bit of  
 19 discussion. And I forgot to hammer out this detail. My  
 20 apologies.  
 21 All of our briefing needs to be in by May 1  
 22 of 2025. My question is whether we need or want one or  
 23 two rounds of briefing.  
 24 So if it's just one round, we could have May 1  
 25 be the only briefing deadline.

Page 12

1 If it's two, then I would put the initial  
 2 brief at April 17, 2025, so about a month after the  
 3 hearing, with reply briefs due May 1 of 2025.  
 4 I don't have a strong feeling one way or the  
 5 other. In my view, it's really the company's preference  
 6 whether we have reply briefs or not. I will write one or  
 7 two as needed.  
 8 JUDGE THOMPSON: Okay. And how does the  
 9 company feel about that?  
 10 ATTORNEY GRIMES: We are good with one round,  
 11 your Honor.  
 12 JUDGE THOMPSON: One round. Okay. We'll go  
 13 ahead and plan for one round May 1.  
 14 ATTORNEY GAFKEN: Okay. I was going to say  
 15 we could have April 17 be the due date for that one round  
 16 of briefing. I'm also happy to keep it at May 1.  
 17 ATTORNEY GRIMES: We're fine with the 17th.  
 18 JUDGE THOMPSON: Okay. Let's go ahead and  
 19 plan on the 17th, just because this is a little further  
 20 out, and I don't know what the calendar will look like  
 21 then. The earlier might be the better in this case. And  
 22 if we need to, we can revisit that at a later date.  
 23 Okay. And so since we're doing post-hearing  
 24 briefings, I'll go ahead and assume that the parties are  
 25 not going to want to do closing oral arguments at the

1 conclusion of the hearing. Or would you also like  
 2 closing arguments at the end of the hearing?  
 3 ATTORNEY GAFKEN: Staff is not requesting  
 4 closing arguments. I think we can handle arguments on  
 5 brief.  
 6 I did want to note that I forgot one detail  
 7 with the rebuttal testimony on February 20, 2025. At  
 8 that point, discovery responses would drop down to five  
 9 business days.  
 10 JUDGE THOMPSON: Okay. And is the company  
 11 okay with waiving closing argument at the hearing as  
 12 well?  
 13 ATTORNEY GRIMES: Yes. We're fine with doing  
 14 the written closing brief.  
 15 JUDGE THOMPSON: Okay.  
 16 ATTORNEY GRIMES: Instead of the oral.  
 17 JUDGE THOMPSON: Wonderful. And for errata  
 18 sheets, the deadline for filing errata sheets to exhibits  
 19 may be established in the prehearing conference order.  
 20 Does either party have an objection to setting a deadline  
 21 a week prior to that same March 11 date for the deadline  
 22 for errata?  
 23 ATTORNEY GAFKEN: No objection from staff.  
 24 JUDGE THOMPSON: Okay.  
 25 ATTORNEY GRIMES: No objection, your Honor.

1 question.  
 2 But the docketing online is a little bit  
 3 wonky. All of the documents are showing up on UW or  
 4 UW-230598. That docket is also still showing as closed.  
 5 And then UW-240079 does not have all of the  
 6 docket -- or I'm sorry; all of the documents in that  
 7 docket.  
 8 And so really, all documents should be  
 9 showing in both places, and the earlier docket shouldn't  
 10 be closed.  
 11 So I don't know if that's something that you  
 12 can contact the records center about or if you want us  
 13 to. But I thought I would raise it today, because it's a  
 14 little wonky.  
 15 JUDGE THOMPSON: I appreciate that. I  
 16 have noticed that as well. And I will go ahead and ask  
 17 if we can get that straightened out, because there are  
 18 some filings that show up in one docket and not the  
 19 other. And so we'll go ahead and see what we can do.  
 20 ATTORNEY GAFKEN: Perfect. I appreciate  
 21 that. It's a little bit confusing for the public if  
 22 anybody want to look into those dockets.  
 23 JUDGE THOMPSON: Okay. I appreciate that.  
 24 And I appreciate the reminder. I was also thinking about  
 25 that morning.

1 JUDGE THOMPSON: Okay. I will ask that  
 2 staff, if you could please just send me a copy of the  
 3 schedule in e-mail so that I can have that. I have  
 4 everything written down, but there is always a real  
 5 chance that I made a mistake. So.  
 6 ATTORNEY GAFKEN: Yes, I will do that.  
 7 JUDGE THOMPSON: Thank you. I appreciate  
 8 that.  
 9 Just a quick reminder that documents should  
 10 be filed online through the electronic filing link. I  
 11 think that everyone is familiar with that present today.  
 12 If there is a notice of appearance that comes  
 13 in and we need to amend the master service list, please  
 14 let me know at connor.thompson@utc.wa.gov.  
 15 And if there are any errors in the service  
 16 list in the prehearing conference order, again, please  
 17 feel free to contact me by e-mail and let me know, and we  
 18 can get that amended. If there's any changes, the same  
 19 applies.  
 20 I believe with that, we've covered everything  
 21 that we need to today. Is there anything else we need to  
 22 address from the parties?  
 23 ATTORNEY GAFKEN: I just have one -- maybe  
 24 it's a strange thing, but I thought I would bring it to  
 25 your attention, and maybe this is a record center

1 Is there anything else?  
 2 ATTORNEY GRIMES: I actually have a question  
 3 on behalf of the company. And again, I'm not sure you're  
 4 the right person to ask.  
 5 But because the company is filing this  
 6 general rate case in 240079, does that meet the  
 7 requirement to file a general rate case from Order 1 in  
 8 230598 since they are now consolidated?  
 9 JUDGE THOMPSON: Yes. It will meet the  
 10 requirements to file in the consolidated. And we'll go  
 11 ahead and proceed accordingly. Generally, I think the  
 12 way that that would have been handled is the rate case  
 13 would have been assigned a separate docket number. The  
 14 condition in the earlier docket was merely a compliance  
 15 condition, and so the general rate case didn't need to be  
 16 necessarily filed in that docket. But because we've  
 17 moved forward in the way that we have, I believe that we  
 18 can go ahead and file in the consolidated docket and  
 19 proceed.  
 20 ATTORNEY GRIMES: (Inaudible).  
 21 JUDGE THOMPSON: Yes. And I think that I  
 22 will look into this just to be sure. But if we do,  
 23 depending on how the filing looks; for instance, if the  
 24 surcharge for well rehabilitation is now part of the  
 25 general rate case and is not a separate line item, and

1 the -- there seems to be a reason to assign a new docket  
2 number, then we can handle that accordingly when we get  
3 to that point.

4 But because we're in a little bit of an odd  
5 procedural position, because we're talking about an  
6 evidentiary hearing on a filing that hasn't taken place  
7 yet, we'll go ahead and proceed the way we are, and  
8 continue to move forward.

9 ATTORNEY GRIMES: Sounds great. Thank you.

10 JUDGE THOMPSON: Absolutely.

11 Okay. We'll go ahead and adjourn here in  
12 just a minute, but I'll give each party one more  
13 opportunity to raise any issues.

14 ATTORNEY GAFKEN: Nothing further for staff.

15 JUDGE THOMPSON: Okay. And I just am reading  
16 something that just came in really quickly before we  
17 close out the Zoom.

18 Okay. I think that concludes everything for  
19 today. I will go ahead and issue an order shortly  
20 containing the procedural schedule and other guidelines  
21 for this case.

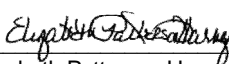
22 We are adjourned, and we may go off the  
23 record. Thank you for your participation today.

24 (Conclusion of proceedings at 1:58 p.m.)  
25

1  
2  
3 CERTIFICATE OF REPORTER)  
STATE OF WASHINGTON )  
4 ) ss  
COUNTY OF KING )  
5

6 I, Elizabeth Patterson Harvey, a Certified  
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17

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23 My license expires December 21, 2024  
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<p style="text-align: center;"><b>A</b></p> <p><b>Absolutely</b> 17:10  <b>active</b> 5:10  <b>address</b> 14:22  <b>addresses</b> 11:17  <b>adjourn</b> 17:11  <b>adjourned</b> 17:22  <b>administrative</b>              1:13 3:7  <b>advance</b> 7:20  <b>afternoon</b> 3:5,22              4:2  <b>agreed</b> 10:4  <b>ahead</b> 3:20 4:21              5:13 9:19,20 10:1              10:5 12:13,18,24              15:16,19 16:11,18              17:7,11,19  <b>Alysa</b> 2:8 4:3  <b>alysa@silverdale...</b>              2:8  <b>amend</b> 7:21 14:13  <b>amended</b> 14:18  <b>anybody</b> 15:22  <b>apologies</b> 11:20  <b>appear</b> 5:8  <b>appearance</b> 14:12  <b>appearances</b> 3:21  <b>appearing</b> 3:23  <b>applies</b> 14:19  <b>appreciate</b> 14:7              15:15,20,23,24  <b>approve</b> 3:12  <b>April</b> 12:2,15  <b>argument</b> 13:11  <b>arguments</b> 12:25              13:2,4,4  <b>arises</b> 5:25  <b>arrangements</b> 6:1  <b>assign</b> 17:1  <b>assigned</b> 16:13  <b>assistant</b> 3:23,24  <b>assume</b> 12:24  <b>assumption</b> 9:11  <b>attached</b> 4:11</p>	<p><b>attention</b> 14:25  <b>attorney</b> 2:4 3:22              3:23,24 4:2,9,15              5:6,20,24 6:5 7:1              7:4 8:3 9:7,12,24              10:7 11:12,14,16              12:10,14,17 13:3              13:13,16,23,25              14:6,23 15:20              16:2,20 17:9,14              18:13  <b>available</b> 4:24 5:1  <b>Ave</b> 2:9  <b>Avenue</b> 2:5</p> <hr/> <p style="text-align: center;"><b>B</b></p> <p><b>back</b> 7:21 9:23 10:3  <b>Bagwell</b> 2:9 4:3,8,9  <b>behalf</b> 3:24 16:3  <b>believe</b> 3:16 4:22              4:25 5:10 6:20,24              7:18 14:20 16:17  <b>better</b> 12:21  <b>bit</b> 8:4 11:18 15:2              15:21 17:4  <b>break</b> 10:9  <b>brief</b> 9:11,14,20              12:2 13:5,14  <b>briefing</b> 11:17,21              11:23,25 12:16  <b>briefings</b> 12:24  <b>briefs</b> 12:3,6  <b>bring</b> 14:24  <b>bump</b> 7:23  <b>business</b> 10:19 13:9</p> <hr/> <p style="text-align: center;"><b>C</b></p> <p><b>C</b> 2:1  <b>calendar</b> 6:12,18              8:1 12:20  <b>captioned</b> 3:11  <b>case</b> 4:7,11 5:25 7:6              7:22 8:6,10,11,16              10:10,12 12:21              16:6,7,12,15,25              17:21</p>	<p><b>cases</b> 6:22  <b>Cassandra</b> 3:25  <b>CCR</b> 1:25 18:21  <b>center</b> 14:25 15:12  <b>certainly</b> 5:11  <b>CERTIFICATE</b>              18:3  <b>Certified</b> 18:6,22  <b>certify</b> 18:9  <b>chance</b> 14:5  <b>changes</b> 14:18  <b>check</b> 4:13 5:2,4              6:11  <b>clarify</b> 5:3  <b>clarifying</b> 4:13  <b>clear</b> 7:25  <b>close</b> 17:17  <b>closed</b> 15:4,10  <b>closing</b> 12:25 13:2              13:4,11,14  <b>come</b> 7:20 9:2,23  <b>comes</b> 8:20 14:12  <b>comment</b> 6:14 11:2  <b>Commission</b> 1:2,3              1:16 2:2 3:8,14  <b>commission's</b> 6:11              6:18,21 7:14  <b>company</b> 4:1 5:17              7:20 12:9 13:10              16:3,5  <b>company's</b> 10:8              12:5  <b>Complainant</b> 1:4  <b>compliance</b> 16:14  <b>concludes</b> 17:18  <b>concluding</b> 6:23  <b>conclusion</b> 13:1              17:24  <b>condition</b> 16:14,15  <b>conference</b> 1:11 3:9              5:4,7,14 6:16              10:15,22 13:19              14:16  <b>conferences</b> 6:9              9:16</p>	<p><b>confirm</b> 7:5  <b>confusing</b> 15:21  <b>Connor</b> 1:14 3:6  <b>connor.thomпсо...</b>              14:14  <b>consensus</b> 9:2  <b>considering</b> 8:8  <b>consolidated</b> 1:6              3:10 16:8,10,18  <b>contact</b> 14:17 15:12  <b>containing</b> 17:20  <b>contemplated</b>              10:13  <b>contemplating</b>              10:10  <b>context</b> 8:9  <b>continue</b> 17:8  <b>copy</b> 14:2  <b>correct</b> 9:11  <b>counsel</b> 10:5 18:13  <b>COUNTY</b> 18:4  <b>couple</b> 6:8,9 9:15  <b>course</b> 7:20  <b>Court</b> 18:7,22  <b>covered</b> 14:20  <b>crafted</b> 7:12  <b>cross</b> 11:6  <b>cross-answering</b>              10:24  <b>cross-examination</b>              11:7  <b>curious</b> 8:15</p> <hr/> <p style="text-align: center;"><b>D</b></p> <p><b>date</b> 1:23 6:15,17              6:19 7:3,6,9,11,13              7:20,22,23,25 8:2              8:6 10:7,14,17,20              12:15,22 13:21  <b>dates</b> 6:8,10 8:5,22              9:5,15  <b>day</b> 18:16  <b>days</b> 10:20 13:9  <b>deadline</b> 11:4,4,6              11:17,25 13:18,20              13:21</p>	<p><b>December</b> 18:24  <b>dependent</b> 6:17  <b>depending</b> 8:19              16:23  <b>detail</b> 11:19 13:6  <b>determined</b> 11:3  <b>direction</b> 18:10  <b>discovery</b> 4:23 5:1              5:5,11 10:19 11:4              13:8  <b>discuss</b> 6:3  <b>discussed</b> 6:5  <b>discussion</b> 11:19  <b>dispute</b> 9:4  <b>docket</b> 4:18,23 5:16              15:4,6,7,9,18              16:13,14,16,18              17:1  <b>docketing</b> 15:2  <b>dockets</b> 1:5 3:10              15:22  <b>documents</b> 8:12              14:9 15:3,6,8  <b>doing</b> 12:23 13:13  <b>drop</b> 13:8  <b>due</b> 10:19 12:3,15</p> <hr/> <p style="text-align: center;"><b>E</b></p> <p><b>E</b> 2:1,1  <b>e-mail</b> 9:22 14:3,17  <b>earlier</b> 12:21 15:9              16:14  <b>effect</b> 7:8  <b>effective</b> 7:9,22  <b>either</b> 6:15 13:20  <b>electronic</b> 14:10              18:11  <b>Elizabeth</b> 1:24 18:6              18:21  <b>Ellerbee</b> 4:6,10  <b>employed</b> 18:13  <b>employee</b> 18:12  <b>entire</b> 8:5  <b>errata</b> 13:17,18,22  <b>errors</b> 14:15  <b>established</b> 13:19</p>
---	---	---	--	--

<p><b>estimates</b> 11:7  <b>event</b> 10:21  <b>evidentiary</b> 6:12                  17:6  <b>Excuse</b> 11:11  <b>exhibits</b> 10:11 11:6                  13:18  <b>expenses</b> 3:13  <b>expires</b> 18:24</p> <hr/> <p style="text-align: center;"><b>F</b></p> <p><b>familiar</b> 14:11  <b>FAPR</b> 1:24  <b>far</b> 7:20  <b>February</b> 10:22,25                  11:5 13:7  <b>feel</b> 8:23 12:9 14:17  <b>feeling</b> 12:4  <b>felt</b> 8:15  <b>Fifth</b> 2:5  <b>file</b> 16:7,10,18  <b>filed</b> 14:10 16:16  <b>filing</b> 8:6,9,11,16                  8:21 9:1 10:8,10                  10:12,13,20 13:18                  14:10 16:5,23                  17:6  <b>filings</b> 7:21 15:18  <b>financially</b> 18:14  <b>find</b> 6:10,15,19  <b>fine</b> 5:24 6:21                  12:17 13:13  <b>finish</b> 9:23  <b>first</b> 8:6,11 10:7,14  <b>five</b> 13:8  <b>foregoing</b> 18:9  <b>forgot</b> 11:19 13:6  <b>format</b> 18:12  <b>forward</b> 8:18 16:17                  17:8  <b>free</b> 14:17  <b>further</b> 12:19 17:14</p> <hr/> <p style="text-align: center;"><b>G</b></p> <p><b>Gafken</b> 2:3 3:22,23                  5:6,24 6:5 7:1,4</p>	<p>8:3 9:7,12,24 10:7                  11:12,14,16 12:14                  13:3,23 14:6,23                  15:20 17:14  <b>general</b> 2:4 3:23,24                  10:11 16:6,7,15                  16:25  <b>Generally</b> 16:11  <b>give</b> 17:12  <b>given</b> 8:1  <b>go</b> 3:20 4:20 5:13                  7:7 8:4,19 9:19,19                  10:1,1,5 12:12,18                  12:24 15:16,19                  16:10,18 17:7,11                  17:19,22  <b>goes</b> 7:12  <b>going</b> 9:10 12:14,25  <b>good</b> 3:5,22 4:2 8:2                  8:14,17 9:7 12:10  <b>great</b> 17:9  <b>Grimes</b> 2:8 4:2,3,6                  4:9,15 5:20 12:10                  12:17 13:13,16,25                  16:2,20 17:9  <b>guess</b> 7:4,13 8:3                  10:24  <b>guidelines</b> 17:20</p> <hr/> <p style="text-align: center;"><b>H</b></p> <p><b>hammer</b> 11:19  <b>hammered</b> 9:17,22  <b>hand</b> 18:16  <b>handle</b> 13:4 17:2  <b>handled</b> 16:12  <b>happy</b> 12:16  <b>Harvey</b> 1:24 18:6                  18:21  <b>hearing</b> 6:13,15                  7:19,24 9:9 11:2,9                  11:13,14 12:3                  13:1,2,11 17:6  <b>HELD</b> 1:23  <b>helpful</b> 5:6,12 8:23  <b>hereto</b> 18:13  <b>hereunto</b> 18:15</p>	<p><b>hesitation</b> 7:19  <b>Honor</b> 5:21 12:11                  13:25</p> <hr/> <p style="text-align: center;"><b>I</b></p> <p><b>imply</b> 9:13  <b>Inaudible</b> 16:20  <b>include</b> 5:3,14  <b>incorporate</b> 8:6  <b>information</b> 5:18  <b>initial</b> 5:9 12:1  <b>instance</b> 16:23  <b>interested</b> 18:14  <b>interfere</b> 6:24  <b>interpretation</b> 7:16  <b>intervenor</b> 4:16,20  <b>intervention</b> 4:17  <b>involved</b> 4:7  <b>issue</b> 17:19  <b>issues</b> 7:25 9:3,3                  17:13  <b>item</b> 16:25</p> <hr/> <p style="text-align: center;"><b>J</b></p> <p><b>January</b> 10:18  <b>Jones</b> 3:25  <b>judge</b> 1:13 3:4,7                  4:1,5,12,16 5:13                  5:22 6:2,20 7:2,16                  8:13 9:8,18,25                  10:3 11:11,13,15                  12:8,12,18 13:10                  13:15,17,24 14:1                  14:7 15:15,23                  16:9,21 17:10,15  <b>July</b> 7:11  <b>jump</b> 9:20  <b>June</b> 10:8</p> <hr/> <p style="text-align: center;"><b>K</b></p> <p><b>keep</b> 12:16  <b>KING</b> 18:4  <b>know</b> 4:6 6:15 8:19                  9:7,21 12:20                  14:14,17 15:11</p>	<p style="text-align: center;"><b>L</b></p> <p><b>Lacey</b> 1:17  <b>lack</b> 8:16  <b>law</b> 1:13 2:9 3:7 4:3  <b>legal</b> 18:9  <b>Let's</b> 3:20 12:18  <b>license</b> 18:24  <b>limit</b> 9:3  <b>limited</b> 9:3  <b>line</b> 16:25  <b>link</b> 14:10  <b>Lisa</b> 2:3 3:23  <b>lisa.gafken@atg....</b>                  2:4  <b>list</b> 4:13 14:13,16  <b>listing</b> 8:5  <b>little</b> 8:4 11:18                  12:19 15:2,14,21                  17:4  <b>look</b> 4:19 9:15                  12:20 15:22 16:22  <b>looked</b> 7:17  <b>looking</b> 4:24 5:20                  6:12,18 7:5 8:5  <b>looks</b> 16:23  <b>Loop</b> 1:16</p> <hr/> <p style="text-align: center;"><b>M</b></p> <p><b>March</b> 6:12,20,25                  7:24 8:25 11:7,13                  11:14 13:21  <b>Marie</b> 2:8  <b>master</b> 14:13  <b>mean</b> 9:13  <b>meet</b> 16:6,9  <b>mentioned</b> 10:9  <b>merely</b> 16:14  <b>minute</b> 17:12  <b>mistake</b> 14:5  <b>month</b> 12:2  <b>months</b> 7:7  <b>morning</b> 7:17                  15:25  <b>move</b> 8:22 9:5 17:8  <b>moved</b> 4:7 16:17</p>	<p><b>moving</b> 8:18</p> <hr/> <p style="text-align: center;"><b>N</b></p> <p><b>N</b> 2:1  <b>nail</b> 6:8  <b>name</b> 3:6,22 4:2  <b>necessarily</b> 16:16  <b>necessary</b> 8:23  <b>need</b> 5:25 9:6 10:24                  11:18,22 12:22                  14:13,21,21 16:15  <b>needed</b> 12:7  <b>needs</b> 5:18 11:21  <b>new</b> 10:11 17:1  <b>note</b> 13:6  <b>notice</b> 14:12  <b>noticed</b> 15:16  <b>number</b> 9:3,3 16:13                  17:2  <b>NW</b> 2:9</p> <hr/> <p style="text-align: center;"><b>O</b></p> <p><b>o0o-</b> 3:2  <b>objection</b> 13:20,23                  13:25  <b>occur</b> 10:25  <b>odd</b> 17:4  <b>okay</b> 4:5,12 5:13,22                  5:22 6:2,20,25 7:1                  7:4 8:3,13 9:7,8                  9:18,25 10:7                  11:15 12:8,12,14                  12:18,23 13:10,11                  13:15,24 14:1                  15:23 17:11,15,18  <b>once</b> 8:20  <b>online</b> 14:10 15:2  <b>opportunity</b> 6:3                  8:21,22 17:13  <b>oral</b> 12:25 13:16  <b>order</b> 4:22,25 5:4,7                  5:9,14,15,21                  13:19 14:16 16:7                  17:19  <b>outcome</b> 18:14</p>
--	---	---	--	---



<p style="text-align: center;"><b>P</b></p> <p><b>P</b> 2:1,1  <b>p.m</b> 3:1,6 17:24  <b>page</b> 7:14  <b>PAGES</b> 1:12  <b>paragraph</b> 4:25  <b>part</b> 16:24  <b>participants</b> 4:19  <b>participation</b> 17:23  <b>parties</b> 4:24 5:1,2,5  5:11,15,25 6:3 7:3  7:15 8:15,24 9:2  10:4 12:24 14:22  18:13  <b>party</b> 13:20 17:12  <b>Patterson</b> 1:24 18:6  18:21  <b>penalty</b> 18:9  <b>pending</b> 8:12  <b>percent</b> 6:7 9:9  <b>Perfect</b> 9:18 15:20  <b>perjury</b> 18:9  <b>person</b> 16:4  <b>perspective</b> 6:21  <b>petitions</b> 4:17  <b>piece</b> 6:19  <b>place</b> 5:8 6:1 10:15  17:6  <b>places</b> 15:9  <b>plan</b> 12:13,19  <b>please</b> 14:2,13,16  <b>PLLC</b> 2:9  <b>point</b> 8:17 10:18  13:8 17:3  <b>position</b> 17:5  <b>post-hearing</b> 12:23  <b>potential</b> 4:20 7:25  <b>preceding</b> 7:22  <b>preference</b> 12:5  <b>prehearing</b> 1:11  3:9 5:4,7,14 6:16  13:19 14:16  <b>present</b> 14:11  <b>preview</b> 8:4  <b>primary</b> 4:10</p>	<p><b>prior</b> 13:21  <b>probably</b> 6:6 9:10  <b>procedural</b> 6:4,6  10:4 17:5,20  <b>proceed</b> 4:21 16:11  16:19 17:7  <b>proceedings</b> 17:24  <b>Professional</b> 18:7  <b>propose</b> 7:21  <b>proprietary</b> 18:11  <b>protected</b> 5:19  <b>protective</b> 5:15,21  <b>provisions</b> 3:12  <b>public</b> 6:14 11:2  15:21  <b>purchased</b> 3:13  <b>put</b> 7:11 8:14 12:1  <b>puts</b> 8:17</p> <hr/> <p style="text-align: center;"><b>Q</b></p> <p><b>question</b> 11:22 15:1  16:2  <b>quick</b> 14:9  <b>quickly</b> 17:16  <b>quite</b> 8:5 9:1</p> <hr/> <p style="text-align: center;"><b>R</b></p> <p><b>R</b> 2:1  <b>raise</b> 15:13 17:13  <b>rate</b> 6:22 7:21 8:6  8:10,11,16 10:10  10:12 16:6,7,12  16:15,25  <b>RCW</b> 7:6  <b>read</b> 10:6  <b>reading</b> 17:15  <b>real</b> 14:4  <b>really</b> 10:24 12:5  15:8 17:16  <b>reason</b> 17:1  <b>rebuttal</b> 10:23,25  13:7  <b>received</b> 18:11  <b>recess</b> 9:11,14,20  10:2  <b>recessed</b> 10:9</p>	<p><b>record</b> 3:4,5 10:1,4  10:6 14:25 17:23  <b>recording</b> 18:11  <b>recordings</b> 18:10  <b>records</b> 15:12  <b>recovery</b> 3:13,18  <b>reference</b> 4:25  <b>regarding</b> 3:12,17  8:16  <b>Registered</b> 18:7  <b>rehabilitation</b>  16:24  <b>relative</b> 18:12  <b>reminder</b> 14:9  15:24  <b>reply</b> 12:3,6  <b>Reporter</b> 18:3,7,7  18:22  <b>representing</b> 4:3  <b>requesting</b> 13:3  <b>requirement</b> 16:7  <b>requirements</b> 16:10  <b>respectively</b> 3:11  <b>Respondent</b> 1:8 2:7  <b>response</b> 10:17  <b>responses</b> 10:19  13:8  <b>rest</b> 9:17,22  <b>review</b> 8:21  <b>revisions</b> 3:17 4:23  <b>revisit</b> 9:5 12:22  <b>right</b> 16:4  <b>room</b> 4:20  <b>round</b> 11:24 12:10  12:12,13,15  <b>rounds</b> 11:23  <b>RPR</b> 1:24</p> <hr/> <p style="text-align: center;"><b>S</b></p> <p><b>S</b> 2:1  <b>says</b> 7:6  <b>schedule</b> 6:4,6,16  7:12 9:23 10:5  14:3 17:20  <b>scheduling</b> 7:19  <b>SE</b> 1:16</p>	<p><b>Seattle</b> 2:5  <b>second</b> 10:21  <b>see</b> 4:17,19 5:3 8:15  15:19  <b>seeking</b> 6:14  <b>send</b> 14:2  <b>sensitive</b> 5:18  <b>separate</b> 16:13,25  <b>September</b> 7:10,23  10:15  <b>service</b> 4:13 14:13  14:15  <b>set</b> 18:15  <b>setting</b> 13:20  <b>settlement</b> 6:9 9:15  10:14,21  <b>seven</b> 10:19  <b>sheets</b> 13:18,18  <b>shortly</b> 17:19  <b>show</b> 15:18  <b>showing</b> 15:3,4,9  <b>Silverdale</b> 2:10  <b>somebody</b> 9:21  <b>sorry</b> 9:12 11:12  15:6  <b>sort</b> 7:3  <b>Sounds</b> 17:9  <b>Square</b> 1:16  <b>ss</b> 18:4  <b>staff</b> 2:2 3:21,24  5:23,24 8:20 13:3  13:23 14:2 17:14  <b>staff's</b> 10:5  <b>start</b> 3:20,21 5:17  <b>started</b> 5:5,10  <b>State</b> 18:3,8,22  <b>Ste</b> 2:9  <b>steer</b> 7:25  <b>straightened</b> 15:17  <b>strange</b> 14:24  <b>strong</b> 12:4  <b>Suite</b> 2:5  <b>Supply</b> 1:7 3:11,15  4:4  <b>supporting</b> 8:11</p>	<p>10:11  <b>surcharge</b> 3:13,18  16:24  <b>sure</b> 5:25 7:14 16:3  16:22  <b>suspended</b> 4:22  <b>suspension</b> 7:6,11  7:13</p> <hr/> <p style="text-align: center;"><b>T</b></p> <p><b>take</b> 9:14,20 10:15  <b>taken</b> 17:6  <b>talked</b> 8:10  <b>talking</b> 17:5  <b>tariff</b> 3:12,17 4:23  7:7,9 8:9,12 10:12  10:12  <b>tariffs</b> 7:21  <b>temporary</b> 3:12,18  <b>ten</b> 7:7  <b>testimony</b> 10:11,17  10:25 13:7  <b>thank</b> 3:4 4:1,5,13  5:21 14:7 17:9,23  <b>thing</b> 7:5 14:24  <b>things</b> 8:19  <b>think</b> 3:16,17 5:6  6:6,23 7:24 8:1,13  8:17,21 13:4  14:11 16:11,21  17:18  <b>thinking</b> 15:24  <b>Thompson</b> 1:14 3:4  3:6 4:1,5,12,16  5:13,22 6:2,20 7:2  7:16 8:13 9:8,18  9:25 10:3 11:11  11:13,15 12:8,12  12:18 13:10,15,17  13:24 14:1,7  15:15,23 16:9,21  17:10,15  <b>thought</b> 9:14 14:24  15:13  <b>time</b> 3:5 5:21 6:23  8:17,23 9:19,25</p>
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<p><b>today</b> 3:9 4:17 9:10 14:11,21 15:13 17:19,23 <b>track</b> 8:14 <b>trajectory</b> 8:18 <b>transcribed</b> 1:24 18:10 <b>Transportation</b> 1:2 1:3,16 3:8,14 <b>two</b> 11:23 12:1,7</p> <hr/> <p style="text-align: center;"><b>U</b></p> <p><b>understand</b> 8:8 <b>useful</b> 5:12 <b>usually</b> 10:23 <b>Utilities</b> 1:2,3,16 3:7,14 <b>UW</b> 15:3 <b>UW-230598</b> 1:6 3:10 15:4 <b>UW-240079</b> 1:5 3:10 4:23 15:5</p> <hr/> <p style="text-align: center;"><b>V</b></p> <p><b>versus</b> 3:14 <b>view</b> 12:5 <b>VOL</b> 1:11 <b>vs</b> 1:5</p> <hr/> <p style="text-align: center;"><b>W</b></p> <p><b>W</b> 2:3 <b>WA</b> 1:25 <b>waiving</b> 13:11 <b>want</b> 6:11 8:4 11:22 12:25 13:6 15:12,22 <b>wanted</b> 4:12 5:2 7:5,13 <b>wants</b> 9:21 <b>Washington</b> 1:1,3 1:7,16,17 2:4,5,9 2:10 3:7,11,14,15 4:3 18:3,8,22 <b>water</b> 1:7 3:11,13 3:15 4:4 <b>way</b> 6:7 9:9 12:4</p>	<p>16:12,17 17:7 <b>ways</b> 9:1 <b>we'll</b> 3:21 4:19 10:1 12:12 15:19 16:10 17:7,11 <b>we're</b> 3:5 6:6,12,14 7:5 8:1,5,20 9:9 9:10 10:9 12:17 12:23 13:13 17:4 17:5 <b>we've</b> 5:10 7:12 8:10 14:20 16:16 <b>week</b> 13:21 <b>welcome</b> 4:15 <b>WHEREOF</b> 18:15 <b>willing</b> 9:5 <b>WITNESS</b> 18:15 <b>Wonderful</b> 6:2 13:17 <b>wonky</b> 15:3,14 <b>Woodland</b> 1:16 <b>work</b> 3:18 6:21 7:3 8:2 <b>works</b> 7:2 <b>write</b> 12:6 <b>written</b> 13:14 14:4 <b>wrong</b> 3:17</p> <hr/> <p style="text-align: center;"><b>X</b></p> <hr/> <p style="text-align: center;"><b>Y</b></p> <hr/> <p style="text-align: center;"><b>Z</b></p> <p><b>Zoom</b> 9:21 17:17</p> <hr/> <p style="text-align: center;"><b>0</b></p> <p><b>01/02</b> 4:22 5:9</p> <hr/> <p style="text-align: center;"><b>1</b></p> <p><b>1</b> 1:12 7:10,11,23 11:21,24 12:3,13 12:16 16:7 <b>1:31</b> 3:1,6 <b>1:58</b> 17:24 <b>103</b> 2:9 <b>11</b> 11:7 13:21</p>	<p><b>13</b> 1:23 3:1 <b>17</b> 10:15 12:2,15 <b>17th</b> 12:17,19 <b>18</b> 1:12 6:12,21,25 7:24 8:25 11:9,13 11:14</p> <hr/> <p style="text-align: center;"><b>2</b></p> <p><b>20</b> 10:25 13:7 <b>2000</b> 2:5 <b>2014</b> 10:16 <b>2024</b> 1:23 3:1 7:10 10:8 18:16,24 <b>2025</b> 7:11 8:25 10:18,22 11:1,5,8 11:9,16,22 12:2,3 13:7 <b>206.464.7740</b> 2:6 <b>21</b> 18:24 <b>22</b> 10:18 <b>230598</b> 16:8 <b>240079</b> 7:10 8:9 10:12 16:6 <b>27</b> 10:8 11:5 <b>2731</b> 1:25 18:21 <b>28th</b> 18:16</p> <hr/> <p style="text-align: center;"><b>3</b></p> <p><b>30</b> 4:25 <b>360.516.6799</b> 2:10</p> <hr/> <p style="text-align: center;"><b>4</b></p> <hr/> <p style="text-align: center;"><b>5</b></p> <p><b>5</b> 10:22</p> <hr/> <p style="text-align: center;"><b>6</b></p> <p><b>621</b> 1:16</p> <hr/> <p style="text-align: center;"><b>7</b></p> <hr/> <p style="text-align: center;"><b>8</b></p> <p><b>80.04.130</b> 7:6 <b>800</b> 2:5</p> <hr/> <p style="text-align: center;"><b>9</b></p> <p><b>90</b> 9:9</p>	<p><b>9057</b> 2:9 <b>95</b> 6:6 9:9 <b>98104</b> 2:5 <b>98383</b> 2:10 <b>98504</b> 1:17</p>
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