

**Docket No. UE-200115 - Vol. II**

**In the Matter of the Application of Puget Sound Energy**

**July 6, 2020**



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1 REPORTED REMOTELY FROM KITSAP COUNTY, WASHINGTON

2 JULY 6, 2020, 2:04 P.M.

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4 JUDGE O'CONNELL: Good afternoon. I am  
5 Andrew J. O'Connell, an Administrative Law Judge from  
6 the Utilities and Transportation Commission. Today is  
7 Monday, July 6, 2020, and the time is approximately  
8 2:00 p.m. We're here for Docket UE-200115, which is  
9 Puget Sound Energy's sale of certain coal strip assets.

10 We're here for a status conference regarding  
11 PSE's May 28th Notice of Intent to supplement its  
12 application. That filing has not yet been received and  
13 the deadline for testimony responding to PSE's initial  
14 filing is coming up on July 17th, 2020.

15 At the status conference, I want to discuss  
16 timing for filing of that supplemental application and  
17 possible changes to the procedural schedule in order to  
18 accommodate responses to the supplemental application.

19 Before we get to that, let's go ahead and  
20 take short appearances from each of the parties and  
21 their representatives. Let's start with Puget Sound  
22 Energy.

23 MR. STEELE: Thank you, Your Honor.

24 This is David Steele with Perkins Coie. And  
25 with me, also, is my colleague, Jason Kuzma, also with

1 Perkins Coie on the line for PSE today.

2 JUDGE O'CONNELL: Thank you.

3 And for the Commission Staff?

4 MR. DALLAS: This is Joe Dallas on behalf of  
5 Commission Staff.

6 JUDGE O'CONNELL: And for Public Counsel?

7 MS. GAFKEN: Good afternoon. This is Lisa  
8 Gafken, Assistant Attorney General, on behalf of Public  
9 Counsel.

10 JUDGE O'CONNELL: And for the Alliance of  
11 Western Energy Consumers.

12 MR. COLEMAN: Good afternoon. Brent Coleman  
13 of Davison Van Cleve on behalf of AWEC.

14 JUDGE O'CONNELL: Thank you. And for --

15 MR. COLEMAN: I believe that my colleague,  
16 Corinne Milinovich, is also on the line.

17 JUDGE O'CONNELL: Okay. Thank you.

18 And that's also for AWEC. Okay.

19 MR. COLEMAN: That's correct.

20 JUDGE O'CONNELL: For the Sierra Club,  
21 please?

22 MS. YARNALL LOARIE: This is Jessica Yarnall  
23 Loarie representing the Sierra Club.

24 JUDGE O'CONNELL: And for Natural Resources  
25 Defense Council?

1 MS. TUDOR: This is Kate White Tudor  
2 representing the Natural Resources Defense Council, and  
3 I am accompanied by my colleague, Amanda Leven.

4 JUDGE O'CONNELL: And for the Northwest  
5 Energy Coalition and Renewable Northwest. Mr. Sanger?

6 MR. SANGER: Sorry. This is Irion Sanger on  
7 behalf of the Northwest Energy Coalition and Renewable  
8 Northwest.

9 JUDGE O'CONNELL: Okay. Thank you.

10 MR. SANGER: And -- I was going to say Jeff  
11 Fox and Wendy Gerlitz may be on the phone as well.

12 JUDGE O'CONNELL: Thank you.

13 MS. GERLITZ: This is Wendy Gerlitz. I am  
14 on the phone. I was keeping myself on mute.

15 JUDGE O'CONNELL: Thank you.

16 For Avista?

17 MR. ANDREA: This is Mike Andrea, in-house  
18 counsel for Avista. And with me on the phone is Pat  
19 Ehrbar and Jason Thackston for Avista.

20 JUDGE O'CONNELL: Thank you.

21 For PacifiCorp?

22 MR. KUMAR: Thank you, Your Honor.

23 This is Ajay Kumar for PacifiCorp.

24 JUDGE O'CONNELL: Thank you.

25 For Portland General Electric?



1 MR. TINGEY: Thank you, Your Honor.

2 Doug Tingey for Portland General Electric.

3 JUDGE O'CONNELL: Thank you.

4 And for Microsoft?

5 MR. PEPPLER: Good afternoon. This is Tyler  
6 Pepple for Microsoft Corporation.

7 JUDGE O'CONNELL: Okay. I have some  
8 questions for PSE and the other parties. But before I  
9 get to those, have the parties discussed any agreed  
10 changes that could be made to the procedural schedule?

11 Mr. Dallas?

12 MR. DALLAS: We -- we have discussed  
13 possible changes, but I am not aware of any agreed-to  
14 change by all the parties.

15 JUDGE O'CONNELL: Okay. And Staff is the  
16 party that contacted the Commission to set up the status  
17 conference.

18 Can you please summarize for me the -- the  
19 reasons for requesting that we get together to talk  
20 about the procedural schedule? Mr. Dallas?

21 MR. DALLAS: Yes, Your Honor. So as  
22 discussed in my e-mail last week, Talen Montana has  
23 become a purchaser in this transaction. Staff has  
24 discussed this topic with every non-investor owned  
25 utility party in this docket. And through these

1 discussions, every party has voiced a concern over the  
2 lack of a supplemental filing pertaining to Talen's  
3 involvement. Generally, parties have stated they cannot  
4 provide a complete recommendation to the Commission on  
5 this transaction without a supplemental filing and  
6 additional time for discovery.

7 PSE has made some assurances that the  
8 fundamentals of this transaction are still valid, and  
9 they have committed to filing supplemental testimony on  
10 this topic; however, several parties are unwilling to  
11 form a recommendation based on these assurances and  
12 without a supplemental filing explaining how this  
13 transaction has changed.

14 Staff shares some of the concerns expressed  
15 by the parties, and this is because staff has learned  
16 that some important aspects of this case are uncertain,  
17 and these uncertainties are not reflected in any current  
18 testimony.

19 And we can discuss some of these  
20 uncertainties in more detail if the Commission would  
21 find it helpful. But, generally, because of these  
22 uncertainties, Staff at this time would not be able to  
23 provide the Commission with the complete recommendation  
24 on the responsive testimony date. And this is simply  
25 because the record doesn't reflect the current realities

1 of the transaction.

2 And Staff believes that the Commission needs  
3 complete and comprehensive testimony to render a  
4 decision in this docket. And due to the current  
5 uncertainties in the docket, staff does not believe it  
6 can provide this testimony to the commission.

7 So -- so we decided to -- to hold the status  
8 conference to see what's the best way forward to  
9 accommodate a supplemental filing to allow parties to  
10 conduct discovery of the supplemental filing and to  
11 ensure the commission has the best information to render  
12 a decision in accordance with the applicable legal  
13 standards. There -- there is general agreement among  
14 the non-company parties that a change needs to be made,  
15 but we don't have a specific proposal for the  
16 Commission.

17 But it's my -- my understanding that -- that  
18 this meeting could almost serve as a second pre-hearing  
19 conference to just kind of revisit the schedule and to  
20 see if any changes need to be made due to unforeseen  
21 changes that had occurred after our first pre-hearing  
22 conference.

23 But -- but that -- that's my -- my kind of  
24 opening remarks. And Staff is more than willing to  
25 answer any specific questions the Commission has.

1 JUDGE O'CONNELL: Thank you.

2 I do have some specific questions that I'd  
3 like to have input from all of the parties, each party,  
4 if they have an opinion that they want to share.

5 But first, I have a couple questions,  
6 Mr. Steele, for PSE. I need to understand, and the  
7 commissioners want to understand more about this  
8 supplemental filing and why it has taken so long since  
9 you filed your notice on May 28th. Why it's taken so  
10 long since then.

11 And then I also want to know when you expect  
12 to have it filed and -- well, let me leave it there.

13 Go ahead, Mr. Steele.

14 MR. STEELE: Thank you, Your Honor.

15 The -- the current status is Talen Northwest  
16 and Northwestern are currently working out the details  
17 if Talen exercises its right of first refusal as part of  
18 this transaction.

19 PSE is pushing both of them to resolve the  
20 details of that right of first refusal between them and  
21 remains hopeful that this will be resolved in the very  
22 near future.

23 We understand, and in speaking with them,  
24 have reason to believe that -- that that agreement  
25 between them on Talen's right of first refusal will be

1 completed in the next week or so, at which point PSE  
2 will file its supplemental filing which will include a  
3 supplemental application, provides testimony, and all  
4 other necessary supporting documentation to document  
5 the -- the agreement between them and between PSE. And  
6 so PSE is simply waiting for them.

7 As to why it's taking so long; the parties,  
8 as we understand it, are still working on the details  
9 between themselves.

10 As we understand it, this does not have  
11 anything to do with the sort of framework of the  
12 proposed transaction that PSE's filed with the  
13 Commission months ago. This is simply between them.  
14 And the reason for their delay, frankly, Your Honor, is  
15 between them.

16 PSE, I think, understands some of it, but  
17 it's -- it's sort of between them to work out those  
18 details. But again, we're hopeful that they are nearing  
19 an end and that should be resolved in the near future.

20 As I said, the -- the framework, though, of  
21 the transaction PSE has filed will not be changing.  
22 The only -- the only sort of substantive change is  
23 instead of there being one buyer, there's now two for  
24 Coal Strip Unit 4. And instead of there being one PPA,  
25 there will now be two.

1 All other aspects as we understand it and  
2 we're highly confident will not be changing. So the  
3 proposed transactions as filed will not be changing.  
4 And we're confident this will be reflected in our  
5 supplemental filing, which we're hopeful should be very  
6 soon.

7 JUDGE O'CONNELL: Thank you.

8 So these details that Talen and Northwestern  
9 are working out, what I -- what I think I'm hearing is  
10 that PSE isn't really in the middle of those  
11 discussions. And I'm -- I'm wondering if PSE is feeling  
12 like it is a little bit out of your control how fast  
13 those discussions have gone; is that correct?

14 MR. STEELE: That's correct, Your Honor.  
15 We -- PSE has had regular discussions with -- with each  
16 of them. And have done -- PSE is doing what it can to  
17 sort of prod those along. The parties, I think,  
18 understand the timing of this proceeding, and PSE has  
19 certainly conveyed that to them. And -- and we have  
20 reason to believe, based on our most recent  
21 communications with them, that they are nearing the  
22 conclusion of working out that right of first refusal  
23 between them and -- and sort of how the two parties are  
24 going to resolve that. And so once we receive that,  
25 then PSE will file its materials right away.

1           And so we have -- at this point, frankly,  
2     have those materials largely ready. We're sort of  
3     waiting on the final details from them and then we will  
4     file.

5           JUDGE O'CONNELL: When I -- when I first  
6     considered the situation we find ourselves in  
7     procedurally, myself and, you know, we at the Commission  
8     thought perhaps a deadline for filing the supplemental  
9     application might be necessary.

10           But now I want to voice concern and slight  
11    frustration that it sounds like setting a deadline for  
12    that supplemental application might be -- it might not  
13    be worth it, because the details you need might not be  
14    complete by whatever deadline we set.

15           But my question is how confident are you  
16    that within the next two weeks those details are going  
17    to be set and PSE would be able to file its supplemental  
18    application?

19           MR. STEELE: PSE, to be candid, does not  
20    know when that date will be that we'll have the final  
21    green light from Talen and Northwestern. We're hopeful,  
22    and as I stated, based on our last communications with  
23    them, we are highly confident that it should be resolved  
24    in the next week or two. But we do not know of the  
25    exact date.

1                   And I agree, Your Honor, it would be  
2 difficult to commit to a date not knowing when they will  
3 resolve it exactly and -- if that deadline, you know --  
4 if PSE could have any control of that deadline.

5                   JUDGE O'CONNELL: Okay. I think I  
6 understand.

7                   So the -- the procedural position that we're  
8 placed in is -- if we feel like -- the Commission is  
9 going to afford the responding parties the opportunity  
10 to respond to the supplemental application and that's  
11 going to present some scheduling difficulties as far as  
12 our current time line and our current schedule.

13                   At our prehearing conference, PSE had  
14 emphasized its desire to have a resolution to this  
15 matter before the end of 2020. But I'm curious now that  
16 Talen has exercised its right of first refusal, it seems  
17 like that has probably lengthened the time line for the  
18 entire closing of the transaction.

19                   What is the current status on PSE's  
20 expectation for how long this transaction is going to  
21 take to -- to close and be done with on the business  
22 side? Mr. Steele?

23                   MR. STEELE: PSE still believes that the  
24 best course is for the parties to operate under the  
25 current procedural schedule that was initially ordered



1 in this docket. And -- and, frankly, the reason for  
2 that, Your Honor, is the -- the terms of the agreement  
3 with Northwestern require the parties to close the  
4 proceeding in 2020.

5 And so PSE contractually can't agree to any  
6 procedural changes to the schedule that could extend it  
7 beyond December 31st of 2020 without jeopardizing the  
8 transaction as -- as currently filed.

9 And so I think PSE understands the concerns  
10 from the parties and appreciates their concerns;  
11 however, PSE cannot agree to extend the schedule or  
12 change the schedule in a way that would push it beyond  
13 2020 and -- and would jeopardize being able to close the  
14 deal in 2020.

15 UNIDENTIFIED SPEAKER: Is this call still  
16 connected?

17 JUDGE O'CONNELL: I'm sorry. This is Andrew  
18 O'Connell. I think I was on mute.

19 Can everyone hear me now?

20 UNIDENTIFIED SPEAKER: Yes.

21 JUDGE O'CONNELL: Thank you.

22 So I and the Commissioners, we have to  
23 decide whether keeping the current deadline for  
24 responsive testimony and affording another chance for  
25 responses to the supplemental application is appropriate

1 or whether we should move the response testimony until  
2 after the supplemental application is filed.

3 I've heard from PSE that it prefers for the  
4 current schedule to be maintained. However, I think at  
5 least some minor modification is warranted. And I want  
6 to hear from all of the other parties on that decision  
7 and your thoughts on the filing of response testimony  
8 currently set for July 17th and the impacts to other  
9 procedural deadlines.

10 So I'd like to start with --

11 MR. STEELE: Your Honor, this is David  
12 Steele again on behalf of PSE.

13 The one caveat I wanted to add to my last  
14 comment was in reviewing the procedural schedule, the  
15 one place that we believe there may be some flexibility  
16 is the -- is the period of time sort of between now and  
17 the discovery deadline, which is September 25th, 2020.

18 We think it's possible that -- that one  
19 option to consider would be to push the response  
20 testimony currently due for July 17th back a few weeks,  
21 and correspondingly push the rebuttal testimony back a  
22 few weeks as well into September.

23 And we -- we feel that would give the  
24 parties more time to prepare response testimony. It  
25 would give PSE, hopefully, the time to file the

1 supplemental application and materials. The only sort  
2 of net result is it would be less discovery on the back  
3 end.

4 But based on the current schedule, the data  
5 request time period is shortened to five days. So it's  
6 a -- it's a pretty quick turnaround time; and so that  
7 may be one option is to shift things a bit, and -- and  
8 that may provide more time for that response testimony.

9 JUDGE O'CONNELL: Okay. Thank you,  
10 Mr. Steele.

11 And that is an option that the Commission is  
12 considering and will consider. Of course, when the  
13 Commission -- when we do not have an agreed proposal,  
14 whatever solution we devise that suits the needs of the  
15 Commission might not be perfect for all the other  
16 parties. This is where I encourage the parties to  
17 consider compromise on all of your parts in order to  
18 achieve a schedule that suits your needs, even if it  
19 isn't perfect.

20 So let me start with asking for, again,  
21 Staff's perspective on options for affording a response  
22 to whatever supplemental application, including the  
23 suggestion that Mr. Steele just made.

24 Mr. Dallas, go ahead.

25 MR. DALLAS: Thank you, Your Honor.

1 I was able to talk to staff briefly about  
2 this. I think from Staff's perspective, it makes sense  
3 to have responsive testimony after the filing of  
4 supplemental testimony. And I can go into specificity  
5 why. But a lot of our testimony will be based on  
6 assumptions that aren't in the record. And further, if  
7 we file testimony and then there's supplemental  
8 testimony, then we'll have to do, I'm assuming, another  
9 round of testimony. And if it is structured that way,  
10 it limits Staff's capacity to respond to how other  
11 parties analyze the supplemental filing.

12 So I -- I think it makes sense to -- to  
13 schedule the responsive testimony after the supplemental  
14 filing. And I think we're willing to look at creative  
15 solutions, like expedited discovery to -- to really try  
16 to not have a huge impact on the procedural schedule.

17 But I think just serial filings and filing  
18 testimony based on assurances given by PSE, and to put  
19 it in perspective, I don't know how much detail you  
20 want. But we don't have a final sales agreement with  
21 Talen on it. The transmission component is subject to a  
22 current arbitration that could be going on for -- for a  
23 prolonged period, and that's one-third of the deal.

24 There's currently a new vote share agreement  
25 that's being negotiated between the three parties, and

1 that vote share agreement goes to one of the major  
2 benefits in the transaction. And -- and we really don't  
3 know -- as PSE said, these are still being negotiated.  
4 So what we file may not be helpful at all to the  
5 Commission. And -- and that's Staff's concerns. And I  
6 think those concerns are also echoed by some of the  
7 other parties.

8 So that -- that would be Staff's preference.  
9 And we -- we would be willing to make some concessions  
10 to -- to try to fit -- to try to fit this within this  
11 calendar year, the final decision.

12 JUDGE O'CONNELL: Okay. Thank you.

13 Public Counsel, please?

14 MS. GAFKEN: Good afternoon. Thank you.

15 This is Lisa Gafken with Public Counsel. A  
16 lot of what I had to say has already been said, but  
17 there are a couple of things that I want to highlight.

18 You know, of course we don't have the  
19 transaction in front of us. Whenever we have a  
20 situation just in a -- from a general sense, where it  
21 looks like the filing date might be moved, I still push  
22 forward with developing testimony until we have a  
23 Commission order that says that that testimony deadline  
24 has been moved. Because I never want to be put in that  
25 position where the deadline doesn't move, and we haven't

1 finished what we need to get finished.

2 In this case, you know, I tried to take that  
3 same path where we're pushing to get it done, but  
4 frankly, we just can't.

5 As Mr. Dallas indicated, a lot of what we  
6 would be filing would be incomplete and we wouldn't have  
7 a recommendation on the transaction. A lot of the  
8 moving pieces that he mentioned just -- just now are, I  
9 think, that we're concerned about the voting rights, the  
10 transmission issues, those things. So at best, their  
11 testimony would be incomplete. It would be a lot of  
12 high-level observations and perhaps based on assumptions  
13 that don't pan out.

14 We've heard a little bit about PSE  
15 assurances that the fundamentals of the transaction  
16 remain the same. And one approach -- what I take to  
17 this sort of thing -- is, okay, trust but verify. And  
18 we don't have anything to verify with, and that's  
19 concerning.

20 I want to talk a little bit about what a  
21 perfect world would look like from Public Counsel's  
22 perspective in terms of how we move forward. We're also  
23 open to some creative suggestions, but I think there's  
24 some fundamental pieces that need to be incorporated in  
25 whatever the solution is.

1           You know, once we get the supplemental  
2 filing, we need to be able to look at it and then do a  
3 couple rounds of discovery. We would like to have at  
4 least two rounds of discovery built in, and hopefully  
5 that response time will be shortened.

6           I -- I have in mind, kind of, 45 days after  
7 PSE files, the supplemental testimony is the appropriate  
8 time period for when response testimony would be filed.  
9 That's assuming a 10-day response period, so that can be  
10 shortened a bit. But I think two rounds of discovery is  
11 really important and then the ability to get the  
12 discovery and then incorporate it into the testimony.

13           So there does need to be a little bit of  
14 time. And I don't think, you know, two weeks is  
15 probably enough.

16           Let's see. What else?

17           We also agree that the timing really is out  
18 of PSE's control. They are waiting on parties who are  
19 not part of this -- this proceeding to finish up  
20 documents that are details -- as they put it between  
21 them, that they are details that matter in this case  
22 because they affect the voting rights and whatnot.

23           So that piece is difficult and -- and makes  
24 it such that maybe we can't set specific dates at this  
25 point. But I think we do need to be mindful of the time

1 periods that are necessary in order to -- to get this  
2 case to the finish line simply because there is a little  
3 bit of a hiccup that shouldn't hinder Washington's  
4 ability to evaluate the transaction. And I'll stop  
5 there. Thank you.

6 JUDGE O'CONNELL: Okay. Thank you.

7 Next I'd like to hear from AWEC.

8 MR. COLEMAN: Yes, Your Honor. Good  
9 afternoon. Thank you.

10 Brent Coleman for AWEC. And I would echo  
11 many of the concerns that have been expressed by  
12 Mr. Dallas and Ms. Gafken.

13 I think from AWEC's perspective with -- with  
14 due respect to the company, you know, that the  
15 characterization that it's just a second person coming  
16 into the transaction and fundamentally everything is the  
17 same, you know, I think there are elements with respect  
18 to the details and the future that are -- that may not  
19 be the same simply because you have two parties involved  
20 instead of one.

21 And from the standpoint of -- of filing  
22 testimony, as has been mentioned, on something that  
23 isn't the fact pattern in front of us any longer, you  
24 know, is a concern from a resource expense standpoint, a  
25 resource investment standpoint. And to turn around and



1 file testimony on what turns out to be the -- you know,  
2 the real factual framework is a bit of a challenge.

3 So I think our -- our preference would be  
4 similar to what has been stated before with respect to  
5 filing testimony after the supplemental filing has been  
6 presented and the actual factual landscape is before us.  
7 I'm not sure that I have the specifics in mind as  
8 Ms. Gafken did.

9 But that would be our preference is to -- to  
10 not have a round of testimony that is based on  
11 assumptions and suppositions, but is actually something  
12 that we can then dive into the real facts and provide  
13 substantive and beneficial information to the Commission  
14 to make -- to make their decision on -- on the  
15 true decision -- or, excuse me, on the true facts and  
16 the true transaction that's actually being presented.

17 JUDGE O'CONNELL: Okay. Thank you.

18 And for the Sierra Club.

19 MR. COLEMAN: I'm sorry. If I can add, we  
20 certainly would be willing to -- I apologize. But we  
21 certainly would be willing to do whatever is necessary  
22 from a reasonable standpoint to effectuate making sure  
23 the timing gets done as necessary with respect to, you  
24 know, turning the discovery responses around or whatever  
25 we can do to help, but we just need to have this pulled

1 back. And I apologize for interrupting.

2 JUDGE O'CONNELL: No, that's fine. The  
3 limitations of having a virtual status conference is --  
4 I can't read faces to know whether someone is done  
5 talking. So apologies for those limitations. And I  
6 will try to pause, because I understand that people  
7 might be thinking about what they are saying.

8 So let me, at this point, turn to the Sierra  
9 Club. Ms. Yarnall Loarie, are you there?

10 MS. YARNALL LOARIE: Yes, I am. Sierra Club  
11 shares a lot of the concerns that have already been  
12 articulated by Mr. Dallas, Ms. Gafken, and AWEC. This  
13 is not the same transaction. We need the ability to  
14 analyze updated testimony, time for, you know,  
15 discovery, looking at the vote sharing agreements, how  
16 that impacts potentially, you know, other units at coal  
17 strip that Talen isn't a regulated entity. We're not  
18 sure how this impacts new -- there is a new PPA, it  
19 sounds like, at issue, and of course the transmission  
20 concern.

21 We certainly support a delay in the schedule  
22 to allow, you know, updated filing of these issues to  
23 analyze those filings. And, you know, I want to point  
24 out -- I think Ms. Gafken said this -- the UTC should  
25 have the ability to analyze this transaction to the best

1 of its abilities. And, you know, I think this is a  
2 different transaction. So maybe the parties have the  
3 ability to negotiate a date that allows the UTC to  
4 perhaps have that additional time.

5 And, of course, we are all working under  
6 conditions right now with COVID that are not usual.  
7 There are child care issues, there's school issues,  
8 there's resource constraints, and I just wanted to flag  
9 those as well.

10 JUDGE O'CONNELL: Okay. Thank you.

11 And for NRDC.

12 MS. WHITE TUDOR: Thanks, Your Honor.

13 Yes, we share the concerns and the thoughts  
14 of our colleagues about having a better opportunity to  
15 develop testimony when we actually know what the deal  
16 contains. Likewise, happy to work with an expedited  
17 schedule for discovery.

18 We think that shortening the discovery  
19 response times makes sense and hope to allow for a  
20 thorough exchange of information, perhaps at a higher  
21 speed than usual so we can keep this on track.

22 JUDGE O'CONNELL: Okay. Thank you.

23 Mr. Sanger, for Northwest Energy Coalition  
24 and Renewable Northwest.

25 MR. SANGER: Yes. Thank you.

1 Northwest Energy Coalition and Renewable  
2 Northwest support most of the comments that have been  
3 submitted so far.

4 We don't believe that we can fully  
5 understand or accurately describe PSE's application at  
6 this time, which means that it's not possible for  
7 Renewable Northwest or Northwest Energy Coalition to  
8 take a position on it without having the actual  
9 application before us.

10 When PSE files a supplemental application,  
11 we would like PSE to fully explain how the addition of  
12 Talen changes or does not change the parties' voting  
13 rights when you have another voting party and whether it  
14 will impact the continued operation of both Coal Strip 3  
15 and 4.

16 Similarly, we hope that PSE will explain how  
17 the transmission aspects of the accusation may or may  
18 not change, including the impact on PSE and the Pacific  
19 Northwest's ability to access low-cost Montana wind.

20 We're -- we're hopeful that PSE will file  
21 this soon, and we also are willing to work with the  
22 limited constraints of the schedule. Our preference,  
23 our strong preference would be that a date be set for  
24 the supplemental application, and then a date for  
25 testimony flowing from that. And if PSE does not make

1 or is unable to make that date, that we schedule another  
2 prehearing conference, scheduling conference to address  
3 scheduling issues.

4 We think it would not be productive for the  
5 workload of the parties or the Commission to have  
6 testimony filed at this point when we don't even know  
7 what we'd be testifying regarding.

8 JUDGE O'CONNELL: Okay. Thank you.

9 And from Avista, Mr. Andrea.

10 MR. ANDREA: Yes, Your Honor. This is Mike  
11 Andrea for Avista. Avista doesn't have a position on  
12 the schedule. We will work with whatever schedule works  
13 for the Commission, Commission staff, and the other  
14 parties.

15 JUDGE O'CONNELL: Okay. Thank you.

16 From PacifiCorp. Mr. Kumar?

17 MR. KUMAR: Thank you, your Honor.

18 PacifiCorp takes pretty much the same  
19 position as Avista. We have no position on this issue.

20 JUDGE O'CONNELL: Thank you.

21 From Portland General Electric.

22 MR. TINGEY: This is Doug Tingey, and we  
23 have the same position as Avista and PacifiCorp. We'll  
24 work with whatever the Commission decides.

25 JUDGE O'CONNELL: Okay. Thank you, again.

1                   And last. From Microsoft.

2                   MR. PEPPLER: Thank you, Your Honor.

3                   Microsoft's position is largely aligned with  
4 the other non-utility parties. We don't think it would  
5 be productive to file testimony at this time given that  
6 we don't have a full picture of the transaction. I  
7 won't continue and repeat the other party's statements,  
8 but we're generally along with them.

9                   JUDGE O'CONNELL: Okay. Thank you.

10                  I think I've got a pretty good picture of  
11 how all the parties are thinking about this situation.

12                  Mr. Steele, I'd like to hear from PSE one  
13 more time.

14                  MR. STEELE: In what regard, Your Honor, can  
15 I --

16                  JUDGE O'CONNELL: Is there --

17                  MR. STEELE: Is there a question I can  
18 address?

19                  JUDGE O'CONNELL: I wanted to give you a  
20 chance to respond to some of the thoughts that the other  
21 parties provided. And I think that will help me and the  
22 Commissioners consider what we need to do.

23                  MR. STEELE: Sure. Yeah. PSE fully  
24 understands the parties' concerns and appreciates the  
25 difficulty with filing response testimony without --

1 without feeling like they have the transaction in front  
2 of them.

3           We understand that -- that things have  
4 changed. PSE does not believe that -- that the  
5 substantive framework of the transaction is changing,  
6 and -- and PSE is highly confident that will be  
7 reflected in the filing. But PSE understands that --  
8 that parties want to see the documents.

9           I think from PSE's perspective, the -- the  
10 best outcome is to, as I mentioned, slide the response  
11 testimony deadline back. I think you could probably  
12 move -- move the response testimony and rebuttal and  
13 even the discovery deadline back, you know, perhaps up  
14 to -- up to October.

15           The dates that PSE could not agree to are --  
16 are those October dates just because it -- it already is  
17 very tight in trying to get a Commission order in  
18 closing in by calendar year.

19           And so PSE understand the parties' concerns  
20 and appreciates them and very much would like to work  
21 with the parties to put together a -- a schedule that --  
22 that would allow the parties to respond in the way that  
23 they would like to and -- and complete this proceeding  
24 in 2020.

25           So PSE is certainly willing to work with

1 those frameworks and understands the parties' concerns.

2 JUDGE O'CONNELL: Okay. Thank you.

3 So is there anyone else who would like to  
4 weigh in?

5 MR. DALLAS: Your Honor, this is Joe Dallas.  
6 I also want to make one more note that Staff wants the  
7 Commission to be aware of due to a recent directive from  
8 the Governor. Staff can only work 32 hours a week  
9 through the month of July, and -- and it's -- it's  
10 unsure if that's going to be continued into August, but  
11 Staff wanted the Commission to be aware of the  
12 limitation they can work.

13 JUDGE O'CONNELL: Thank you.

14 Yes, we'll keep that in mind.

15 I am of a mind to encourage the parties to  
16 communicate and reach or attempt to reach some agreement  
17 on some dates going forward. I realize that with me on  
18 the line and the format that we're taking in this  
19 discussion doesn't lend itself very well to reaching a  
20 consensus on any of those changes.

21 I am willing to, after we adjourn this  
22 discussion conference or the status conference, to allow  
23 the parties to stay on the line to discuss if that would  
24 be beneficial for you. And if it would be beneficial,  
25 then I would afford a short amount of time, a day or so,



1 for the parties to perhaps come to some sort of  
2 agreement and designate a representative to let me know.

3 Is there -- in wanting to afford you that  
4 opportunity, I'd like to hear from the parties if  
5 it's -- if that would not be helpful. If it's something  
6 that the Commission just needs to decide, please go  
7 ahead and voice that and tell me or, otherwise, I'd like  
8 to give you the opportunity to talk and perhaps reach  
9 agreement.

10 Mr. Dallas? Mr. Steele?

11 MS. GAFKEN: This is Lisa Gafken.

12 JUDGE O'CONNELL: Sorry, Ms. Gafken. Go  
13 ahead.

14 MS. GAFKEN: Yeah. Others may have a  
15 different viewpoint and maybe things have changed.  
16 We've actually spent a bit of time, the parties; we've  
17 talked about this. I think there's a little bit of a  
18 rock in a hard place with just the timing, and we may  
19 need the Commission just to decide.

20 I would defer to Puget on that a little bit,  
21 because I think, frankly, they are the ones that are in  
22 the rock and the hard place with this. I do think that  
23 in some regards we may just need a Commission decision.  
24 We've tried. We have talked about what we could or  
25 couldn't do with the schedule.

1 JUDGE O'CONNELL: Mr. Steele or Mr. Dallas,  
2 any input?

3 MR. DALLAS: Yeah. I'm communicating -- go  
4 ahead, Mr. Steele.

5 MR. STEELE: No. Go ahead, Joe.

6 MR. DALLAS: I'm communicating to Staff now,  
7 and I think Lisa has some points. I think we're  
8 certainly not opposed. You know, we -- we're always  
9 willing to talk to the parties and we have done so. But  
10 we may be at somewhat of an impasse, and this may be  
11 something the Commission needs to decide.

12 But with that said, we -- we certainly are  
13 willing to meet if the other parties think it would be  
14 productive, but I -- I think Staff would just echo what  
15 Public Counsel said.

16 MR. STEELE: Your Honor, this is David  
17 Steele from Perkins Coie for PSE.

18 I don't know if the parties have talked  
19 specific dates yet; and so PSE is certainly willing to  
20 do that sort of in alignment with -- with the  
21 constraints that I've already articulated that PSE can't  
22 agree to any adjustments of those October dates. It  
23 would have to be sort of between now and October, if we  
24 could -- if we could push or adjust those filing  
25 deadlines. And that's -- that's the framework PSE can

1 operate.

2                   And if -- you know, if -- if other parties  
3 disagree with that, then we may be at the point where  
4 Ms. Gafken and Mr. Dallas feels that we are. I'm not  
5 sure about that from all the parties' perspective. But  
6 PSE is certainly willing to engage with the parties if  
7 other parties agree that will be helpful.

8                   JUDGE O'CONNELL: Well, this is what I'm  
9 inclined to do right now. The -- we're going to make a  
10 decision quickly on what we're going to do because of  
11 the upcoming testimony deadline. And I want to be  
12 respectful of the parties' resources so that they know  
13 if they need to finish responsive testimony or whether  
14 it's going to be delayed.

15                   However, I am going to afford, you know,  
16 24 hours for the parties to discuss either on this  
17 conference line after we adjourn or through e-mail. And  
18 by the end of the day -- by the close of business  
19 tomorrow, I'd like to designate a representative to --  
20 from the parties just to inform me whether there has or  
21 has not been an agreement of any of the dates from the  
22 parties. And then the Commission will either consider  
23 that or will make a decision within the next couple  
24 days.

25                   Mr. Dallas, can I -- I'd like to ask if you

1 could, please, e-mail me tomorrow to let -- just to -- a  
2 very short par -- sentence informing me whether the  
3 parties have reached any agreement; is that acceptable?

4 MR. DALLAS: Yes, Your Honor.

5 JUDGE O'CONNELL: Okay. Thank you.

6 So I am -- I'm prepared to bring this status  
7 conference to a conclusion.

8 Is there anyone else who needs to say  
9 something before we adjourn?

10 MR. SANGER: Just to confirm, Judge  
11 O'Connell, are you leaving it open for the rest of us to  
12 stay on to discuss?

13 JUDGE O'CONNELL: Yes. I'm going to leave  
14 the conference bridge line available. The conference  
15 bridge line should not turn off when I disconnect. But  
16 I am not going to stay on the line so that the parties  
17 can have a free flow of discussion.

18 UNIDENTIFIED SPEAKER: Your Honor, I have  
19 just one -- related to that I have one sort of  
20 administrative question, and I apologize if this isn't  
21 in your scope.

22 But there are certain times where in the  
23 last three-plus months where I've been on calls like  
24 this, and there seems to be like a time window of the  
25 conference call and suddenly it will say -- like a

1 computerized voice will come on and say, "Your call has  
2 ended. Please hang up." And then everything is  
3 disconnected.

4 Is that -- do you know if that's something  
5 that we're facing here?

6 Is there, like, a time window for this -- in  
7 addition to your departure, is there a time window, or  
8 do we have -- is it going to shut down at three o'clock  
9 or 3:30 automatically, just for purposes of expectations  
10 and scheduling. Does that make sense?

11 JUDGE O'CONNELL: Yes, I understand your  
12 question.

13 I -- thank you, Mr. Smith. Mr. Smith has  
14 included in our conversation box the information that  
15 there should not be a "time-out" and that he will  
16 stay -- he will keep the line active. So Mr. Smith is a  
17 representative from our records center. If the parties  
18 would indicate to him when you are done with the  
19 conference line, he will turn it off.

20 I do want to convey the information to the  
21 parties that this status conference was scheduled for,  
22 at most, lasting until 3:30. It's currently ten til  
23 3:00.

24 I do not think that there will be a  
25 time-out, but if there was any sort of time-out that was

1 automatically generated, it would happen at 3:30. But  
2 we do not expect that to happen.

3 UNIDENTIFIED SPEAKER: Okay.

4 JUDGE O'CONNELL: Anything else from any of  
5 the parties?

6 MS. WHITE TUDOR: Actually, yes. I did  
7 review the previous scheduling order -- this is Kate  
8 White Tudor with the NRDC -- which noted that 30 days  
9 after that March order we were to start filing paper  
10 copies for all information in this case. And I guess I  
11 would suggest that given that the shutdown continues in  
12 many parts of our State that perhaps it would make sense  
13 for us to continue filing on an electronic basis.

14 Is that something that's suitable for  
15 discussion in this forum, or should I discuss that with  
16 others?

17 JUDGE O'CONNELL: Thank you for bringing  
18 that to my attention.

19 I -- I will -- in any decision the  
20 Commission makes, as to the procedural schedule, I will  
21 clarify that whether we will continue to allow electric  
22 only or whether we would require paper. So thank you  
23 for bringing that to my attention. I will make sure to  
24 include that in any decision we make.

25 MR. DALLAS: Your Honor, this is Joe Dallas.

1 And I wanted to bring up something, and I wanted to see  
2 if maybe the Commission could give me -- give some  
3 feedback.

4 My thoughts are it's inherently difficult to  
5 set a new procedural schedule because we don't know when  
6 PSE will have its updated application. And during our  
7 meeting, there was a thought of setting a tentative date  
8 for supplemental testimony and basing the schedule off  
9 that.

10 And I wanted to know if the Commission could  
11 give us any feedback on that. Is this something the  
12 Commission has done in the past? Is this something they  
13 would be open to? Any -- any commentary on that would  
14 be helpful in our -- in our -- in our discussions coming  
15 up.

16 JUDGE O'CONNELL: The Commission will be  
17 open to setting a deadline for the filing of the  
18 supplemental application. From what I've heard from  
19 PSE, though, that date would be speculative. And while  
20 we can expect to -- to have somebody from PSE by a  
21 certain date, if we set a deadline that the Commission  
22 would expect that any agreed deadline, if PSE is unable  
23 to meet it, that PSE inform the Commission and propose  
24 that we have another status conference to discuss how  
25 the deadlines might have to be modified.

1 MR. DALLAS: Thank you.

2 JUDGE O'CONNELL: Okay. This is last call  
3 for any -- anything that has not yet been said. Okay.  
4 Thank you.

5 Thank all of you for taking the time today  
6 to be available. Thank you for providing the  
7 perspectives from each of your parties. We will be  
8 adjourned and off the record.

9 And if the parties would like to, they can  
10 have this conference line to use for their discussion  
11 purposes. And I will be off of that call. Okay. Thank  
12 you all.

13 We are adjourned.

14

15 (The hearing concluded at 2:59 p.m.)

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STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KITSAP )

I, CRYSTAL R. McAULIFFE, a Certified Court Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the status hearing, having been duly sworn on JULY 6, 2020, is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 15th day of July, 2020.

*Crystal McAuliffe*



CRYSTAL R. McAULIFFE, RPR, CCR #2121