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BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
Complainant,)
v.)Docket UE-100749
PACIFICORP d/b/a PACIFIC)Pages 91-120
POWER & LIGHT COMPANY,)
Respondent.)

PREHEARING CONFERENCE, VOLUME III, PAGES 91-120

ADMINISTRATIVE LAW JUDGE PATRICIA CLARK

1:30 p.m.
November 17, 2010
Washington Utilities and
Transportation Commission
1300 South Evergreen Park Drive Southwest
PO Box 47250
Olympia, Washington 98504-7250

Reported by: Judy Robinson, CCR #2171

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A P P E A R A N C E S

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ADMINISTRATIVE LAW JUDGE:

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PATRICIA CLARK

4

Washington Utilities and
Transportation Commission

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1300 South Evergreen Park Drive Southwest
PO Box 47250

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Olympia, Washington 98504-7250

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FOR WALMART AND SAM'S CLUB:

9

ARTHUR BUTLER (Via Telephone)

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FOR PACIFICORP:

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FOR INDUSTRIAL CUSTOMERS

OF NORTHWEST UTILITIES:

17

IRION SANGER (Via Telephone)

18

19

FOR THE ENERGY PROJECT:

20

BRAD PURDY (Via Telephone)

21

22

FOR THE COMMISSION STAFF:

23

DON TROTTER

24

25

Also Present: Lea Dasher, Randy Falkenberg

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P R O C E E D I N G S

* * * * *

ALJ CLARK: Good afternoon. It's approximately 1:30 p.m., November 17th, 2010, in the Commission Hearing Room in Olympia, Washington.

This is the time and place set for a second prehearing conference in the matter of, Washington Utilities and Transportation Commission, Complainant v. PacifiCorp, d/b/a as Pacific Power & Light Company, Respondent.

Patricia Clark, Administrative Law Judge for the Commission, presiding.

This matter has been given Docket Number UE-100749.

The issue of this afternoon's prehearing conference came before the Commission on November 9th, 2010, when the Commission issued notice of this prehearing conference to address the issues raised when certain parties failed to follow the Commission's directive, which was entered in Order Number 4, June 17th, 2010.

Specifically, the Commission's rule, WAC-480-07-510 governs the content for requests for general rate relief.

That rule requires the company to submit an

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1 exhibit with results of operation statement that
2 demonstrates testing your actual results, together with
3 restating and proforma adjustments supporting the
4 requested rate increase.

5 To ensure consistency in the comparison of the
6 company's filings with the filings of other parties, the
7 Commission requires the intervenors, Public Council and
8 Commission staff, to present their cases in the same
9 manner required by rule for the company.

10 And those are the requirements that were placed in Order
11 Number 4 in this proceeding.

12 In this case, the jointly filed testimony of
13 Public Council, and the Industrial Customers of
14 Northwest Utilities, as well as the separately sponsored
15 testimony of the Industrial Customers of Northwest
16 Utilities, does not follow the Commission's filing
17 requirement. Moreover, the pre-filed responsive
18 testimony of Commission staff does not segregate its
19 adjustments. And finally, the company's rebuttal
20 testimony compounds these errors.

21 As a result of these file deficiencies, the
22 Commission cannot determine the revenue effect of each
23 proposed adjustment.

24 To remedy the party's filing deficiencies, the
25 Commission has concluded that the pre-filed testimony

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1 and exhibits must be refiled in the form of revised
2 testimony and exhibits. All this is from the notice of
3 this afternoon's prehearing conference.

4 And so the primary purpose of today's prehearing
5 conference is to establish a date by which the parties
6 can properly refile the testimony and exhibits that are
7 required, and to make a determination whether a delay in
8 the hearing date is warranted to address this filing
9 requirement.

10 For today's prehearing conference, the Commission
11 does have its policy advisors available. Right now,
12 Mr. Maurice Twitchell, Mr. Steve Johnson, and Mr. Danny
13 Kermode are seated to the right of the hearing room.

14 In a few minutes we will go off record, and they
15 will join me on the bench.

16 And we are going to have them explain further
17 some of the deficiencies in the pre-filed testimony, and
18 then give you the opportunity to ask questions, if that
19 is necessary, in order for you to understand or clarify
20 the filing requirements.

21 While we are off record, there may be a further
22 opportunity for the parties to also explain what is in
23 that testimony.

24 Before we take appearances, I want everyone to be
25 cognizant that we have a number of individuals who are

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1 participating via the Commission's bridge line.
2 Therefore, it's necessary for you to speak a little more
3 loudly than you would ordinarily speak, and perhaps a
4 little more slowly than you would ordinarily speak.

5 And for those individuals on the bridge line,
6 it's necessary for you to practically yell in order for
7 us to hear you in the hearing room. And because we
8 can't see you, it is necessary for you to identify
9 yourselves each and every time you speak, so that the
10 court reporter will be able to accurately reflect
11 whatever comments you make.

12 Again, for those individuals appearing on the
13 bridge line, please do not place your line on hold, or
14 this will pipe music into the hearing room, and it's
15 very disruptive.

16 At this time, I'm going to take appearances on
17 behalf of the parties, and I will also ask them to
18 identify those individuals they have brought with them
19 to this afternoon's prehearing conference.

20 I'm going to commence with PacifiCorp.

21 MS. MCDOWELL: This is Katherine McDowell,
22 here on behalf of PacifiCorp. With me I have a number
23 of witnesses. We have brought with us Mr. Dally and
24 Mr. Fuller as designated in the prehearing conference
25 order.

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1 We were not able to bring Mr. Wilson, Mr. Duval,
2 or Mr. Brighton because of previous commitments. In
3 their place we have brought Ms. Hui Shu and Mr. Bill
4 Griffith, who could speak to all the issues they have
5 spoken to.

6 ALJ CLARK: Can you spell the name
7 immediately preceding Mr. Griffith?

8 MS. MCDOWELL: That is, H-u-i, S-h-u.

9 ALJ CLARK: Perfect. She is a manager?

10 MS. MCDOWELL: She is a manager in our net
11 power cost area.

12 ALJ CLARK: Okay, great. And appearing on
13 behalf of the Commission's staff?

14 MR. TROTTER: Thank you, Your Honor.

15 Donald Trotter, Assistant Attorney General for
16 Commission staff. In the hearing room are the three
17 staff witnesses identified in the notice, Mr. Foisy,
18 Ms. Novak, and Ms. Breda, and also Mr. Tom Skoley is
19 available.

20 ALJ CLARK: All right. Thank you very much.

21 It is my understanding, prior to this prehearing
22 conference, Public Council will not have their attorney
23 present this afternoon, but rather than the Industrial
24 Customers of Northwest Utilities Council would be
25 available to address issues associated with the

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1 testimony jointly filed by those parties.

2 Appearing on behalf of the industrial customers
3 of Northwest Utilities?

4 MR. SANGER: This is Irion Sanger appearing,
5 Your Honor, and hopefully on the phone are
6 Randal Falkenberg and Greg Meyer, the two witnesses
7 which were directed to appear today.

8 ALJ CLARK: That is correct, Mr. Sanger.
9 Both Mr. Meyer and Mr. Falkenberg have already connected
10 to the bridge line.

11 Appearing on behalf of WalMart Stores, Inc. and
12 Sam's West, Incorporated?

13 MR. BUTLER: This is Arthur A. Butler. We
14 were not directed to have any witnesses present.

15 ALJ CLARK: Thank you, Mr. Butler. And that
16 is correct.

17 Appearing on behalf of the Energy Project?

18 MR. PURDY: This is Brad Purdy, Your Honor,
19 and we also do not have a witness.

20 ALJ CLARK: Thank you, Mr. Purdy. And that
21 is correct. The Commission did not direct you to have
22 any witnesses available.

23 The first thing I'd like to do this afternoon is
24 to establish procedural schedule for the parties to
25 refile testimony and exhibits.

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1 While this may feel to some like we're putting
2 the cart before the horse, I think it is important to
3 try to come up with an alternate filing deadline and an
4 alternate hearing date first.

5 The reason for doing that is, Mr. Butler, on
6 behalf of his client, and Mr. Purdy, on behalf of his
7 client, may elect not to participate in the remainder of
8 this afternoon's prehearing conference, because we don't
9 have filing problems with their particular testimony.

10 They are certainly welcome to stay on the line.
11 But the major thing that they would have input on, I
12 believe, would be the refiling schedule and the hearing
13 schedule, and so I'd like to address those issues first.

14 Anyone have a problem with that? Apparently not.
15 All right.

16 So I guess my first question is:

17 How much time would the parties need in order to
18 refile testimony and exhibits in order to meet the
19 filing requirements that were in order Number 4 in the
20 notice of this prehearing?

21 MR. TROTTER: Well, Your Honor, this is
22 Don Trotter. From the staff's perspective, I think the
23 cart is a little bit before the horse. I think we need
24 a clearer understanding of the issue that has been
25 identified with staff's exhibits.

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1 We thought the four adjustments that were
2 identified in the notice were separate, segregated
3 adjustments. They are simply negating company
4 adjustments, and so we're unclear of what the issue is
5 there. And it also says some of staff's adjustments
6 effect more than one issue. So if there are other areas
7 of concern, if we could talk to the policy people and
8 get a list of those, we could get a better sense of how
9 long it would take.

10 ALJ CLARK: All right. That's fair.

11 MR. SANGER: Your Honor, this is Irion
12 Sanger. We in our office and would be able to turn
13 around any information we get from our consultants
14 expeditiously within a couple days, or two or three
15 days.

16 However, from discussions with my consultants,
17 they are unclear as to what corrections they need to
18 make. And at this point, I don't feel confident setting
19 a schedule because they don't know what they need to do.

20 We will dedicate our time and put this as our
21 highest priority to get it done quickly. I just don't
22 know how long it's going to take them.

23 ALJ CLARK: That's fair. So the best laid
24 plans have now, I think, sort of fallen apart.
25 Gracefully fallen apart but fallen apart.

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1 So what I would suggest is to ask Mr. Butler and
2 Mr. Purdy, and I'm going to give you a choice here. You
3 can remain on the line as we have more detailed
4 off-record discussion of some of the problems with the
5 filings as we have them now, and you're welcome to stay
6 and listen to that. And we would then discuss, if
7 necessary, a schedule, refiling schedule and hearing
8 schedule after that.

9 Or plan B is that we can have this discussion off
10 record, and that we can call you to have you initiate
11 calling back in to the bridge line when we get back, if
12 necessary, to discuss those issues.

13 I'm going to turn to you first, Mr. Butler.

14 MR. BUTLER: I'm perfectly content to do
15 whatever the Commission would prefer. I could stay on
16 the line if you would like, or I could have you call
17 back.

18 ALJ CLARK: I certainly have no preference,
19 Mr. Butler.

20 MR. BUTLER: I will just stay on the line,
21 then.

22 ALJ CLARK: Mr. Purdy?

23 MR. PURDY: I would prefer to take advantage
24 of the time to work on another matter and call back.

25 ALJ CLARK: All right. Fine. We'll let you

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1 know when it's an adequate opportunity to do that.

2 Thank you.

3 I think that now the timing is such where it
4 would be appropriate for us to go off record, and
5 Mr. Twitchell and Mr. Johnson and Mr. Kermodé will join
6 me on the bench, and we will have an informal discussion
7 regarding the issues.

8 We are off record until further call.

9 (Off the record.)

10 ALJ CLARK: We're back on the record.

11 This was an extremely lengthy discussion between
12 the policy advisors and the parties to this case
13 regarding the testimony and exhibits that have been
14 filed thus far. However, I think it was a very fruitful
15 discussion.

16 I'm extremely appreciative of the effort that all
17 of the parties put in this afternoon to ensure that the
18 record in this case is clear and that it complies with
19 the Commission's rules, and it is going to give the
20 commissioners the information they need in order to make
21 a decision in this case.

22 While it was a somewhat painful exercise at
23 times, I want to commend everyone for their efforts in
24 working through these issues, okay?

25 With that said, we left it with the parties

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1 agreeing that they would need to file some supplemental
2 testimony in addition to the testimony that has already
3 been filed, and that would in some instances modify the
4 pre-filed testimony that we have thus far.

5 And I would like to reiterate on the record, this
6 is an opportunity to file supplemental testimony that
7 corrects earlier testimony. This is not a second bite
8 at the apple and an opportunity for parties to take on
9 new issues in the company's case that they have not
10 previously addressed or to change positions regarding
11 those issues. But simply this is an opportunity to
12 further explain each party's position in a manner that
13 the Commission will be able to follow it.

14 With that said, we remained off record to give
15 the parties the opportunity to come up with some dates
16 for submitting an additional three rounds of testimony.

17 And I think at this juncture we are ready to have
18 the parties memorialize that for us.

19 MR. TROTTER: If I may, Your Honor, this is
20 Don Trotter for UTC staff.

21 The following, I believe, we are in general
22 agreement with.

23 You gave us two possible weeks for hearings. And
24 it turns out the week of January 18th was problematic,
25 and so we were looking at the week of the 24th. The

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1 last day of that week is a furlough day, so we would be
2 looking at earlier days of that week.

3 MS. CLARK: Okay, great.

4 MR. TROTTER: Given that, we did add a
5 couple of extra days at the front end to make sure
6 parties can get to the Commission what they need to get
7 to the Commission.

8 So the company would file its revisions on the
9 23rd of November, and the staff and other parties would
10 file their response changes on December 6th, and then
11 the company would file rebuttal, and staff and other
12 parties would file cross-answering updates or
13 corrections on December 10th.

14 I think there was -- parties did not have the
15 chance to contact every single one of their witnesses to
16 determine their availability the week of the 24th. I
17 think everyone committed to do that by tomorrow in case
18 there is a problem. But there seemed to be a general
19 sense that that was going to work.

20 ALJ CLARK: All right. Excellent.

21 And so what I'm going to do is hold off issuing
22 notice -- I mean, issuing a prehearing conference order
23 in this matter until I hear from the parties.

24 Would it be reasonable for me to give the parties
25 until noon tomorrow to reach other witnesses?

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1 MR. TROTTER: Yes.

2 MS. MCDOWELL: Yes.

3 ALJ CLARK: All right. Then I'm just going
4 to hold off. If you could let me know, or confirm
5 whether or not that would work, I would greatly
6 appreciate that.

7 The rest of the time, as I indicated earlier, on
8 the Commission's calendar for January 24th through the
9 28th, I think we do need to schedule some additional
10 matters. One would be a prehearing conference in
11 advance of that evidentiary hearing. And ordinarily we
12 do that approximately a week, and I'm kind of working
13 backwards now from the dates that the parties have given
14 me. And that would mean a prehearing conference on the
15 18th of January.

16 Would that work for the parties?

17 MS. MCDOWELL: Yes.

18 MR. PURDY: Oh, I'm sorry, Judge. This is
19 Brad Purdy. We were looking at a hearing date of the
20 18th.

21 ALJ CLARK: It would be a prehearing
22 conference date. It looks like the hearing would be
23 actually January 24th to 28th, Mr. Purdy.

24 MR. PURDY: Oh, okay.

25 MS. MCDOWELL: To the 27th, right, because

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1 of the furlough day on the 28th?

2 ALJ CLARK: I'm sorry. 24th to 27th, yes.

3 And holding a prehearing conference approximately a week
4 before that.

5 I will note that this is a prehearing conference
6 we frequently do not have because it was -- it's
7 traditionally set up to mark exhibits and handle other
8 procedural matters, and we usually have those hopefully
9 well in hand, and there is a strong likelihood that
10 would not be held. I would like to have one built into
11 the schedule just in case.

12 And then, of course, we need a deadline for
13 filing cross-examination exhibits.

14 MR. TROTTER: Do you want to say the
15 previous Friday, Your Honor?

16 ALJ CLARK: All right. Let's see. You mean
17 the Friday previous to the hearing?

18 MS. MCDOWELL: 14th.

19 ALJ CLARK: Oh, the 14th? Okay.

20 Is that going to work for everyone?

21 MR. TROTTER: Yes.

22 MR. SANGER: Yes, Your Honor.

23 ALJ CLARK: That was Mr. Sanger?

24 MR. SANGER: Yes.

25 ALJ CLARK: And then did the parties discuss

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1 post-hearing briefing?

2 MS. MCDOWELL: Your, Honor, before we move
3 to that --

4 ALJ CLARK: I'm sorry.

5 MS. MCDOWELL: I believe the current
6 schedule has a deadline for discovery that ties to the
7 prehearing -- I mean the deadline for submitting
8 cross-examination exhibits.

9 If I recall, the deadline in this calendar is
10 Friday. So that would have been, I think, five business
11 -- five business days before the cross-examination
12 exhibits were due.

13 ALJ CLARK: That's correct.

14 No, it was ten days. The discovery deadline was
15 November 19th, and the deadline for cross-examination
16 was ten days after, on the 29th.

17 MS. MCDOWELL: Oh, so -- okay. All right.

18 So if we're on the 14th, does that take us back
19 to the 4th?

20 ALJ CLARK: Well, that's a good question.

21 Do the parties foresee the need for additional
22 discovery, if all we're doing is basically correcting
23 and sort of further explaining the case you already
24 have? I'm kind of hoping the answer to that is no.

25 MS. MCDOWELL: Oh, I see. Whether we could

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1 just adhere to the current discovery deadline and not do
2 additional discovery.

3 ALJ CLARK: Yeah. I mean, it seems to me
4 since you, you know, you actually already filed rebuttal
5 and cross-answering testimony, I'm hoping there would be
6 somewhat limited discovery, perhaps.

7 MR. TROTTER: Yes, Your Honor. That's --

8 MR. SANGER: Your Honor, this is Mr. Sanger
9 on the phone. My understanding was that the discovery
10 deadline was put into place in order to not burden
11 parties when they're preparing for the hearing.

12 And the schedule that was adopted did not
13 necessarily allow for parties to submit a round of
14 discovery and get the answers and submit additional
15 questions, given that the work papers would be five days
16 after the date of the testimony.

17 We also had some issues in getting work papers
18 from some of the witnesses. So whatever schedule that's
19 adopted, I would recommend that we move out the deadline
20 for discovery.

21 MR. TROTTER: Well, Your Honor, I think your
22 comment is appropriate. There may be some additional
23 explanation that generates discovery. I doubt it, but
24 there might be.

25 So perhaps the deadline, if there is a new one,

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1 it should be for any new testimony or any changed
2 adjustment that is made.

3 ALJ CLARK: Well, yeah. I -- I mean, the
4 whole purpose of this is not to expand the opportunity
5 to change your case. It's really to expand the
6 Commission's understanding of the positions the parties
7 have taken.

8 It's hard for me to look at that as a discovery
9 opportunity when it's really the Commission itself that
10 is initiating the modification and schedule to conform
11 to some filing rules and regulations and things like
12 that, okay?

13 So I would say to the extent, you know, the
14 parties raise something new, I think that actually
15 creates another hornet's nest of problems.

16 So I guess we could move the discovery deadline
17 out slightly, but I think the parties need to be
18 cautious in engaging in additional discovery at this
19 juncture.

20 MR. SANGER: Your Honor, we don't need the
21 discovery deadlines moved out considerably. However, we
22 received the work papers on Wednesday of this week, and
23 with the discovery deadline on Friday, it was going to
24 be very time consuming and very difficult for us to get
25 the discovery in. And we would not have gotten any of

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1 those responses back in time to ask any follow-up
2 questions.

3 So given that we now have more time, I think it
4 would be helpful for us to understand the other parties'
5 case.

6 ALJ CLARK: You're going to have to help me
7 out here a little bit. Understand the parties' case on
8 what?

9 MR. SANGER: The rebuttal cases, for
10 example, PacifiCorp made their rebuttal filing. In that
11 rebuttal filing they address a number of power cost
12 issues. We do not receive the work papers for those
13 rebuttal power cost issues, at least inadvertently until
14 Wednesday of this week.

15 Any discovery we get -- we have to send out all
16 our questions in the next couple of days. Then when we
17 get those answers back, there won't be additional
18 opportunity under the current schedule to ask follow-up
19 questions.

20 So we were working very expeditiously to get our
21 discovery out under the current schedule.

22 Now that we have a longer schedule, an additional
23 week or two for us to be able to conduct discovery would
24 be very helpful.

25 MS. MCDOWELL: So I would just say this:

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1 That we did provide some work papers. There were
2 some work papers that were inadvertently, either they
3 got lost in the mail or didn't get sent, but we ended up
4 -- we did email Mr. Sanger or Mr. Sanger's expert some
5 more papers yesterday.

6 We also got, I think, almost 100 data requests
7 from ICNU yesterday. So we're -- I mean, normally we
8 would want to be very accommodating about discovery and
9 make sure everybody has what they need.

10 But I'm a little worried about getting hit with
11 another 100 data requests. That's a very difficult
12 thing for us to manage, especially in a five-day
13 business turnaround. It's late in the case to get 100
14 data requests.

15 MR. SANGER: All I'm saying is, we have a
16 hearing now at the end of January, and we would be
17 willing to extend the day due date if we're providing
18 data responses. We have a very tight schedule built
19 into an idea that we're having a hearing coming up very
20 soon.

21 Given that we do not have a hearing coming up
22 very soon and it has been extended, I think it is
23 reasonable to allow the parties time to conduct
24 discovery.

25 ALJ CLARK: Mr. Sanger, you know, I

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1 understand your argument. But unfortunately, I'm not
2 buying it.

3 I think that what we're going to do is keep the
4 original discovery deadline. The reason I'm doing that
5 is, again, the expectation is not that the parties will
6 change their case.

7 I don't think you need additional time to go
8 through the company rebuttal or the cross-answering
9 testimony. You have the substance of what the parties'
10 position is on all of those issues.

11 And the sole reason we are extending this
12 schedule is to get further clarification, backup,
13 documentation, et cetera, for what the parties have
14 already submitted.

15 So I'm going to leave the discovery deadline as
16 it is. I don't see the need to move the discovery
17 deadline. But I don't see a briefing.

18 MR. TROTTER: Yes, Your Honor. We didn't
19 specifically discuss that, if you want to inform us what
20 the current interval is.

21 ALJ CLARK: Current spread is, okay.

22 There is approximately three weeks in-between the
23 close of the evidentiary hearing and the initial
24 post-hearing brief. That is, the hearing closed on
25 January 10th, and initial post-hearing brief on

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1 January 5th. And then post-hearing reply brief
2 January 18th, which is an additional two weeks beyond
3 that. I don't know if the parties want to consider
4 simultaneous briefing, or if they want to keep initial
5 and reply briefing.

6 MR. TROTTER: Well, Your Honor, we would be
7 happy with the simultaneous. That interval is fine. My
8 recollection of the prehearing optional if the company
9 elected to file one there would be simultaneous reply.

10 ALJ CLARK: That's correct.

11 MR. TROTTER: We don't have a problem with
12 that option or interval.

13 MS. MCDOWELL: We're fine with it as well,
14 but because the hearing is now further out, I'm not sure
15 if the Commission would want to try to truncate that
16 schedule.

17 I think we'll want the opportunity to file a
18 reply brief. My experience in these things is, you
19 know, if any use of predicting how this will go. I will
20 suspect we want to file a reply brief.

21 ALJ CLARK: Well, I think it would be
22 somewhat helpful to the Commission to truncate the
23 schedule honestly.

24 MR. TROTTER: Your Honor, the suggestion
25 might be to truncate the reply brief, and if you're

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1 going to shorten that time, then maybe a page limit
2 would be a way to make that work. But three weeks to
3 prepare a primary brief is probably the minimum. So,
4 15-page reply brief, for example.

5 MS. MCDOWELL: Are you talking about --
6 there is a page limit in the rules.

7 MR. TROTTER: Page limit of 60, but no page
8 limit on reply.

9 MS. MCDOWELL: Oh.

10 MR. TROTTER: So shorten the time for reply
11 and put a 15-page limit on that makes it workable.

12 MS. MCDOWELL: And I -- I think a 15-page
13 limit is not -- it's hard to agree to that in advance of
14 knowing how the issues will come out and what the reply
15 brief will need to address. So happy to truncate the
16 timing, and so thus willing to agree to a page limit on
17 it.

18 ALJ CLARK: So that looks like it gets us to
19 the 15th of April for initial; is that correct?

20 MR. TROTTER: February?

21 ALJ CLARK: February.

22 MS. MCDOWELL: February.

23 ALJ CLARK: That's pretty far out. When we
24 get too far out, that's when I start getting worried
25 about the suspension deadline.

0116

1 take you to the 18th. Would it be possible to get to
2 the following Monday. To have the 21st of that weekend.

3 That way, if you don't get the initial briefs,
4 you know, until late in the day on a Friday, you would
5 still have the ability to have a -- the full five days
6 to work on a file on the 21st.

7 ALJ CLARK: Okay. So that would be initial
8 briefs February 11th, and the reply briefs
9 February 21st.

10 MR. TROTTER: Your Honor, do you show a
11 furlough day in that range?

12 ALJ CLARK: Just a second. Let me go back
13 to the calendar. I don't see -- yes, there is. The
14 22nd.

15 MR. TROTTER: The 21st is a holiday.

16 ALJ CLARK: Why isn't the holiday showing up
17 on the calendar?

18 MR. TROTTER: Set filing --

19 ALJ CLARK: So the answer is the 18th in
20 advance. I can't really move it out. I can't have any
21 filing dates on a furlough day, and I can't -- having it
22 on a holiday really moves it to the next business day,
23 which would be the 22nd. Now we have effectively moved
24 it out to the 23rd.

25 MS. MCDOWELL: Got it.

0117

1 ALJ CLARK: It's a timing issue,
2 regrettably.

3 MS. MCDOWELL: I see what you're saying, so,
4 yeah. Okay.

5 ALJ CLARK: Yeah.

6 MS. MCDOWELL: We will work with that, and
7 you will probably get the page limit you desire and
8 timeline.

9 ALJ CLARK: There's another bonus truncating
10 the deadline truncates the page.

11 MS. MCDOWELL: That's right.

12 ALJ CLARK: I'm not hearing anything from
13 Mr. Sanger or Butler or Purdy. You're going to be
14 screaming at me; am I correct?

15 MR. BUTLER: This is Mr. Butler, and those
16 dates are fine with us.

17 ALJ CLARK: Mr. Purdy?

18 MR. PURDY: Your Honor, I just need to, as I
19 said, confirm with Chuck Ebert that that hearing date
20 will work. I'm hopeful it will, and I'll get back to
21 you by the morning.

22 ALJ CLARK: Okay. Great. Excellent.

23 Is there anything further that we should consider
24 on the record this afternoon?

25 I'm going to wait until I hear from the parties

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1 via email tomorrow at noon before we issue a prehearing
2 conference order regarding the schedule.

3 Other than that, the schedule is reasonable and
4 I'm adopting it. And we are adjourned.

5 (The prehearing conference was concluded at
6 4:40 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON)
COUNTY OF KING)

I, the undersigned Washington Certified Court Reporter, pursuant to RCW 5.28.010 authorized to administer oaths and affirmations in and for the State of Washington, do hereby certify:

That the annexed and foregoing prehearing conference containing Page 91 through 118 of each witness named herein was taken stenographically before me and reduced to typewriting under my direction.

I further certify that each said witness examined, read and signed his/her deposition after the same was transcribed unless indicated in the record that the parties and each witness waived the signing.

I further certify that all objections made at the time of said examination to my qualifications or the manner of taking each deposition, or to the conduct of any party have been noted by me upon each deposition. I further certify that I am not a relative or an employee or attorney or Counsel of any of the parties to said action, or a relative or employee of any such attorney or Counsel, and that I am not financially interested in the said action or the outcome thereof.

I further certify that each witness before examination was by me duly sworn to testify the truth, the whole truth and nothing but the truth.

I further certify that the deposition, as transcribed is a full, true and correct transcript of the testimony, including questions and answers, and all objections, motions and exceptions of Counsel made and taken at the time of the foregoing examination and was prepared pursuant to Washington Administrative Code 308-14-135, the transcript preparation format guideline.

0120

1 I further certify that I am sealing the deposition in an
2 envelope with the title of the above-referenced cause
3 thereon and marked "Prehearing Conference" with the name
4 of each witness and promptly delivering the same to the
5 appropriate party or parties.

4

5 IN WITNESS WHEREOF, I have hereunto set my hand
6 and affixed my Washington State CCR Seal this _____ day
7 of _____, 2010.

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Washington State Certified Court Reporter
WA CCR No. 2171
License effective until: 11/4/12.
Residing at Federal Way, Washington

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