

BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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In the Matter of the Petition )  
of )  
) )  
PUGET SOUND ENERGY, )  
) )  
for (i) Approval of a Special ) Docket No. UG-151663  
Contract for Liquefied Natural ) Volume I  
Gas Fuel Service with Totem )  
Ocean Trailer Express, Inc., )  
and (ii) a Declaratory Order )  
Approving the Methodology for )  
Allocating Costs Between )  
Regulated and Non-regulated )  
Liquefied Natural Gas Services )

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PREHEARING CONFERENCE - VOLUME I

Pages 1-38

ADMINISTRATIVE LAW JUDGE DENNIS J. MOSS

1:42 p.m.  
September 8, 2015

Washington Utilities and Transportation Commission  
1300 South Evergreen Park Drive Southwest  
Olympia, Washington 98504-7250

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1 OLYMPIA, WASHINGTON, SEPTEMBER 8, 2015

2 1:42 P.M.

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

5  
6 JUDGE MOSS: Let's go on the record.

7 Good afternoon, everyone. I apologize for  
8 the brief delay while we were getting our phone system  
9 restored after a brief outage at the State level,  
10 apparently.

11 We are convened this afternoon in the matter  
12 of the Petition of Puget Sound Energy, Inc., for,  
13 Roman (i), Approval of a Special Contract for Liquefied  
14 Natural Gas Fuel Service with Totem -- that's  
15 T-o-t-e-m -- Ocean Trailer Express, Inc., and small  
16 Roman (ii), a Declaratory Order Approving the  
17 Methodology for Allocating Costs Between Regulated and  
18 Non-Regulated Liquefied Natural Gas Services,  
19 a mouthful by anyone's standards.

20 This is Docket UG-151663, and this is our  
21 first prehearing conference. The caption is  
22 sufficiently demonstrative of the nature of the  
23 proceeding.

24 I guess we'll just go straight into  
25 appearances, and we'll start with the company,

1 Mr. Kuzma.

2 MR. KUZMA: I'm Jason Kuzma with Perkins  
3 Coie on behalf of Puget Sound Energy. With me today is  
4 Eric Englert from Puget Sound Energy.

5 JUDGE MOSS: All right. Mr. Englert, are  
6 you counsel or otherwise employed?

7 MR. ENGLERT: I am otherwise employed.

8 JUDGE MOSS: Okay. Lucky you.

9 Okay. All right.

10 Let's -- Mr. ffitch, let's have your  
11 appearance.

12 MR. FFITCH: Good afternoon, your Honor.  
13 Simon ffitch for the Public Counsel office.

14 JUDGE MOSS: All right. And for some reason  
15 in what I've written here, I included Ms. Gafken. Is  
16 she entering an appearance in this?

17 MR. FFITCH: She's on the appearance list as  
18 a backup in case of --

19 JUDGE MOSS: So --

20 MR. KUZMA: -- accident.

21 JUDGE MOSS: -- she has entered an -- well,  
22 that's -- my goodness. All right.

23 For staff?

24 MR. SHEARER: Brett Shearer, Assistant  
25 Attorney General on behalf of staff.

1 JUDGE MOSS: All right.

2 And I understand -- I believe it's  
3 Mr. Brooks, you're on the phone for the Northwest  
4 Industrial Gas Users?

5 MR. BROOKS: That is correct. Tommy Brooks  
6 with -- from Cable Huston, and also Chad Stokes will be  
7 appearing in this docket as well.

8 JUDGE MOSS: Could you speak up just a  
9 little bit?

10 MR. BROOKS: I can certainly try.

11 JUDGE MOSS: You're doing fine. Go ahead  
12 say that again, please.

13 MR. BROOKS: Tommy Brooks with Cable Huston  
14 for the Northwest Industrial Gas Users, and Chad Stokes  
15 will also be appearing in this docket with me.

16 JUDGE MOSS: All right. The court reporter  
17 was having a little difficulty. Did you get that all  
18 right? Okay. All right.

19 And I didn't -- I don't think I got a  
20 written petition for intervention from the gas users,  
21 did I, Mr. Brooks?

22 MR. BROOKS: I will have to double-check,  
23 your Honor. I thought that one had gone in, but --

24 JUDGE MOSS: Well, it may have. It may  
25 simply not have reached me yet. But in any event, I'm

1 sure I was correct in anticipating that you would wish  
2 to intervene in the proceeding, and that there will be  
3 no objection.

4 And there is none being indicated in the  
5 room, so that petition will be granted.

6 MR. BROOKS: Thank you.

7 JUDGE MOSS: All right.

8 I'm just going to go through the routine  
9 here, and then we'll get down to the more important  
10 matters, which will be the scope of the proceedings and  
11 the procedural schedule.

12 I do see a need for discovery in the case,  
13 which is one reason we decided to convert it, and so  
14 we'll, of course, conduct that in accordance with the  
15 Commission's procedural rules governing discovery, and  
16 subject to a protective order with highly confidential  
17 provisions, assuming there's no objection to that.  
18 There was a motion for that with the initial filing, and  
19 given the nature of it as a pending transaction, I find  
20 that these typically are appropriate.

21 And the company, of course, needs -- as it  
22 well knows, it has to be somewhat discreet in  
23 identifying matters as confidential or highly  
24 confidential. And Mr. Kuzma is shaking his head in the  
25 affirmative, for the record.

1 So is there any objection?

2 MR. FFITCH: No objection from public  
3 counsel.

4 JUDGE MOSS: All right.

5 Then we'll go ahead with that. In fact, I  
6 already have that in the works, and that will go out  
7 today barring something unforeseen, as will the  
8 prehearing order.

9 I'll skip the procedural schedule for now.  
10 That will be our lengthy discussion, I imagine.

11 I'm going to take a little bit of a chance  
12 in this proceeding at the outset, at least, and say that  
13 for filing, you need file only the original plus one  
14 copy of all pleadings, motions, briefs and other  
15 pretrial material. And of course, that's the version  
16 that has all the confidential and highly confidential,  
17 and then if it does -- for those documents that do have  
18 materials designated confidential or highly  
19 confidential, you'll need to file a redacted copy as  
20 well. But we won't -- we won't ask for multiple copies  
21 at this juncture.

22 I'm told that the staff on this occasion has  
23 indicated they would be satisfied to have electronic  
24 service, which pleases me to hear that we're making that  
25 progress toward a less paper-laden workplace.



1           If the commissioners decide to sit on this,  
2 and I don't have any indication that that's the case  
3 yet, then we will have to have enough copies for them,  
4 but I'll just send the notice, or maybe just do it  
5 by e-mail. I'm not sure notice is even required. You  
6 all know all the mailing requirements and filing  
7 requirements and so forth.

8           The electronic submission of documents, and  
9 this will -- we'll handle this as we typically do. The  
10 procedural schedule dates will be the dates for  
11 submitting documents electronically, with the paper  
12 copies to follow by the next business day.

13           We -- some time ago, I don't know if it's  
14 been within the last year, but you all have probably  
15 been in proceedings where we have adopted the practice  
16 of assuming that parties are satisfied fully with the  
17 service by electronic means unless they tell us  
18 otherwise.

19           So if you don't want to receive service  
20 exclusively electronically, you need to file a letter  
21 with -- so the records center will know to serve you  
22 paper as well.

23           Mr. ffitch, are you okay with that?

24           MR. FFITCH: Yes, your Honor. I was just  
25 listening to see if you're referring to service by

1 parties or by the Commission of its own --

2 JUDGE MOSS: Well, I'm sure that we -- as I  
3 recall, we still have to serve notices and orders in  
4 paper versions, so -- as far as I know. Let's see what  
5 it says.

6 The Commission prefers to serve only  
7 electronic copies of documents in this docket. The  
8 party who does not agree to service only by electronic  
9 copies must provide written notice to the Commission;  
10 otherwise, agreement is presumed.

11 So that may be meant to contemplate  
12 Commission documents as well. Mr. ffitch, do you need  
13 those in paper?

14 MR. FFITCH: At this point we're still  
15 asking for a paper service.

16 JUDGE MOSS: Okay. Let me check on that.  
17 This is -- actually, I think this may be the first  
18 proceeding in which this has been the practice for me.  
19 And so this is -- we're trying, as you all know, to --  
20 not to belabor the point, but we're trying to go to a  
21 paperless workplace eventually. These are steps along  
22 the way.

23 We're working on procedural rules that will  
24 modify some of this, so I apologize for any confusion it  
25 may cause, but we --

1 MR. FFITCH: I think, your Honor, that's --  
2 our main concern is for documents from other parties  
3 where we can end up with a very large copying obligation  
4 on our staff for some filings, particularly from a  
5 moving party, the company.

6 JUDGE MOSS: Uh-huh.

7 MR. FFITCH: And we're not sure if -- when  
8 we print out things, if they are looking like what the  
9 authors intended them to look like.

10 JUDGE MOSS: So you would want paper copies  
11 of the testimonies and so forth?

12 MR. FFITCH: Right. But --

13 JUDGE MOSS: And then I imagine, Mr. Kuzma,  
14 you probably want that as well?

15 MR. KUZMA: Yes.

16 JUDGE MOSS: Yeah. I think that's probably  
17 the way this is intended to work.

18 Have any of you had experience with this  
19 here at the Commission, this practice? It's new to me.  
20 But anyway, all right.

21 Well, we'll just take it for now that we're  
22 talking about Commission service. And if I find out  
23 something to the contrary, I'll let you all know. But  
24 for now we'll assume that, among the parties, you should  
25 follow up with paper.

1 All right?

2 MR. FFITCH: Thank you, your Honor.

3 JUDGE MOSS: I'm going to go ahead and  
4 mention now that -- the point we always make in  
5 prehearing conferences is that the Commission does  
6 support the informal settlement of matters, and the  
7 parties are encouraged to pursue that as an alternative  
8 and an option to resolve disputes.

9 This -- this proceeding, of course, is at  
10 its genesis, and so it's a little difficult to know how  
11 much room there is for that. And I'm sure, as there's  
12 some discovery and the issues become crystal clear, then  
13 you'll know better.

14 But as we work on a procedural schedule,  
15 which is our next order of business here, I would like  
16 to build in a date for a settlement -- preliminary  
17 settlement discussion fairly early in the process. And  
18 I don't want to do it too early or it won't do any good.

19 But -- so tell me, Mr. ffitch or  
20 Mr. Shearer, what sort of procedural schedule you and  
21 the Northwest Industrial Gas Users have in mind, and  
22 then I'll hear, Mr. Kuzma, what you have in mind, and  
23 we'll either -- I'll either decide there's room for a  
24 discussion or I'll just rule.

25 So do you have something in writing or --

1 MR. SHEARER: I do, your Honor. Would you  
2 like a copy to go along --

3 JUDGE MOSS: Just hand it up. That would be  
4 the easiest thing for me.

5 Okay. All right.

6 Now, Mr. Kuzma, you said you've seen this;  
7 is that right?

8 MR. KUZMA: Yes, I have, your Honor.

9 JUDGE MOSS: Do you have a copy with you?

10 MR. KUZMA: I have -- I was able to check it  
11 electronically over the lunch hour.

12 JUDGE MOSS: I think Mr. Shearer has a spare  
13 copy. It would probably be useful if we're all looking  
14 at the same thing.

15 And tell me, Mr. Kuzma, one of the things I  
16 wrote into the notice for the prehearing conference  
17 today was that I was hoping the parties would work  
18 together on this, and taking into account, among other  
19 things, the company's transactional needs, have you  
20 given that sort of information to -- to your  
21 counterparts here?

22 MR. KUZMA: Yes. Puget had proposed a  
23 schedule on Thursday. We heard back on Friday that the  
24 other parties, or at least public counsel did, that that  
25 procedural schedule was too short for their tastes.

1 JUDGE MOSS: Okay.

2 MR. KUZMA: And then we received this  
3 version today.

4 Puget's needs are based upon the  
5 construction schedule of the project, and currently we  
6 have -- Puget has a November 5th deadline for a board of  
7 directors meeting to authorize the notice of  
8 construction and to proceed with the project.

9 And Puget had narrowed its issues, it  
10 believed, in this proceeding to the two that were  
11 summarized in the caption, and was under the belief that  
12 those two issues could be handled before that  
13 November 5th board of directors meeting.

14 JUDGE MOSS: Yeah. And I will say that that  
15 struck me as pretty ambitious when I first saw it, so  
16 I'm not going to be optimistic that we can get this  
17 thing wrapped up by that early of a date.

18 Did you have something in writing in the way  
19 of a schedule, by the way?

20 MR. KUZMA: Yes, we did.

21 JUDGE MOSS: If we can have that as well,  
22 and maybe if you could share that with your counterparts  
23 here, if you have extra copies. Or they've seen it?

24 MR. KUZMA: They've seen it.

25 JUDGE MOSS: And these workshops, I presume,

1 would be to exchange information and perhaps foreshorten  
2 the discovery process and also in order to discuss  
3 settlement?

4 MR. KUZMA: Absolutely. We thought that  
5 that would be a more expeditious way of solving some of  
6 the, at least, initial issues with respect to discovery.

7 JUDGE MOSS: Okay.

8 And I'll ask you, Mr. -- I'll ask Mr. ffitich  
9 and, of course, Mr. Brooks, you can step in here at any  
10 time as well, and Mr. Shearer, what you all are  
11 anticipating in terms of the requirements for this  
12 proceeding. I mean, this is not a general rate case.  
13 The issues are fairly discrete. I recognize some issues  
14 in it myself, but I'm not sure what you all are thinking  
15 in terms of how complicated this may be.

16 I will tell you that I have in mind a  
17 schedule that falls between these two, as you might  
18 expect. So with that in mind, what sort of -- I do  
19 think that having no testimony, response testimony until  
20 January 22nd is just -- that's considerably too far out,  
21 I think.

22 Maybe -- maybe it would be most efficient if  
23 I just tell you what I had in mind and work from there.  
24 You all takes notes, because I want you to discuss it.  
25 What I'm doing -- what I'm going to say here is not

1 ironclad. I did this in five minutes before I walked in  
2 here this afternoon.

3 So while I have given some thought to the  
4 case and I've read all the testimony, and have some  
5 sense of what the issues may be, I don't want to  
6 unnecessarily foreshorten things, and I certainly don't  
7 want to unnecessarily prolong things. That's my goal.

8 But I was thinking that we could have  
9 response testimony by October 27th or so, and rebuttal  
10 by maybe November 17th or 24th, I'm not sure, time for a  
11 hearing around the middle of December, either the week  
12 of the 8th or the 15th.

13 Now, the holidays, of course, always present  
14 a problem. I have had a hearing every Christmas since  
15 I've been here for 17 years, so this does not surprise  
16 me that it looks like it's going to happen again in that  
17 timeframe, but I'd like to see something -- I'd like to  
18 see us go to hearing before the end of the year. And  
19 then, of course, we'll have to allow a period for briefs  
20 and you all will have probably an easy time agreeing to  
21 how much time you need to write the briefs.

22 And then -- so my goal would be to -- to  
23 wrap this case up by end of January, early first week of  
24 February, something like that. That's what I had in  
25 mind. As I said, I didn't spend a great deal of time



1 thinking through precise dates, but that's the sort of  
2 timeframe that seemed to me might be appropriate.

3 And, you know, obviously, Mr. Kuzma, the  
4 concerns that the parties are going to have, is this  
5 thing right-sized, is it right-priced, is the risk  
6 allocation appropriate given the nature of the special  
7 contract and its term, and so forth.

8 Little questions pop up in the mind as we  
9 read about these things from your initial filing, and  
10 I'm sure they popped up in the minds of staff and staff  
11 counsel and Mr. ffitich and Mr. Brooks, and Mr. Finklea,  
12 I assume, was involved in this.

13 Mr. Brooks, has Mr. Finklea got his hands on  
14 this one?

15 MR. BROOKS: Yes, of course. He will be  
16 involved in reviewing it for the gas users.

17 JUDGE MOSS: Okay. All right.

18 So do you all want to -- you've got your two  
19 proposals. Again, Mr. Kuzma, I think the company's  
20 proposal is simply too optimistic and too fast.

21 Keep in mind, too, that I have to consider  
22 an interaction with the commissioners on this because  
23 there's probably going to be a push toward the end to  
24 get me to take this straight to the commissioners, and  
25 I'm willing to do that, and I've done it many times in

1 the past, to save the initial order phase. But that  
2 means some additional time in the end to discuss and  
3 bring them up to speed and so forth. So I imagine  
4 that's in the cards.

5 MR. KUZMA: Yes, I hear that, your Honor.

6 I do want to raise a few suggestions --

7 JUDGE MOSS: Sure. Sure.

8 MR. KUZMA: -- with respect to our timing  
9 issues.

10 One is that Puget has, over the past six  
11 months, in response to the commissioners, the staff,  
12 public counsel and Nwigu has briefed them on these  
13 issues.

14 JUDGE MOSS: Okay.

15 MR. KUZMA: One of the reasons for some of  
16 the delay was restructuring of the project to arrange  
17 some of those -- or to try to solve some of those  
18 issues.

19 JUDGE MOSS: Okay.

20 MR. KUZMA: And what we're faced with now is  
21 that the construction on the project needs to commence  
22 quickly; otherwise, we'll be running into liquidated  
23 damages potentially on the opposite end of the schedule.

24 JUDGE MOSS: I see.

25 MR. KUZMA: So that was one of the initial

1 issues with respect to a need for a sooner order than  
2 later.

3 JUDGE MOSS: Yes.

4 MR. KUZMA: Also, one of the issues that,  
5 frankly, we are trying to puzzle through with is that  
6 some of the issues that have been raised are of a  
7 prudence-type nature, and the question is, are we going  
8 to be subject to two prudence reviews, for lack of a  
9 better term, one in this proceeding, and then one two to  
10 three years from now when we seek to have the costs  
11 included in the rates.

12 JUDGE MOSS: Well, predeterminations of  
13 prudence is not something the Commission has yet adopted  
14 as a practice, although we have opened the door to that  
15 apparently in another context with which I am familiar.  
16 And we may begin to follow that practice. I don't know.  
17 So far, in my experience here, we do prudence reviews at  
18 the time it's appropriate, when there's actually rate  
19 base to put on the books and to reflect in rates.

20 So I would not -- certainly the company  
21 would not be subject to two prudence reviews. If we  
22 were to undertake a full-blown prudence review at this  
23 point, we wouldn't do it again later. But I don't see a  
24 request for that.

25 MR. KUZMA: Well, there are a few issues

1 that came up in some of the responses that we saw to the  
2 Commission's notice earlier. One was, for example, the  
3 issue with respect to actual costs.

4 To be honest, the project hasn't been  
5 authorized for construction yet, so Puget's spent less  
6 than five percent of the projected total cost. There  
7 won't be actual costs of a sufficient size during the  
8 course of this proceeding.

9 Also, the issue of rate-sizing is, in my  
10 mind, a question of need in some respects and, you know,  
11 are we going to adjudicate the need twice?

12 JUDGE MOSS: Let me hear from others on  
13 these questions, these issues that we're talking about,  
14 potential issues, I should say.

15 MR. FFITCH: I can go first --

16 JUDGE MOSS: Sure. That will be fine.

17 MR. FFITCH: -- if that's all right. Pardon  
18 me.

19 First, I guess I wanted to, just for the  
20 record, describe the history a little differently than  
21 Mr. Kuzma did. It is correct that we had a briefing  
22 from the company with regard to this project quite a few  
23 months ago.

24 To my knowledge, in reviewing the project,  
25 there was certainly no subsequent interaction that, in

1 my review of the project, that indicates that there were  
2 any modifications made as a result of the presentation  
3 that was given to our office, which was essentially a  
4 one-way conversation, mostly with questions and a  
5 PowerPoint describing it to us. So I wouldn't -- our  
6 office wouldn't characterize it as sort of a period of  
7 interaction that resulted in this filing.

8 The second point is that the presentation  
9 that we got from the company predicted a filing several  
10 months ago with this Commission of this request. And  
11 now, unfortunately, we're faced with a filing several  
12 months later than that, which creates a real squeeze  
13 with their desired November 5th date.

14 So that is, I think, a factor for us in  
15 terms of trying to look at a reasonable schedule. It  
16 looks like it could have been filed earlier than it was,  
17 and that was our original representation by the company.

18 So in terms of the issues, this is -- it is  
19 kind of interesting with regard to the prudence issues.  
20 It's -- I don't think we'd say that it's a prudence  
21 case. On the other hand, it's in that sort of gray area  
22 where, if you go down this road and get approvals for  
23 this transaction, and as well as the cost allocations,  
24 it becomes somewhat of a fait accompli when you're --  
25 you know, for all parties concerned when you're down the

1 road a piece looking at prudence in a case.

2 So in order to do a good job with the case,  
3 even as filed, we're going to be inevitably slipping  
4 into some areas that you, yourself, have mentioned, you  
5 know, right-sizing of the project, is it justified in  
6 terms of load forecasts, things of that nature.

7 So I don't think we'd be asking for a  
8 prudence determination on the part of the Commission,  
9 but it's a little bit hard to have a pure divide between  
10 the issues in this case and what ultimately might come  
11 before the Commission in a rate case down the road.

12 JUDGE MOSS: Mr. Shearer, do you want to be  
13 heard?

14 MR. SHEARER: I don't have a lot to add,  
15 your Honor. I would just say, our understanding is  
16 there was one briefing in February of 2015 with staff on  
17 this one, and nothing thereafter. And so I just want to  
18 make that correction on the record.

19 And in terms of substantively, from staff's  
20 perspective, the company has controlled this filing  
21 throughout, and they're asking for approval of a special  
22 contract and a declaratory order for allocation, as you  
23 know, and that requires some substantive analysis of  
24 size and scope, alternatives, contract review, all those  
25 nuts and bolts before we can make any kind of meaningful

1 recommendation to the Commission.

2 JUDGE MOSS: Mr. Brooks, do you have  
3 anything to add?

4 MR. BROOKS: Yes, your Honor.

5 We did have a couple briefings with the  
6 company and appreciated the time that they spent trying  
7 to get us, you know, more knowledge about their project.  
8 But just going from that conceptual level of  
9 understanding what the company's goals was to actually  
10 diving in and seeing how these numbers turn out, I mean,  
11 it's a different process.

12 So while I think we've got a good jump on  
13 what they're intending to do, there's just a lot of  
14 factual details and analysis, I think, that we believe  
15 needs to happen. So we wanted to be able to have the  
16 time to do that.

17 JUDGE MOSS: Okay. Thank you.

18 Mr. Kuzma, you have something more to say, I  
19 believe.

20 MR. KUZMA: Yes, your Honor. There were --  
21 staff is correct, there was a meeting in February.  
22 There were subsequent meetings in June, so just to  
23 clarify that issue.

24 JUDGE MOSS: Um-hmm.

25 MR. KUZMA: In addition, the one thing I did

1 want to clarify is sort of this -- the scope of what  
2 Puget's asking for in the declaratory order.

3 We're not asking for any set allocation  
4 percentages in this proceeding. We've offered up what  
5 they might look like under scenarios, given Puget's  
6 budgeting numbers, but we recognize that those are just  
7 budgeting numbers. Those are not actuals.

8 What we're simply asking for in this  
9 proceeding is that the generic cost allocation  
10 methodology required by the Commission and the merger  
11 docket in 2008 would apply here. And whatever those  
12 allocations might be might be determined in the later  
13 proceeding.

14 We had at one point contemplated asking for  
15 the actual allocations to be determined in this  
16 proceeding, and that may have been communicated. I  
17 don't know. I wasn't at the meetings. But that is not  
18 what we're asking for in this declaratory order.

19 We just want confirmation that the generic  
20 proceed -- the generic methodology that has direct  
21 assignment, causal assignment and then generic be  
22 applied here as well.

23 JUDGE MOSS: All right. And I did read the  
24 testimony that was fleshing out what you meant by the  
25 oft-repeated phrase "Commission-approved allocation



1 methodology," and so I was pleased to find that bit of  
2 detail in the testimony. Because I went back and looked  
3 at the dockets, and I actually was a participant in the  
4 second docket, the Macquarie deposition dockets, and  
5 didn't have any strong recollection of this having been  
6 an important issue.

7 But I think the -- what I found in the  
8 testimony, at least on a preliminary read, is that, just  
9 as you said, a generic description of principles that  
10 the Commission has consistently, I think, and  
11 historically applied in allocating costs, direct  
12 allocation and causal allocation and so forth.

13 So the nature of the proceeding is, you  
14 know, a little hard -- I think it is a little difficult  
15 to grasp fully. My concern, and I think it's probably a  
16 concern that Mr. ffitich and Mr. Shearer and Mr. Brooks  
17 all have is, you know, what is it exactly an order in  
18 this proceeding is going to do for you.

19 I mean, if you just wanted something that  
20 says, well, that sounds like a pretty good idea, go  
21 ahead and we'll work it out later, that's sort of one  
22 approach, I guess. I'm not sure how necessary a  
23 proceeding even is if that's all you're looking for.

24 On the other hand, if we're looking for  
25 something more definitive, it seems to me, and perhaps

1 this is where the opportunities for settlement come into  
2 play, there need to probably be some parameters around  
3 these things.

4 If you're going to say, well, we sort of  
5 want this general allocation, generic approach to  
6 allocation, well, I imagine these folks want to know a  
7 little bit more about what that implies in terms of  
8 who's going to end up paying the costs of this project,  
9 who's going to be responsible for those costs.

10 This is a big asset, it's a big piece of  
11 hardware, if I may put it that simply. It's going to be  
12 quite an addition to rate base, whatever part of it goes  
13 into rate base.

14 Now, of course, at the time that we are  
15 asked to put it in the rate base, the Commission does  
16 have the option of saying, well, you built this hundred  
17 million dollar facility and we think about 50 percent of  
18 it was a big waste, and so you're not going to be  
19 allowed the cost recovery. But that's a terrible sort  
20 of result for everybody.

21 So -- and my interest, in a sense, is to see  
22 the parties sort of hash these things out and gain some  
23 clarity around all of this before going forward. I  
24 guess there's a part of me, as I sit here and I'm sort  
25 of thinking out loud, you all have seen me do this

1 before, and sometimes it's beneficial and sometimes it's  
2 a waste of everybody's time, but I'm wondering if there  
3 could be some preliminary activity, perhaps even a  
4 fairly concerted effort in the next few weeks, to try to  
5 get some technical conferences going, and see if the  
6 parties, staff, public counsel and the gas users can  
7 have a higher level of comfort about all this, and then  
8 come back to me and say, well, these are the things that  
9 we feel like we need to have scrutinized in the crucible  
10 of a hearing context, and they're narrow and we can do  
11 that fairly quickly and so forth.

12 That's one possibility is to approach it  
13 that way, and we sort of -- in that sense, we set sort  
14 of a preliminary procedural schedule, if you will, with  
15 an eye to early completion, and it puts everybody's feet  
16 to the fire a little bit, but maybe that would bear some  
17 fruit.

18 What do other parties think before I ask  
19 Mr. Kuzma? Is that something that -- I think it makes a  
20 lot of sense to try to push that sort of thing in this  
21 type of setting.

22 MR. SHEARER: We would agree, your Honor.  
23 That's -- in our version that we circulated today and  
24 last week, we had two technical conferences built in in  
25 September and October, and that was the same line of

1 thinking.

2 JUDGE MOSS: Yes. I would think we could  
3 probably do two in September and move this thing along  
4 that quickly.

5 I see you have Mr. Gomez with you here  
6 today, so I know you've got staff on top of this, and  
7 Mr. Gomez is a very capable person. And Mr. ffitch, you  
8 have Ms. Johnson on the phone here, and I know she's a  
9 very capable person as well. So I'm not sure what --  
10 well, of course, Mr. Finklea I've known for many years,  
11 and he probably already has all the -- a great grasp of  
12 all of this.

13 So it does seem to me there's some real  
14 possibilities here for maybe -- maybe let's focus our  
15 attention heavily on this during the next three weeks,  
16 the remainder of this month, and then have you all  
17 report back. That will at least advance the game.

18 If we do end up having to have a more  
19 fulsome schedule, Mr. Kuzma, that will significantly  
20 advance our knowledge base and perhaps allow us to have  
21 a very refined schedule, and I think that would benefit  
22 the other parties as well.

23 Mr. ffitch?

24 MR. FFITCH: Your Honor, I just wanted to  
25 say that we are actually looking at retaining an expert

1 for the case. And Ms. Johnson, with all her talents, is  
2 at this point handling so many projects so she's not  
3 actually going to be our witness in the case, although  
4 she's very helpful on it.

5 We see three areas -- well, let me back up.  
6 I think that's a good plan. The timing of it, we're  
7 still trying to find some expert help. So we'll do what  
8 we can with September. September and October seemed a  
9 little more workable for us.

10 But we're seeing this as sort of having  
11 three areas. One of them is the area of cost  
12 allocation, sort of accounting issues. One of them is  
13 the technical issues about the big piece of hardware,  
14 the load forecasts, the pipeline expansion and the  
15 market itself, all of those kinds of things.

16 And then the third area is the sort of legal  
17 issues. There seemed to be -- this seems to be a  
18 tri-part-type proposal with regulated service, and then  
19 somewhat unique big customer -- or service for regular,  
20 old-fashioned gas users, then there's the TOTE customer  
21 piece, and then there's the unregulated piece of the  
22 service, and so that seems to require some legal  
23 analysis.

24 So we're looking at the case with those  
25 three buckets, and that's one reason why it seems to

1 need some more time.

2 JUDGE MOSS: Okay. And let's touch on that  
3 point in a little more detail if, we may. And of  
4 course, what we're doing here today is trying to  
5 identify and narrow issues, so we're certainly not  
6 trying to produce substantive material that will later  
7 be implicated in a decision.

8 But I'm just -- one thing I recall from the  
9 filing, Mr. Kuzma, is -- the idea put forward was, I  
10 believe, that all of this service could be done on an  
11 unregulated basis, but then that would -- that doesn't  
12 really fit with the idea of sizing of the facility to  
13 meet the core customer's needs. So I was not really  
14 able to reconcile those two ideas in my mind.

15 MR. KUZMA: The offer of natural gas as a  
16 vehicular fuel, as it would to TOTE, and it would  
17 contemplate it be under the -- the nonregulated service,  
18 is -- is not necessarily a regulated service due to  
19 the -- I think it's a Fuel Gas Act of '91 and -- unless  
20 it's offered by an LDC, in which case the State can  
21 continue to regulate it if it so chooses.

22 Puget offered in this proceeding to -- and  
23 originally Puget had intended to make the entire plant a  
24 regulated plant, but due to market issues, has not been  
25 able to identify an off-taker for the -- the portion of

1 the plant that's currently on subscribed.

2 And so what Puget had -- and one of the  
3 reasons for the delay is Puget built the service around  
4 offering that which is subscribed as a regulated service  
5 and that which is not subscribed as unregulated service  
6 for future needs.

7 And the reason it offered the TOTE service  
8 as a regulated service is, in part, to provide some  
9 benefit to the core gas customers, because TOTE  
10 willingly is paying a premium above cost to have a  
11 shorter term contract than Puget would like, and as a  
12 result, that will have greater than cost issues coming  
13 in -- dollars coming in, and that will be used to the  
14 benefit of the core gas customers. That's how Puget had  
15 built -- or had designed the facility in response to the  
16 inability to define the -- at this time the unsubscribed  
17 portions.

18 JUDGE MOSS: And I think, you know, fleshing  
19 these sorts of things out with the other parties and  
20 raising their level of understanding about those, as you  
21 just raised mine somewhat, is an important piece of this  
22 process.

23 I think, you know, the -- some of the  
24 testimony and some of the exhibits are Puget's effort to  
25 demonstrate that there are economies of scale being

1 realized here that ultimately we're down to the benefit  
2 of the core customers, which, of course, is going to be  
3 near and dear to the hearts of both staff and public  
4 counsel, as well as the customers themselves  
5 representing by the gas users group.

6 And so these sorts of things definitely, I  
7 think, need to be explored, and perhaps with some  
8 exploration, and it may be a concerted efforts in the  
9 next three weeks or so, four weeks perhaps, we can make  
10 some significant progress.

11 I mean, personally, if I wasn't the judge in  
12 this case, I could certainly see some opportunities to  
13 mediate it successfully, because I think there's a lot  
14 of room here for perhaps the company to make some  
15 assurances to these other parties that will help them be  
16 satisfied that it's an okay thing to do.

17 On the other hand, I see the need for that,  
18 too. So -- and I'm not going to cut anyone off from  
19 their rights. So why don't we -- I'm just wondering  
20 what the best approach here is to actually setting a  
21 formal schedule. I don't want to just walk out of here  
22 today and say, okay, you guys go forth and be productive  
23 for the next month and then come report back. I want to  
24 set some definite dates here for you all to have some  
25 meetings.



1           So I wonder if it would be useful for me to  
2 leave for a few minutes and let you all discuss among  
3 yourselves, you've got -- your gas users are on the  
4 phone, of course, and see if you can hammer out a  
5 schedule that could be productive in the fashion that  
6 I've been discussing with you. And then I can be  
7 brought back in and we can perhaps commit something  
8 to -- in the way of a formal schedule.

9           But I do -- what I do basically anticipate  
10 is that you would make a concerted effort over the  
11 next -- certainly the balance of this month and maybe  
12 the first week of October, and at that point we would  
13 reconvene, because I don't want to let this slip.

14           We'll benefit from this undertaking no  
15 matter what, and I think it will probably foreshorten  
16 any discovery and move things along efficiently, and  
17 that is my goal, so that we're not losing time here.

18           That's my concern. I don't want to be  
19 losing time here. Yet at the same time, I want to give  
20 this the best opportunity it can to succeed, and in  
21 short order, and everybody can walk away happy perhaps.

22           MR. KUZMA: Okay.

23           JUDGE MOSS: All right. Does that sound  
24 good? All right. I'll just be in my office right down  
25 the hall, so come get me when you're ready.

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(A break was taken from  
2:20 p.m. to 3:00 p.m.)

JUDGE MOSS: Let's go back on the record.  
So who wishes to report?

Mr. Shearer, go ahead.

MR. SHEARER: I will go for it, your Honor.

So we do have a series of tentative dates  
we'd like to propose to you.

JUDGE MOSS: Okay.

MR. SHEARER: So the parties propose holding  
technical workshops on September 18th and  
September 21st.

JUDGE MOSS: All right.

MR. SHEARER: And then a second technical  
workshop on October 8th.

JUDGE MOSS: Okay.

MR. SHEARER: And then we would ask to  
reconvene at that point here to see how or -- how to  
move forward, and we have three potential dates for  
that. The afternoon of October 13th, anytime  
October 14th, or the morning of October 16th.

And to the other parties, if I missed  
something or made a mistake, please jump in and correct  
me.

JUDGE MOSS: Okay. And those dates -- those

1 last three dates you gave me are the dates on which you  
2 want to reconvene?

3 MR. SHEARER: Yeah. Any one of those, just  
4 to see how to move forward and where we are at that  
5 point.

6 JUDGE MOSS: Okay. All right.

7 So you wanted a couple days after the 8th to  
8 chew things over? Okay. That's fine. All right.

9 Well, those dates are acceptable to me.  
10 What I wanted was something that would work for you all  
11 under the program we just outlined. So I'll just --  
12 I'll go ahead and get the prehearing conference order  
13 out, and I'll put these dates in. And I'll make some  
14 kind of notation about the fact that we may have a  
15 subsequent emendation to the procedural schedule.

16 Okay. So are we good?

17 MR. KUZMA: Yes, we're good, your Honor.

18 And I believe public counsel and staff have  
19 all of the confidential, highly confidential materials.  
20 NWIGU does not as of yet. We trust from Mr. Brooks that  
21 he will sign the order when it comes out, so we could  
22 send a version to you today.

23 JUDGE MOSS: Okay. Yeah. That would be  
24 fine if you go ahead and do that. And I'll get the  
25 protective order out today, but of course it might take

1 a day to get things back and forth, but just go ahead  
2 and share that, if you would.

3 MR. KUZMA: We can share it now. We know  
4 and trust NWIGU's representation.

5 JUDGE MOSS: Great. Well, that's --

6 MR. BROOKS: Yes, your Honor. We both --  
7 we'll sign it immediately.

8 JUDGE MOSS: Great. Well, that's the  
9 advantage we have of having counsel that have  
10 longstanding familiarity with one another and trust, so  
11 that's a good thing.

12 I was able to use my time profitably, at  
13 least to a limited extent, while I was gone. I want to  
14 just clarify the point you raised earlier, Mr. ffitich,  
15 concerning the -- concerning the electronic service --  
16 whoops. I opened the wrong e-mail.

17 So it turns out that this is a newer  
18 practice than I had realized, and one that, I might add,  
19 is not yet fully implemented because we apparently lack  
20 something in terms of a means to implement it.

21 In any event, the idea at this juncture is  
22 that the Commission's service, to the extent it can be  
23 electronic, will be electronic. There is, as I said,  
24 apparently, some sort of technical difficulty that has  
25 limited the number of proceedings in which we are

1 actually doing that. So you may get paper service  
2 anyway. But that was the purpose, Mr. ffitich. It was  
3 not meant to limit the service among parties.

4 Now, I will just mention to you that that --  
5 there is some thought being given to that, so I'm going  
6 to convey back to the director of the administrative law  
7 division that parties may have some concerns about that.  
8 And it would be a matter of rule, ultimately, in our  
9 procedural rules that we make.

10 But anyway, I apologize to all of you for  
11 the confusion. It certainly originated with me. And  
12 we'll -- we'll get these things straightened out as we  
13 go forward.

14 MR. SHEARER: Okay.

15 JUDGE MOSS: Is there any other business we  
16 need to conduct today?

17 MR. SHEARER: None from us, your Honor.

18 MR. KUZMA: Thank you, your Honor.

19 JUDGE MOSS: All right. Thank you all.  
20 We'll be off the record.

21 (Hearing concluded at 3:04 p.m.)

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