

BEFORE THE WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition)
of)
PUGET SOUND ENERGY,)
for (i) Approval of a Special) Docket No. UG-151663
Contract for Liquefied Natural)
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)

PREHEARING CONFERENCE - VOLUME II

Pages 39-71

ADMINISTRATIVE LAW JUDGE DENNIS J. MOSS

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

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1 OLYMPIA, WASHINGTON, OCTOBER 13, 2015

2 1:38 P.M.

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

5
6 JUDGE MOSS: All right. Well, let's be on
7 the record then.

8 Good afternoon, everybody. We are convened
9 here at the Commission in the -- as soon as I scroll
10 through here, I'll get the docket number -- no, I
11 won't -- UG-151 --

12 MR. KUZMA: 633.

13 JUDGE MOSS: -- 633, styled The Matter of
14 the Petition of the Puget Sound Energy for Approval of a
15 Special Contract for Liquefied Natural Gas Fuel Service
16 with Totem Ocean Trailer Express, Inc. --

17 MR. KUZMA: Your Honor, it's 663. I'm
18 sorry.

19 JUDGE MOSS: 663. All right. Stand
20 corrected. Thank you.

21 -- and a Declaratory Order Approving the
22 Methodology for Allocation of Costs Between Regulated
23 and Non-regulated Liquefied Natural Gas Services.

24 So this is -- the purpose of our gathering
25 this afternoon is to have a status conference,

1 basically, to bring me up to speed on how you all have
2 been progressing with your technical conferences, and to
3 discuss whether we need to establish further formal
4 processes or can continue as we have been doing.

5 Since we have Mr. Brooks on the phone, we'll
6 just take a quick run around the room and call the roll,
7 so to speak. Go ahead.

8 MR. KUZMA: This is Jason Kuzma from Perkins
9 Coie on behalf of Puget Sound Energy.

10 MR. ENGLERT: I'm Eric Englert from Puget
11 Sound Energy.

12 MR. FFITCH: Simon ffitch for the Public
13 Counsel office.

14 MR. GOMEZ: David Gomez, Commission Staff.

15 MR. SCHOOLEY: Tom Schooley, Commission
16 Staff.

17 MR. OSHIE: Pat Oshie, Attorney General's
18 Office, representing Commission Staff.

19 MR. SHEARER: And I'm Brett Shearer,
20 Attorney General's Office with Commission Staff.

21 MR. CASEY: Christopher Casey, Assistant
22 Attorney General for Staff.

23 JUDGE MOSS: All right. Staff's
24 triple-teaming today so we know we're in trouble. When
25 the lawyers outnumber the witnesses, it's always

1 trouble.

2 All right. Who wants to bring me up to date
3 on the status of things in this docket? Mr. Kuzma?

4 MR. KUZMA: Well, I'll start. We've had
5 three conferences that were scheduled. I think that
6 progress has been made. I think that, you know, we
7 haven't reached any conclusions at this point. I think
8 the company is still hopeful that progress can continue
9 to be made, although I do know that at the last meeting
10 Mr. Oshie had mentioned that Staff may have some more
11 policy-related or legal-related questions that it might
12 need to take up with the Commission.

13 MR. OSHIE: And this is Pat Oshie. And just
14 to follow up, it is true, your Honor, I think there are
15 some questions that, you know, Staff is not in -- we
16 have not fully analyzed, but they deal with questions of
17 the jurisdiction of the Commission to -- you know, to
18 the -- or the necessity, probably better to say, of the
19 Commission to approve PSE's entry into this new
20 enterprise.

21 And you know, there's always the issue of
22 the merger commitments, and there is a restriction that
23 I believe would be triggered here requiring Commission
24 approval should the -- should either -- I believe it's
25 either Puget Holdings or Puget Energy wish to create a

1 subsidiary to provide an unregulated function.

2 So these are all interrelated issues that
3 we're still analyzing. And we've learned a lot more.
4 We really appreciate the Company being willing to hold
5 the technical conferences. I think they've been very
6 productive. Lots of questions asked. It's triggered
7 other either questions at the technical conference or
8 within -- you know, from the -- you know, the typical
9 discovery process.

10 And I think that Staff has found it very
11 productive overall. I found it personally productive to
12 be able to sit in a meeting, have a much better
13 understanding of what the Company's proposing and why
14 it's doing it, and the -- and the relationship, if you
15 will, between the service that's proposed for TOTE and
16 the implications for regulated core customers of the
17 company.

18 So we've -- you know, that's where we have
19 basically left it. I addressed with the -- with the
20 Company and others that were on the line the question of
21 whether the service proposed for TOTE is jurisdictional
22 to the Commission. Is this really another -- a
23 different kind of service?

24 And there's no need to go into that here,
25 your Honor, unless you -- I think some of the issues --

1 I'm not sure if they're -- if the -- even at a high
2 level, they require some disclosure of the details of
3 the contract that's proposed and the service that's
4 proposed. It generally is confidential.

5 So -- but we are just -- without being too
6 much of a repeater on this, we're still analyzing it and
7 we'll need a little bit more time, and the other
8 pressing events, like the Avista rate case procedure,
9 which we're all very busy writing the brief, responsive
10 brief for the Commission Staff on that matter.

11 JUDGE MOSS: And are you optimistic that
12 these legal issues are something that can be resolved
13 outside of a decision process by the Commission? Or is
14 this something you can come to us, the Commission, at
15 some point and say, well, we've discussed all these
16 issues and this is the way we think it is and --

17 MR. OSHIE: Well, I'd like to think that we
18 can -- you know, that we can -- that Puget and Staff, as
19 an example -- I mean, I can't speak for Public Counsel,
20 of course, or NWIGU, or any other party that may be --
21 that may be interested in this matter.

22 But I do think we can -- you know, we can
23 figure out the -- you know, the character of the
24 service. We think we better understand that, and I
25 guess the question is, can we come to an agreement as to

1 how the enterprise would be treated by the Commission.

2 That's the Commission's decision
3 ultimately --

4 JUDGE MOSS: Sure.

5 MR. OSHIE: -- but we can make a
6 recommendation and --

7 JUDGE MOSS: That's --

8 MR. OSHIE: So hopefully we can get there
9 without having to file a -- you know, basically a motion
10 to dismiss based on some concerns we may have about the
11 Commission's jurisdiction in this area.

12 JUDGE MOSS: Well, I'll hear from Mr. ffitch
13 and Mr. Brooks here in just a moment, but I just would
14 say that to the -- my goal, my hope, I should say, not
15 so much a goal, but would be that you all would be able
16 to come to some common understanding about these things
17 and present that common understanding in some form or
18 another that would at least substantially narrow things
19 in this proceeding.

20 When I first read the petition, it's a
21 pretty big petition. It has a lot of elements to it. I
22 came away from the first prehearing conference
23 understanding a little better, I think, what was being
24 proposed. And I'm sure that you all have developed a
25 much higher level of understanding after you've had

1 these three technical conferences, and I'm not going to
2 ask you to try to educate me to that today.

3 But having said that, then I'll ask
4 Mr. ffitch, you're here in the room, so you get the next
5 turn to speak, if you will.

6 MR. FFITCH: Thank you, your Honor.

7 Simon ffitch for the Public Counsel office.
8 I would agree with Staff counsel's description of the
9 process as being productive and useful for -- hopefully
10 for all parties. It's been quite detailed. Our expert
11 has participated along with us in the discussions.

12 And we have been conducting discovery in the
13 case, I think, as well as staff. We issued another
14 round of discovery yesterday, so we're sort of not done
15 yet with our analysis.

16 I would say that the -- while they've been
17 productive discussions, the -- I guess the more we get
18 into the details, the -- you know, to some extent, we
19 have more questions. We're still -- it seems that the
20 plot seems to thicken a bit as we get more information
21 and understand more about it.

22 So I don't think we've reached -- as others
23 have said, we haven't reached conclusions yet on the
24 case. We see the same issues that Staff has identified,
25 that Mr. Oshie's identified, whether it's a regulated

1 service, the applicability of the merger conditions to
2 the proposal.

3 You know, we're also still wrestling with
4 the notion of, what is this exactly? Is it -- are we
5 being asked for preapproval here? Are we being asked to
6 have sort of a form of prudence decision at this point?

7 JUDGE MOSS: And I'll stop you there and
8 say, it's my understanding that that is not the case.

9 MR. FFITCH: Well, that is correct. On
10 paper, that is -- that's certainly the representation of
11 the -- of the Company.

12 However, the nature of the request itself
13 and the filings that have been made make it difficult --
14 still get you into a gray area of, okay, if we're not
15 doing that, what are we doing, and what is the purpose
16 being served by this proceeding? So --

17 JUDGE MOSS: Do we need to take a break?
18 Let's pause.

19 (Brief pause in the proceedings.)

20 JUDGE MOSS: Okay, Mr. ffitich. Again,
21 apologies for the interruption. If you would go ahead.

22 MR. FFITCH: I think, your Honor, I had just
23 essentially concluded listing some of the general issues
24 that we see.

25 In terms of next steps, I think there might

1 be some value in adopting a schedule at this point with
2 some room in it for the kinds of discussions that were
3 suggested by Staff, but giving us some sort of a working
4 end point. I don't know if that's essential, but maybe
5 we can hear from Staff about what they think about that
6 or -- or whether we just schedule further conferences.
7 I guess that would be workable also.

8 But partly, I'm just, I think, perhaps --
9 you know, sticking inflexibly with plan A that was
10 discussed at the opening prehearing conference, which is
11 if we get to the 13th and we don't have everything
12 resolved, then maybe we need to adopt a schedule, so I
13 guess that's at least a potential topic today.

14 JUDGE MOSS: Sure.

15 MR. FFITCH: So --

16 JUDGE MOSS: Well, let's hear from
17 Mr. Brooks.

18 MR. BROOKS (by phone): Thank you, Judge
19 Moss.

20 I don't know that I'm in a different
21 position than any of the other parties. I do think that
22 the discussions have been really productive, and
23 especially compared to some recent dockets. I think
24 we've done a lot of work in a very short period of time,
25 so that I think everyone has kind of kept their end of

1 the bargain on that. It went very well.

2 We had an expert as well attend a couple of
3 the discussions for us and, quite frankly, either
4 we're -- you know, we're struggling a little bit to
5 figure out exactly -- you know, we're analyzing the
6 information that's been given to us.

7 And kind of like Simon said, the plot
8 thickens, because we're really trying to understand both
9 the impact to our members and then just sort of the
10 general policy discussions that are here as well. And I
11 think we've got to make some major decisions about which
12 of the -- these areas we want to weigh in on, if at all,
13 like the legal issues that may be threshold issues or
14 not.

15 So it's -- you know, I think we still need a
16 little bit more time to figure that out. I think, you
17 know, having a firm schedule right now to kind of anchor
18 our efforts would go a long way to help all the parties,
19 because at some point we're going to need a record to be
20 developed on our end as well. And having some mileposts
21 to help do that would probably help us -- push us in
22 that direction.

23 But we're still here and still at the table
24 and trying to get this done, you know, as expeditiously
25 as we can.

1 JUDGE MOSS: All right.

2 Well, in general, I will say that I am
3 encouraged by what I'm hearing today. It sounds as
4 though everyone is participating in good faith and is
5 trying to move towards some common understanding at
6 least about all of this.

7 It also sounds to me that there are some
8 legal and policy issues at the threshold, I suppose, is
9 as good a way to put it as any. And so it's important
10 that the parties focus on that.

11 And as I understood the original petition
12 and the discussion we had at our first prehearing
13 conference, the PSE itself has some flexible views, or
14 some views about there being some flexibility in how
15 this is approached.

16 As I recall, the petition suggests that at
17 least parts of this could be treated as
18 non-jurisdictional, but there's a preference to go the
19 jurisdictional route. So these are things that
20 certainly there's room for discussion, there's room for
21 seeing if there can be some common ground reached on
22 those types of issues.

23 As far as the facts are concerned, the --
24 sort of the prospect that I see there, at least in terms
25 of getting something resolved quickly, would be -- I've

1 sort of been thinking of it in terms of the way we
2 approach accounting petitions, in that we sometimes will
3 look at a matter that's in some ways complex in terms of
4 the data, the accounting and what have you, and we
5 basically put it on hold with the idea being that, well,
6 the basic outline of things is thus in terms of
7 jurisdiction and organization and approach, but we're
8 not going to decide and don't need to decide at this
9 juncture how this is all going to wash out in terms of
10 treatment and rates.

11 That's how we do it with deferred
12 accounting, as you know. We put that prudence
13 determination off to another day and, of course, the
14 Company is at some risk in doing things like that.

15 The Commission will decide, however, at a
16 later date if and when and in what manner the Company
17 will be allowed to recover, and to what degree the
18 Company will be allowed to recover costs from general
19 rate payers.

20 So that's another area where there is, from
21 my perspective at least, some flexibility in this whole
22 process. The parties can decide, PSE in particular,
23 just how far you need us to go as a Commission at this
24 juncture.

25 Obviously, the farther you wish us to go,

1 the more complicated the process becomes, and perhaps
2 the more protracted it becomes, particularly if there
3 are disputes about the facts.

4 But again, my sense is that you don't
5 necessarily need to go that far at this juncture.

6 MR. KUZMA: No. I think for Puget, the two
7 issues were the petition, and remain that Puget would
8 like to offer this as a regulated service pursuant to
9 the contract filed. That's one issue. So that gets to
10 the question of the jurisdiction, I think, that the
11 Commission staff and Public Counsel have raised.

12 And the second one is that we would agree
13 upon a methodology for the allocation of costs and
14 revenues similar to -- I think in the workshops we
15 discussed, you know, Exhibit No. SEF-4 as maybe a
16 framework for that. But those are the two issues that
17 we filed and we still remain with that.

18 As far as prudence costs, the actual costs,
19 we don't have any actual costs right now -- well, we
20 have some, but not -- you know, a small fraction of what
21 they would be ultimately.

22 JUDGE MOSS: Sure. Sure.

23 MR. KUZMA: And so we understand that that
24 will be for a later date.

25 JUDGE MOSS: Yeah. And I think, again, this

1 is -- this is consistent with what I had understood that
2 the Company's looking for at this juncture.

3 And turning to the second issue there, the
4 allocation of costs, even there, what -- as I understand
5 it, what you're looking for is something fairly high
6 level, which is to say the Commission is going to -- or
7 doesn't have any plans to change the factors or the
8 means or the bases upon which it typically allocates
9 costs. Direct costs are directly assigned as a
10 principle that we're all familiar with.

11 And you apparently want something -- PSE
12 wants something to give it a level of comfort that the
13 Commission doesn't have something else cooking in the
14 background that we're going to spring on the world
15 full-blown from the head of Zeus.

16 I guess I can't speak to that today, but I'm
17 not really aware of anything going on like that. But if
18 that's the sort of thing you're looking for, I think if
19 the parties can be clear among themselves that that's
20 what we're doing, and can present something in that way
21 to the Commission that's demonstrating a common
22 understanding, it will be a lot easier, then, for the
23 Commission to put some stamp of approval on something
24 like that. And so I would encourage you all to
25 continue. I feel somewhat optimistic that you'll

1 continue to make good progress.

2 Now, in terms of what we should do going
3 forward, I'm prepared to work with you to develop a
4 schedule with various process steps and what have you,
5 or if you wish, we can talk about some near term dates
6 for you all to continue these discussions in whatever --
7 the most useful and productive manner you can conceive.
8 It sounds like the gatherings have been useful. You've
9 had three. And I'm sure there's been a lot of
10 communication outside of those as well.

11 But what do the parties think? Mr. ffitch
12 suggested we may want to go with a schedule. Mr. Brooks
13 endorsed that idea.

14 What does Staff think about that?

15 MR. OSHIE: Well, your Honor, we are
16 prepared to offer a schedule, and we've forwarded that
17 to, I believe, Mr. ffitch at his request. So we were
18 able to -- at least to circulate an option. And I don't
19 know, Mr. Kuzma, if you have received a copy.

20 MR. KUZMA: No.

21 MR. OSHIE: And my apologies for that.

22 So what Staff is looking at is a filing date
23 for responsive testimony of the 15th of December 2015.
24 PSE rebuttal filing would follow approximately 30 days
25 later on the 15th of January 2016. There is a -- what

1 Staff was proposing, then, would be a hearing on the
2 merits and any other issues that would be scheduled for
3 January 29th, 2016, so approximately two weeks later.

4 And I know that Mr. ffitch has -- I think
5 he'll, of course, raise his -- any issues he wishes to,
6 but I know he has some concerns about a two-week
7 turnaround for the hearing after rebuttal testimony is
8 filed.

9 We -- and we have left open the opportunity
10 for -- you know, as to when a brief would be submitted
11 to the Commission by the parties. And that's just a --
12 we didn't -- at this point we don't have a suggested
13 date, your Honor.

14 JUDGE MOSS: Okay.

15 And Mr. ffitch, any concerns about the
16 schedule?

17 MR. FFITCH: The only concern was alluded
18 to. We felt that the two-week time period between
19 rebuttal and hearing was a little tight, especially
20 because the -- you know, typically there's a requirement
21 to get the cross-exhibits to the bench and other parties
22 a few days ahead of the hearing, so that means that
23 there's only a week and a half to analyze the rebuttal
24 and do discovery on it.

25 So we would propose just moving the hearing

1 date into the following week, and just allow a little
2 bit more working time for the parties to get ready for
3 the hearing and analyze rebuttal. Because sometimes
4 rebuttal is pretty straightforward and other times
5 there's -- you know, it takes some time to analyze and
6 even does require you to do follow-up discovery, so --

7 JUDGE MOSS: Well, Mr. Kuzma, I'll let you
8 speak for the Company here, but I gathered from our
9 earlier discussions that the end date is the more
10 important consideration than any intervening dates. And
11 so rather than move a hearing date back, I would be more
12 inclined to move up the date for rebuttal testimony,
13 compressing your time for that.

14 If this is something we're going to work
15 with -- now, of course, I want to hear from you
16 generally on this as well. Perhaps I should first hear
17 from Mr. Brooks and ask if he's had an opportunity to
18 think about the schedule.

19 MR. BROOKS: We have, your Honor, and the
20 dates work. I think that Public Counsel's approach of
21 having a little bit more time between rebuttal and the
22 hearing makes sense, and we were kind of going where you
23 were, which was, well, let's just move the rebuttal up a
24 week earlier.

25 And I don't want to ruin Mr. Kuzma's -- all

1 of his holidays, but like you said, we understand the
2 end date might be the more important one.

3 JUDGE MOSS: All right.

4 Now, Mr. Kuzma, let me hear from the Company
5 on this.

6 MR. KUZMA: Well, I think from the Company's
7 perspective, I don't know in this proceeding whether the
8 traditional rebuttal testimony, responsive testimony
9 hearing is necessarily the most effective way of
10 proceeding.

11 In my mind, there's -- from what I've heard
12 from other parties, a lot of it has to do with policy
13 issues. Puget has filed for a regulated service.
14 Parties are welcome to take whatever position they have
15 with respect to that filing, but that's the only --
16 that's the only option that's before the Commission at
17 this time.

18 And if it becomes an issue of whether the
19 Commission has jurisdiction and then if it does have it,
20 if it should then offer to take that jurisdiction,
21 that's something that doesn't need to have a hearing or
22 testimony. That's more of a legal issue with policy
23 basis that could be addressed through maybe a filing of,
24 you know, statement of facts and law followed up with
25 some briefing on the issue.

1 Particularly, you know, in my mind, I don't
2 think, you know, there's a lot of facts to be in
3 dispute. I mean, we've submitted budgets as far as what
4 the costs will look like, but we admit that those costs
5 will differ, hopefully lower, but at this time we
6 just -- that's the best information we have.

7 And we understand that a lot of the prudence
8 issues, which had been somewhat a part of the discussion
9 so far, you know, that will be, and is better addressed
10 at a later time when we actually are asking to put this
11 into rates.

12 JUDGE MOSS: Well, I'm inclined to be
13 sympathetic to your view, Mr. Kuzma. It does sound to me
14 certainly that the dominant issues that have been
15 identified at this stage are not factual issues, that
16 they're policy and legal issues.

17 Now, I'm hearkening back to an earlier
18 period of time, around the 2000/2001 timeframe, and we
19 had a lot of merger and acquisition activity. We've had
20 cases from time to time since then of the same nature.

21 In the early telecommunications merger
22 cases, we had at least two, maybe three that raised
23 these sorts of threshold jurisdictional issues, and what
24 we did in those cases was to take those up first. And
25 we had a round of briefing, and everybody was able to

1 express their views and their desired outcomes and what
2 have you, and the Commission ruled on that and then we
3 moved forward.

4 Because, of course, if we had disposed of
5 those in certain ways, everybody would have gone away
6 and enjoyed their holidays as opposed to, you know,
7 making me sit here and write orders during the holidays,
8 which seems to be my fate in life.

9 But what about -- what if we do that, what
10 if we have a preliminary date, an early date, I would
11 think, by which we'll either have a common position on
12 this based on further discussions among the parties, or
13 we'll have the parties brief their respective positions
14 and we can decide that in the nature of a summary
15 judgment? I see some heads nodding affirmance.

16 MR. KUZMA: I think from Puget's
17 perspective, that would be preferable. I think at this
18 time, if we were to get an order stating that there
19 isn't jurisdiction of the Commission, or the Commission
20 has jurisdiction but would rather not -- would rather
21 not exercise it, then that may -- that might -- that
22 might raise into question the project itself, and there
23 may not be need at that time to continue, or there still
24 might be an opportunity to address some of the issues.

25 JUDGE MOSS: Sure.

1 MR. KUZMA: So I think that would be a
2 preferable -- a preferable goal for Puget.

3 JUDGE MOSS: Yeah. I could see some sense
4 in that. And, you know, we can -- we can acknowledge
5 that, if it becomes necessary, if we get past these
6 threshold issues in one manner or another, it could be
7 necessary still to have some development of a record.
8 Perhaps that could be by stipulated evidence. Perhaps
9 it would have to be by contested hearing. That's -- we
10 can't know for sure.

11 But certainly that's a fairly efficient way
12 to proceed. If we have those sorts of goals in mind,
13 then we can bring the thing forward for obviously a
14 quicker decision by the Commission if the Commission can
15 just operate on the basis, ideally stipulated facts, or
16 a few contested facts that can be worked out in a brief
17 hearing.

18 And we can -- you know, if -- if things can
19 be boiled down to a fairly simple set of disputes, or
20 none, of course, then we can think about just doing a
21 live hearing and not having all the pretrial testimony
22 and so forth. We've done that before, too. And you
23 know, from my perspective, it's kind of fun, and it
24 means I get to do a lot more in the hearing room.

25 But putting that aside, it's fun -- my fun

1 not being the goal here -- I think -- what would be an
2 early date we can think of in terms of a target, if you
3 will, for the parties to either compose their
4 differences, legal and policy differences or agree to
5 disagree, what sort of timeframe? Today is, what, the
6 13th day of October?

7 MR. OSHIE: We have -- I believe that our
8 reply brief in the Avista rate case is due on the 5th of
9 November.

10 JUDGE MOSS: Okay.

11 MR. OSHIE: Fourth or fifth. I'd have to
12 check on that, your Honor. Both Mr. Shearer and I are
13 working on that matter.

14 JUDGE MOSS: Okay.

15 MR. OSHIE: And so -- excuse me. The
16 initial brief is due then.

17 JUDGE MOSS: The initial brief?

18 MR. OSHIE: Yeah. So we would like to be
19 able to -- I mean, you know, in the best of all worlds,
20 we would like to focus on that. I mean, it's really
21 the -- it's the -- it's a matter that we've been working
22 on now for a very -- well, a very long time, which is
23 typical of rate cases.

24 And so we would -- we've also been devoting
25 our attention to this matter. I think if we could have

1 at least a couple of weeks after that brief. We're
2 obligated to file that brief. That would at least give
3 us some time to continue to work on this while we can,
4 and then produce a product that we'd like to have
5 submitted to the Commission.

6 JUDGE MOSS: Okay. So that would suggest to
7 me sometime around November 20th or thereafter, within a
8 few days.

9 MR. OSHIE: That would be acceptable.

10 JUDGE MOSS: I don't have a calendar in
11 front of me and my computer's acting up. It's just not
12 a Saturday or a Sunday, is it?

13 MR. FFITCH: It's a Friday, your Honor.
14 That's a Friday.

15 JUDGE MOSS: The 20th is?

16 MR. FFITCH: The 20th.

17 JUDGE MOSS: Is that a good day for people?
18 How does that sound as a target date for that first
19 step?

20 MR. KUZMA: Would that be a simultaneous
21 brief?

22 JUDGE MOSS: I think so, yeah.

23 MR. KUZMA: And then just the one round?

24 JUDGE MOSS: Yeah.

25 MR. KUZMA: Okay.

1 JUDGE MOSS: I mean, these sorts of issues
2 don't really need -- I mean, unless something comes
3 really out of left field, in which case you can always
4 ask leave to file a reply, if necessary.

5 MR. KUZMA: Right.

6 JUDGE MOSS: So let's -- let's -- okay.
7 We'll include the date November 20th as a target for
8 dealing with threshold issues. I'm just going to put
9 that in my notes. I'll write something a little more
10 eloquent in the order.

11 And then do we -- do you wish to set dates
12 for further conferences among yourselves, or do you want
13 to just do that outside of this process? I mean, we can
14 either do it in here and I can make it part of a
15 procedural schedule, or you can decide among yourselves
16 how you want to do it, if you want to do it.

17 MR. KUZMA: I think Puget would like to do
18 it. I know Commission staff had suggested that would be
19 a good idea as far as to bring up some of these issues
20 at a later time when they had some of the Avista
21 briefing either done or close to done. I'm indifferent
22 as to whether it's in an order or not.

23 MR. SCHOOLEY: I'd like the flexibility of
24 having us decide on our own. That would be my --

25 MR. KUZMA: It's fine with Puget. I think

1 we would like to have it, whether it be informal or --
2 that's fine.

3 JUDGE MOSS: Yeah.

4 MR. FFITCH: I agree that we -- we are happy
5 to participate. It's -- I can't -- I don't know that I
6 can recommend specific dates right now. It's probably
7 easier to work out.

8 JUDGE MOSS: That makes sense to me.

9 Mr. Brooks, do you have any strong feelings
10 about it?

11 MR. BROOKS: I don't. We'll participate and
12 we can work out the dates.

13 JUDGE MOSS: Yeah. Well, you know, as --
14 it's not always the case, but in this case everyone
15 seems to be playing good together in the sandbox. And I
16 think we'll leave it to your own devices, then, to
17 schedule these things and work out what works best for
18 you all considering your other obligations.

19 And if it -- I'm not anticipating problems.
20 Everybody seems to be working cooperatively together,
21 which is always my goal. It's nice to see it. It's
22 rare enough. And I hope -- I want to encourage you all
23 to continue that, because I do think you can make your
24 best possible progress and your best possible outcome by
25 doing that.

1 So I had to remark the other day that --
2 Melinda Davidson was letting me know she was going to
3 cease practicing before the Commission and retire, and I
4 was -- she gave me a nice compliment, and I said, well,
5 I'm quite expert at making everyone unhappy. And that's
6 not what I like to do, though. I would much prefer to
7 be putting the Commission stamp of approval on something
8 that makes everyone happy, so let's keep that goal in
9 mind.

10 I would like -- I think I will take a copy
11 of the schedule from you, Mr. Oshie, and I'll toy with
12 some way to present this in a prehearing order that will
13 give a good sense of what we're trying to accomplish
14 here today without upsetting anybody and -- but I think
15 it is useful to have a structure.

16 And so I'll work with these dates a little
17 bit, consistent with what else we're planning here, and
18 maybe I'll do some things with it in terms of timing
19 that will lend further encouragement to the process.

20 MR. KUZMA: So your Honor, on that note, I
21 noted that they said January 15th, so we would
22 presumably have an order sometime before then on the
23 jurisdictional issue, if that is still an issue;
24 otherwise, there might not be a need for the -- I mean,
25 how do you --

1 JUDGE MOSS: Right. I would anticipate, you
2 know -- what I'm -- again, what we're hoping for on
3 November the 20th is either you all present something or
4 let me know that you're about to present something that
5 exhibits a common understanding on these issues, or
6 you're going to present briefing on that, and I would
7 anticipate being able to turn that around pretty
8 quickly. So I don't want to suggest a date right
9 here -- sitting right here --

10 MR. KUZMA: Right.

11 JUDGE MOSS: -- without the commissioners'
12 schedules in front of me and so forth. But I would
13 certainly think by the middle of December --

14 MR. KUZMA: Okay. Thank you.

15 JUDGE MOSS: -- we would be able to
16 accomplish something in that way.

17 MR. KUZMA: Okay.

18 JUDGE MOSS: And then we'll know where to go
19 from there. And that will almost undoubtedly require
20 some further tweaking to scheduling. I understand that.
21 And you all understand that, too.

22 But I think Mr. ffitch's earlier comment
23 about having some structure here is well-taken, and we
24 should probably go with that. So -- and I appreciate
25 the fact that you all developed this earlier. Thank

1 you.

2 All right. Anything else we need to
3 discuss? Any other questions? Concerns? Mr. ffitch?

4 MR. FFITCH: Your Honor, just in terms of
5 the schedule dates, we did check with our consultant,
6 and the consultant was available for that hearing date
7 and the following week.

8 JUDGE MOSS: The hearing on the 29th?

9 MR. FFITCH: Yes, and also the following
10 week if that -- if it got shifted back. So I guess I
11 would just have a modest concern if there were major
12 changes to the schedule that I don't know if our
13 consultant's available or not, and that may apply for
14 other folks, too.

15 JUDGE MOSS: Well, and everyone has to
16 understand that we all have to exhibit a certain degree
17 of flexibility, and if things change and people bring
18 that to my attention, then I'll fix it.

19 We don't want to cut anyone off from their
20 rights. We want to do the best possible job we can in
21 terms of being efficient in managing these cases, but we
22 also understand that people have other things going on,
23 and so we'll accommodate the parties' needs.

24 MR. FFITCH: Thank you.

25 JUDGE MOSS: Okay. Anything else?

1 MR. OSHIE: Not from Staff, your Honor.

2 JUDGE MOSS: Okay.

3 MR. KUZMA: Fine.

4 JUDGE MOSS: All right. Well, thank you all
5 very much for being here today, and I compliment you on
6 your efforts thus far and encourage them to continue.

7 MR. KUZMA: Thank you.

8 JUDGE MOSS: We're off the record.

9 (Hearing concluded at 2:18 p.m.)

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