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BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Petition of) Docket UE-121697
) Docket UG-121705
PUGET SOUND ENERGY, INC.) (Consolidated)
and NW ENERGY COALITION) Pages 393-426
)
For an Order Authorizing PSE to Implement)
Electric and Natural Gas Decoupling)
Mechanisms and to Record Accounting)
Entries Associated with the Mechanisms)

PROCEDURAL CONFERENCE, VOLUME IV

Pages 393-426

ADMINISTRATIVE LAW JUDGE DENNIS J. MOSS

1:30 P.M.

JULY 15, 2013

Washington Utilities and Transportation Commission, Room 206
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OLYMPIA, WASHINGTON; JULY 15, 2013

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1:30 P.M.

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P R O C E E D I N G S

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JUDGE MOSS: Good afternoon, everyone. My name is
6 Dennis Moss. I'm an administrative law judge with the
7 Washington Utilities and Transportation Commission. We convened
8 a status conference -- another new process step in the
9 Commission's evolving regulatory practice here -- in connection
10 with the petitions for reconsideration that were filed in the
11 wake of principally in response to what's Order 07 in Dockets
12 UE-121697, UG-121705, UE-130137, and UG-130138. Order 07 was
13 entered here a couple weeks back, and on the 5th of July, I
14 believe it was, we had three petitions for reconsideration
15 filed, one by the Northwest Industrial Gas Users, one by Nucor
16 Steel of Seattle, and one by Kroger.

17

I'm going to take appearances, and then I just want
18 to have a little conversation with you all about the status of
19 this matter, how we might best proceed from here, so let me
20 start with those present in the room.

21

And PSE's sort of been the point person throughout
22 this exercise, so if you'll go ahead, Ms. Carson.

23

MS. CARSON: Good afternoon, Your Honor. Sheree
24 Strom Carson with Perkins Coie representing Puget Sound Energy.

25

JUDGE MOSS: Okay. Mr. Finklea?

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1 MR. FINKLEA: I'm Edward Finklea. I'm the executive
2 director of the Northwest Industrial Gas Users and appearing for
3 them today in my capacity as an attorney.

4 JUDGE MOSS: Okay. Thank you very much.

5 Mr. ffitch?

6 MR. FFITCH: Good afternoon, Your Honor. Simon
7 ffitch, Senior Assistant Attorney General, for the Office of
8 Public Counsel.

9 JUDGE MOSS: Thank you. And for Staff?

10 MS. BROWN: Sally Brown and Greg Trautman, Assistant
11 Attorneys General.

12 JUDGE MOSS: Okay. Thank you very much.

13 Now, I suspect we may have some folks on the phone.

14 Let me ask if there's anyone present for Nucor Steel.

15 MR. XENOPOULOS: Yes, Your Honor. Good afternoon.

16 This is Damon Xenopoulos here for Nucor Steel.

17 JUDGE MOSS: All right. Mr. Xenopoulos, welcome.

18 And for Kroger?

19 MR. BOEHM: Good afternoon, Your Honor. This is Kurt
20 Boehm for Kroger.

21 JUDGE MOSS: Okay.

22 MR. BOEHM: And I believe that our consultant, Kevin
23 Higgins, is also on the line.

24 JUDGE MOSS: All right. Welcome to both of you.

25 Now, do we have others who wish to enter an

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1 appearance on the phone?

2 MS. DAVISON: Yes. This is Melinda Davison for the
3 Industrial Customers of Northwest Utilities, and Josh Weber is
4 also with me.

5 JUDGE MOSS: All right. Very good. Welcome.

6 Any others?

7 MS. GOODIN: This is Amanda Goodin with Earthjustice
8 representing NWECC.

9 JUDGE MOSS: All right. Ms. Goodin, welcome.

10 MR. STOKES: Good afternoon. This is Chad Stokes for
11 the Northwest Industrial Gas Users.

12 JUDGE MOSS: All right. Mr. Stokes.

13 Anyone else?

14 MR. HIGGINS: Judge Moss, this is Kevin Higgins. As
15 Mr. Boehm indicated, I'm a consultant to Kroger and to Nucor
16 Steel, and I'm on the telephone.

17 JUDGE MOSS: Thank you for being with us today.

18 MR. HIGGINS: Thank you.

19 JUDGE MOSS: Is that it? Apparently so.

20 All right. I've already made a few preliminary
21 comments, but let me elaborate just a bit more since you all are
22 probably wondering why are we here? We've never done this
23 before.

24 Well, the subject raised by the petitions for
25 reconsideration is -- well, two subjects really, but sort of the

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1 main focus of -- I'll call it "my interest." Perhaps it could
2 be more broadly stated as the Commission's interest at this
3 juncture -- is the question of whether the decoupling mechanisms
4 recently approved are the best approach for managing the fixed
5 cost issues that decoupling is designed to manage for the large
6 nonresidential customers. I sometimes think of them as the
7 industrial and commercial customers, but I'm thinking there may
8 be other categories since everybody else calls them the
9 "nonresidential customers." So in any event, if I say one or
10 the other, I mean the same thing.

11 The Commission in its Order 07 -- and I quoted from
12 that order in the notice. I'm sorry. I'm speaking too
13 personally here.

14 The Commission quoted from that order in its notice
15 of this proceeding, and that language explains in part why we're
16 here today. The Commission, I think, clearly indicated through
17 that language that it had some hesitation about the application
18 of the decoupling mechanisms as put in place in the context of
19 the large nonresidential customers and opined or expressed that
20 there may indeed be some better approach for that customer
21 class, or those customer classes, as the case may be, to achieve
22 the goals that decoupling is meant to achieve.

23 At the same time the Commission's expressed in Order
24 07 that it did not feel it had a sufficient record to, for
25 example, order some alternative rate design or another approach

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1 to the recovery of the subject cost, so we find ourselves today
2 with these petitions for reconsideration raising this subject
3 again.

4 And it occurred to the Commission in internal
5 conversations that it might be an opportunity for the Company
6 and for those who are most interested in these matters -- the
7 Northwest Industrial Gas Users, the large commercial enterprise
8 Kroger, and the large industrial enterprise Nucor Steel, and, of
9 course, the Industrial Customers of Northwest Utilities also
10 were very active in this case -- there's been an opportunity for
11 some meaningful dialogue among that group, perhaps including
12 others such as Public Counsel or Staff. And perhaps there is a
13 better way that could be -- that could be put in place by
14 negotiation and agreement and that would prove to be a superior
15 approach and to -- prove to be enduring for both the Company and
16 these customers.

17 So that's why we're here. I wanted to ask that
18 question and learn whether there was a possibility of this sort
19 of dialogue taking place, whether that's something you all want
20 to do. If so, then I want to provide an opportunity for that by
21 setting a date for the petitions for reconsideration far enough
22 out to let the conversations occur.

23 If there is no interest in it whatsoever, then we'll
24 consider an alternative procedural path for dealing with the
25 motions -- or the petitions for reconsideration which would --

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1 if somebody wants to file an answer, we would entertain that
2 idea. But then the Commission would set a fairly -- somewhat
3 earlier date perhaps for resolving the petitions, which, as you
4 know by law, we are required to either act or state by when we
5 will act within a 20-day time frame. So that's one reason I
6 scheduled this on short notice, for which I apologize, but we're
7 on a clock here.

8 So I throw it open for conversation. Maybe I'll
9 start with you, Ms. Carson.

10 Do you have any comments for me?

11 MS. CARSON: Yes. Thank you, Your Honor. PSE is
12 certainly open to dialogue and discussion with customer groups.
13 I think the devil's in the details, and it depends on how that's
14 done.

15 A few points: I think PSE has a little bit different
16 view in terms of the gas and electric customers as was evidenced
17 from the evidence in the record --

18 JUDGE MOSS: Yeah.

19 MS. CARSON: -- and PSE does support the petition for
20 reconsideration of the Northwest Industrial Gas Users and the
21 position that -- that there was evidence in the record
22 supporting the Schedules 85, 85T, 87, 87T not be in decoupling,
23 but the evidence was not there for the electric. So there is a
24 difference there, and I think from PSE's perspective, it's
25 important to recognize this.

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1 But that being said, PSE is willing to engage in a
2 dialogue. There has been a dialogue, though. There has been a
3 dialogue about these issues ever since the order came out in the
4 last general rate case. That dialogue took place in technical
5 conferences. That dialogue took place in discovery. That
6 dialogue took place with informal meetings, including
7 Mr. Piliaris' travel to Cincinnati to meet with Kroger's
8 representative in this last December.

9 So I think it's important to recognize this isn't
10 something that hasn't taken place to some degree, so we're
11 willing to continue to engage in that dialogue. We're willing
12 to look at alternatives that might be out there that meet the
13 goals of decoupling. I think that's important to address, the
14 throughput incentive.

15 But I think from PSE's perspective, the best way to
16 do that is not through petitions for reconsideration, but as
17 collaboratives following on from the proceeding that has just
18 been completed. And so that's how we would propose to do it.

19 JUDGE MOSS: Yeah, and I didn't mean to suggest that
20 there had been any stonewalling, or anything like that over the
21 years. I know this has been a subject of discussion, and we've
22 had rate design questions in a number of rate cases over the
23 years in which I've -- they usually settle, but they're there.

24 MS. CARSON: Right.

25 JUDGE MOSS: And so that notes that some of that

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1 conversation has occurred over the years.

2 I think in this, perhaps, we find ourselves in a
3 unique position and in a unique opportunity at this juncture,
4 which is why we felt it was important to have this conference
5 and this conversation, because we are embarking on something of
6 an experiment with the decoupling.

7 And I think that, you know, the Commission's
8 hesitancy over this issue is something that suggests it could be
9 a good opportunity from everyone's standpoint to get this thing
10 laid to rest in a way that is satisfactory to everyone so that
11 we don't end up relitigating it three years from now or
12 whenever. If we could achieve something now meaningful that
13 would satisfy everyone's interest, recognizing that everyone
14 might have to give a little here and there, that would be a good
15 thing. And so we wanted to provide an opportunity for that to
16 happen in this unique context, if you will, where we have these
17 pending motions.

18 And, you know, to be honest with you, I have not
19 discussed these pending motions with the Commissioners. I have
20 no idea what their preliminary thoughts are on them, but there
21 they are. So there's potential benefit all around here, and I
22 think that does create circumstances worth thinking about.

23 So, Mr. Finklea, would you like to chime in here?

24 MR. FINKLEA: Yes, sir.

25 JUDGE MOSS: So it sounds like the Company is going

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1 to be supportive of your petition for reconsideration, which, of
2 course, is no guarantee that it will be granted anyway, but that
3 certainly moves you in the direction you want to go, I imagine.

4 MR. FINKLEA: Well, I learned last month that
5 agreement doesn't necessarily mean I'll get agreement, so -- but
6 I will note that, you know, we did engage in meaningful dialogue
7 with the Company and with NWECA in leading to the settlement. We
8 would be happy to reengage in dialogue about how decoupling
9 could be structured and leave the problems that we perceive for
10 85, 85T, 87, and 87T customers.

11 I would add that the other thing that perhaps these
12 next few years offer us is an opportunity to address rate design
13 without the context of a rate case that's filed where the clock
14 is ticking right now that could lead to perhaps some redesign of
15 those schedules.

16 I know, you know, schedules tend to, you know, have
17 come from the past, and then they get layered on. So perhaps
18 there is a dialogue about that that could lead to something,
19 but, you know, our -- we feel very strongly that decoupling
20 doesn't fit for the 85s and the 87s and would hope that we could
21 come to some agreement. And if we did come to some agreement,
22 it would be an agreement that the Commission would be able to
23 support.

24 JUDGE MOSS: Yeah. And I should mention in that
25 connection, I don't recall the exact language in the order, but

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1 I believe there is at least some hint there that we would be
2 open to entertaining an appropriate petition even before 2014,
3 '15, '16, whatever it is. And so I just will confirm that that
4 is the case, and so if you can achieve some sort an agreement --
5 and, of course, an agreement can be -- also can include elements
6 that are temporary and ongoing in terms of collaboratives and so
7 forth that are oriented towards a more permanent or, as I use
8 the word, enduring results, so that's just something for you to
9 keep in mind.

10 I don't think I'll be in a position to serve as a
11 settlement judge in this because of my other role, which is
12 unfortunate, because I would really embrace that. I see
13 opportunities here, and I like for parties to take advantage of
14 opportunities and make positive gains by taking advantage of
15 them. But maybe someday we'll hire a few more judges, and I'll
16 be able to do that instead of this, so we never know.

17 Mr. ffitch, would you like to wade in on this?

18 MR. FFITCH: Certainly. Thank you, Your Honor.

19 I guess I just have a collection of points here. I'm
20 not sure quite where to jump in on the list, but I guess first
21 of all, we have maybe a little different perspective on this.

22 As a consumer, a small business and a residential
23 customer representative, we saw the Commission's policy
24 statement in decoupling as addressing the question of
25 inclusiveness of decoupling programs and arriving at a

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1 conclusion that for important policy reasons, it was appropriate
2 to include essentially all customers in decoupling mechanisms
3 and not just to single out residential customers. So that's a
4 context, kind of a starting place, for how we look at issues
5 like this.

6 You know, put another way, it's of some concern to us
7 to see potentially a situation unfolding where we're the ones
8 left holding the bag, if you will. Everyone else who's
9 nonresidential is working out some sort of a different
10 arrangement.

11 So that's kind of maybe a background or framework for
12 a couple of other comments. One is that if this proceeding
13 is -- well, I'm not sure this proceeding can really go down a
14 road of considering a brand-new issue, if you will, if there's
15 going -- for example, if we're looking at new matters related to
16 alternative fixed cost recovery rate design proposals, that's a
17 new issue that really hasn't been in the docket before, so I
18 think there's notice problems. Those are issues that we would
19 want to be heard on. Nobody's moved to reopen the record at
20 this point.

21 And as Ms. Carson indicated, the Commission itself
22 has said there's not enough in the record to go in a different
23 direction on this issue. The Commission also indicated they
24 wanted a full cost of service study in -- I think it's Paragraph
25 128 -- a detailed cost of service study to support different

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1 rate design proposals.

2 So that introduces procedural complexity. It doesn't
3 mean these things can't be addressed at some point in some
4 appropriate way, but it's hard to see how that fits into this
5 docket at this point in time. As you indicate, this is sort of
6 an unconventional time to be talking about these things.

7 JUDGE MOSS: Some consider us to be more in the wake
8 of the order than in the context of the docket. Clearly, if an
9 alternative proposal was to be brought forward, it would have to
10 be brought forward. It would have to be through a petition or
11 whatever is appropriate. I'm not sure. I would think this
12 would involve changes in tariff sheets, for example, that sort
13 of thing.

14 So we're not talking about something that's going to
15 foreclose anybody's opportunity to be heard at an appropriate
16 time. If something is brought forward -- you know, if the
17 Commission wants to make a change, it can simply grant the
18 petitions for reconsideration and, you know, there it is. So
19 that's an option that's on the table. And what we're hoping for
20 is a situation where the parties, working together, can bring
21 something forward that would be acceptable to the general
22 community of interest, not just the specific interest.

23 And I just want you to feel comfortable, Mr. ffitich,
24 that nobody's talking about cutting you off or, you know,
25 leaving the residential and the small business customers

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1 "holding the bag," as you put it. I like to think that that's
2 not what happened as a result of the recent approval of
3 decoupling. I don't look at it that way. I look at it as an
4 alternative means of cost recovery that the Commission has
5 approved. That's what it is. It's not intended to leave anyone
6 holding the bag, but to ensure that those who cause cost pay
7 those costs. That's the traditional purpose of ratemaking, and
8 I don't believe we've strayed from that.

9 So, anyway, do you have anything further?

10 MR. FFITCH: Yes. Thank you, Your Honor. Sort of
11 along those lines the issue -- you know, I'm confident the
12 Commission would try to fashion an appropriate process. I'm
13 just raising these as questions really --

14 JUDGE MOSS: Sure.

15 MR. FFITCH: -- that came to my mind as I looked at
16 the notice.

17 And sort of following up on what you're saying, you
18 know, when I'm talking about being "left holding the bag," what
19 I mean to say there is that depending on what kind of proposals
20 come forward from a residential class perspective, when you get
21 into the world of rate spread and rate design, then you start
22 talking about some questions about, you know, interclass equity
23 and risk shifting between classes and things of that nature so
24 that if the new proposals, new approaches that are being --
25 well, if there are new approaches, new proposals being made,

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1 they have to be -- we're going to want to take a look at those
2 and see that they're fair and equitable if we're moving away
3 from being, you know, sort of broad application of decoupling.
4 So, you know, that's kind of where I'm coming from, is that
5 those would have to be evaluated in that light.

6 There's also I think the question of what's the
7 primary objective. There's been sort of an assumption here that
8 it's fixed cost recovery.

9 Is the primary objective of this topic that we're
10 talking about today different than full decoupling? I think,
11 you know, folks -- we need to understand that. The parties need
12 to understand. Is it different? Is it a different objective?
13 Is it about throughput incentives? Is it about conservation?
14 What's it about?

15 So we don't know that right now except that, you
16 know, there's been some general discussion of the point being
17 fixed cost recovery. So you would have to sort of -- in
18 designing something as an alternative, you'd have to look at
19 that, what goal is it achieving, because the Commission's going
20 to want to know that in terms of policy direction.

21 You mentioned tariffs. My understanding is we
22 already have, I believe -- and folks can correct me on this --
23 we already have compliance tariffs in place --

24 JUDGE MOSS: Yes.

25 MR. FFITCH: -- for these plans, so the introduction

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1 of an alternative approach would require some changes there that
2 introduce some implementation complications, you know, in terms
3 of -- for example, if commercial industrial customers are
4 starting to pay rates based on the decoupling and the K-factors,
5 then how do you unwind that later on? What's the thinking
6 there.

7 So just, as I say, kind of a list of different
8 questions and thoughts that come to mind in reaction to the
9 notice.

10 JUDGE MOSS: All right.

11 MR. FFITCH: That's kind of where we're at right now.

12 JUDGE MOSS: Thank you very much.

13 And to those of you on the phone, I'm focusing first
14 on those in the room. There's no particular magic to the order
15 in which I'm proceeding, but the only other party we have
16 present in the room is Staff, and so I'll turn to Staff and ask
17 if there are any comments.

18 MS. BROWN: This is Sally Brown. I'm not going to
19 offer procedural advice today. I just would like to note that
20 Commission Staff is supportive of discussions and is more than
21 willing to participate in any discussions on these topics.

22 JUDGE MOSS: Great. I appreciate that.

23 Mr. Xenopoulos, did you wish to be heard on this
24 topic?

25 MR. XENOPOULOS: Thank you, Your Honor. Yes. I just

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1 have a couple of brief comments.

2 And I'm not one to foreclose discussion, but at the
3 same time, Nucor feels fairly strongly that the evidence in the
4 record does support exempting these gas customers -- 85, 85T,
5 87, and 87T -- from decoupling, and so I'm not quite sure of
6 exactly what we would be talking about, quite frankly, from, you
7 know, this particular perspective.

8 I think -- you know, I agree with the distinction
9 that was drawn between the gas and the electric side by
10 Ms. Carson, I believe it was, and, again, it just seems to us
11 that there isn't a whole lot to discuss. But, you know, if
12 other parties want to talk about the issues, I suppose, you
13 know, that's the way we will presumably go.

14 But, again, we see it as a fairly, you know,
15 black-and-white situation insofar as these gas customers are
16 concerned.

17 JUDGE MOSS: Thank you.

18 MR. XENOPOULOS: Thank you.

19 JUDGE MOSS: And, Mr. Boehm?

20 MR. BOEHM: Thank you, Your Honor. On the electric
21 side, we feel strongly that the utility's natural disincentive
22 to promote energy efficiency can be addressed through rate
23 design rather than decoupling for larger customers.

24 We appreciate that you, Judge Moss, seem to recognize
25 that if progress has to be made on this issue, it's important to

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1 do it before ruling on reconsideration and reconsideration is
2 issued because once the order is finalized and decoupling is
3 approved, it sort of eliminates any incentive on the part of
4 Puget to address rate design.

5 So Kroger would welcome the opportunity to meet with
6 the Company and other parties to work through a solution.

7 JUDGE MOSS: All right. Thank you very much.

8 And Ms. Davison or Mr. Weber for ICNU?

9 Ms. Davison, are you there?

10 MS. DAVISON: Yes. I'm sorry, Judge Moss.

11 JUDGE MOSS: Oh, you were on mute, I bet?

12 MS. DAVISON: I was on mute. I apologize for that
13 delay.

14 JUDGE MOSS: No worries.

15 MS. DAVISON: Yes, Judge Moss. ICNU welcomes the
16 opportunity to engage in further discussion regarding decoupling
17 before the case is filed. I felt as though we were making some
18 progress through the workshop process and we welcome the
19 opportunity to reengage.

20 I'm not going to argue the merits of the issues, but
21 I'm sure that you wouldn't be surprised to know that I don't
22 necessarily agree with the gas folks that they're unique and
23 we're not.

24 And the last point I would make, Judge Moss, is I
25 certainly would welcome your participation as a settlement judge

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1 and perhaps as the parties agree given your history and your
2 involvement in the case, I think you are uniquely situated to
3 help bring about a solution or a resolution to this issue.

4 JUDGE MOSS: Well, we might have some discussion
5 internally about that. You know, viscerally my thought is,
6 Well, having been the presiding officer in this case and still
7 the presiding officer in this case, that could be awkward.

8 But I'll discuss it with the Commissioners and
9 perhaps with legal counsel and see if that's something that
10 might or -- might work. I don't know. And we may be able to
11 offer another alternative to facilitate the process in one
12 manner or another if the need for that is apparent.

13 Okay. Anything else?

14 MS. DAVISON: No. Thank you.

15 JUDGE MOSS: Does anyone else wish to be heard?

16 MS. CARSON: Your Honor, I have one more comment. I
17 just want to say that PSE disagrees with Kroger, strongly
18 disagrees with Kroger, that PSE has no incentive and would not
19 cooperate in ongoing dialogue after an order is entered. That's
20 just not true.

21 PSE is willing at any time to engage in dialogue. We
22 recognize that this is experimental as has been brought up, that
23 it's going to be evaluated at some point in time in the future,
24 that we need to work towards something that's workable for
25 everyone, and we think that can happen even after an order on

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1 the petitions for reconsideration are entered.

2 JUDGE MOSS: Okay. And I think that's true, too, but
3 at the same time, I think, you know, we don't really want to go
4 through unnecessary activities, writing another order, only to
5 have it undone weeks later or months later.

6 Based on what I'm hearing today, I would like to at
7 least give some opportunity here for this dialogue to commence,
8 and you'll know after a meeting or two whether it's going
9 anywhere or not, I suspect.

10 I think, you know, if I may just be a little candid,
11 it seems to me that, you know, things fell apart a little bit in
12 terms of the dialogue in the context to perhaps somewhat a more
13 heated context of pending matters. And now that it's sort of
14 behind us, the dust is settling, we can, you know, return to a
15 more composed posture and have some meaningful talks.

16 I think that did seem to occur with the gas
17 customers, particularly with the Northwest Industrial Gas Users'
18 involvement. And a result that was satisfactory, you all
19 achieved that and filed the settlement now -- or you joined the
20 settlement because of other factors that was not approved. And,
21 you know, it was not because we didn't like what you did. It
22 was because of other concerns that the Commission had that that
23 multiparty settlement was not approved. And that was an
24 unfortunate fallout of it. I'll go so far as to say that it was
25 needed that way. I probably shouldn't have said that, but I

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1 did.

2 But in any event, I think it's possible to do --
3 perhaps at least the electric side will probably need more
4 attention. You tell me the situations are different. I have no
5 reason to doubt that. Having been involved in this business for
6 a long time, I think the businesses are pretty different, and so
7 we'll -- you can focus on those issues, though, and perhaps take
8 them down a path to a satisfactory conclusion as you did on the
9 gas side.

10 And it doesn't have to be one size fits all either,
11 so you might come forward very quickly with something on the gas
12 side and say, Yeah. Everybody's decided that you should have
13 gone that way, and that the record is there to support it. And
14 the Commission may become convinced, and on that basis could
15 either grant the petition for reconsideration or take some other
16 action if it was indicated.

17 As far as the electric side is concerned, I would
18 suspect it would -- well, there would need to be some other work
19 done there to come up with a solution that would satisfy
20 everyone's interest, so I guess maybe that's where the work will
21 principally fall.

22 But having said all this, I'm just sort of thinking
23 out loud here in terms of process. I'm wondering if I propose
24 to the Commissioners that we initially establish a date maybe
25 about six weeks out for the petitions for reconsideration, we

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1 can get a notice out within the 20-day clock. And that would
2 provide that much of an opportunity, and then you all could
3 report back to me as to your plans and your progress and we can
4 take it from there.

5 It's not particularly troublesome to issue more than
6 one notice like this. I don't know why the statute has a 20-day
7 clock and makes us do this. It's unusual, but I guess it has
8 something to do with judicial review. In any event, I'm willing
9 to take it one step at a time.

10 Does that seem like a reasonable time frame or
11 unreasonable? Too short? Too long?

12 MS. CARSON: Just to clarify, so you would put out
13 the final determination on the --

14 JUDGE MOSS: I'll just put out a notice that says the
15 Commission intends to act by, insert date.

16 MS. CARSON: And would there be a date for parties to
17 respond to the petition?

18 JUDGE MOSS: Well, that's another question, you see?
19 You get to answer only if we let you.

20 MS. CARSON: Right. Exactly.

21 JUDGE MOSS: So one of the questions I was going to
22 ask today, though, was let's assume everything I have said today
23 was not said.

24 Would you want to file an answer to these petitions
25 for reconsideration?

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1 MS. CARSON: I think PSE would have wanted to file a
2 supporting response to the Northwest Industrial Gas Users.

3 JUDGE MOSS: And perhaps an opposition, perhaps not,
4 but something?

5 MS. CARSON: (Nods head.)

6 JUDGE MOSS: Did anybody else have an interest in
7 filing something in response to the petitions? No?

8 MS. DAVISON: Yes, Your Honor. This is Melinda
9 Davison. ICNU would like the opportunity to respond.

10 JUDGE MOSS: Okay.

11 MR. FFITCH: And Public Counsel is considering a
12 response as well, Your Honor.

13 JUDGE MOSS: Okay. So we've got at least three
14 parties who want to file some kind of an answer, so...

15 And, you know, frankly, we're inclined as a general
16 proposition toward more process rather than less, so I think
17 those would probably be allowed. When parties wish to answer,
18 we like to give them an opportunity to do so as a general
19 proposition. Not always, but generally. If it's completely
20 unnecessary, then we wouldn't, but there's some room for
21 argument.

22 So that does complicate the scheduling a little bit.

23 Well, I'll figure something out in terms of some
24 clever way to word the notice that the Commission puts out.

25 As I have pointed out to parties before in connection

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1 with procedural schedules, the dates established are deadlines.
2 So if the Commission wishes to announce that it intends to act
3 by June 1, 2017, it could do so and not run afoul of the
4 statute -- would we? -- and then it could issue something next
5 week. So the point being that we have some flexibility there.

6 And so maybe what I'll do, then, instead of my first
7 plan, was I'll set a date for answers about six weeks out, and
8 then you all report back to me within the next couple of weeks
9 whether I should hold my breath or not.

10 And I can only hold my breath for a short period of
11 time, so if it appears there's no prospect for success, then
12 you'll tell me, and we'll just go ahead and take care of the --
13 we'll get the answers and we'll go ahead and get a decision on
14 the petitions for reconsideration. I think that approach will
15 work.

16 Does anybody see a problem?

17 And it doesn't push it up so tight that people have
18 to go ahead and start working now on an answer that they may
19 never file. I didn't want to put people in the position of
20 doing unnecessary work either, but I did want to give people an
21 opportunity to do such work as they might elect to do if we're
22 just going to resolve the petitions.

23 Okay. Does that work? It seems to work. Okay.

24 Does anybody else wish to have any conversation with
25 me this afternoon?

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1 MR. FFITCH: Your Honor, I guess I would like to just
2 sort of think about scenarios briefly again, and maybe just --

3 JUDGE MOSS: Don't get complicated now. Let's don't
4 get too complicated.

5 MR. FFITCH: Well, maybe just underlining a point.
6 You sort of outlined a scenario in which perhaps
7 other parties, Puget and industrial customers, reach some kind
8 of agreement on an alternative approach. I think that's what
9 the Commission's hoping, apparently, from your comments. That's
10 sort of an aspirational goal.

11 JUDGE MOSS: Well, the Commission's goal is to have
12 in place the most effective mechanisms that can be conceived to
13 achieve its goals consistent with decoupling.

14 And so if there's something that works better than
15 the current program for this particular customer class, we want
16 to hear about it. And we'd like for the parties to have an
17 opportunity to sit down and discuss whether that's the case or
18 not. Maybe it's not, but that's all we're saying here.

19 We're not saying we -- you know, that we have an
20 interest in the nonresidential customers coming forth with
21 something different for the sake of coming forth with something
22 different. It needs to be something that's in some way an
23 improvement on this form of decoupling with that customer class
24 in mind and the other customer classes in mind.

25 Keep in mind, just from the Company's perspective, I

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1 think I'm not misspeaking if I say it's all about recovering all
2 the cost, as appropriate, from the various customer classes.
3 Well, that's, of course, the Commission's goal as well. That's
4 what we always try to do. It's greater or lesser success from
5 different perspectives, I'm sure, but that's what we're about
6 here. We're not trying to be unfair in any way.

7 MR. FFITCH: Well, with respect, Your Honor, I was
8 kind of going in a different direction, just kind of a
9 procedural question, really, which is if that's successful --

10 JUDGE MOSS: Okay.

11 MR. FFITCH: -- and Puget comes forward with another
12 company and says we'd like to do it this way on an agreed basis,
13 we may or may not agree with that. And we may like to have
14 an -- because we're concerned that it's unfair to ratepayers.
15 It doesn't comply with basic principles, rate design, risk shift
16 to ratepayers on -- on residential ratepayers unfairly.

17 My question is and my concern is that we have our day
18 in court to challenge that as we would if that was brought
19 forward as a proposed rate design in a case, in a litigated rate
20 case, where you'd have an opportunity to do discovery, put on
21 testimony and say, No. We don't like Column A. Commission, you
22 ought to think about Column B or modify that.

23 JUDGE MOSS: Yeah. I'm not sure what process will be
24 appropriate. It would depend entirely -- or almost entirely on
25 what might be brought forward and how it might be brought

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1 forward, but some process would be called for to be sure. And
2 so, you know, the Commission can act only in certain ways and
3 make decisions only in certain ways as defined by statute, so I
4 don't think you need to be concerned about being cut off from
5 having your say, whether it would be in the form of a hearing or
6 some kind of a workshop in a context of an open meeting. I
7 don't know. But you'll have some opportunity to be sure to be
8 heard. And if you perceive there to be some prejudice to the
9 customer interest that you represent, you'll certainly be given
10 an opportunity to say so, and the Commission will certainly take
11 that into account as it reaches its decisions.

12 I think the Commission has a very good record of
13 being inclusive and ensuring people's rights are protected. You
14 don't always get the results you want. That's true for
15 everybody in this room at one time or another, and that's just
16 the nature of the beast.

17 But in terms of letting people have their rights, I
18 think we do a pretty good job, and we would do so here. So I'm
19 just trying to offer you that reassurance.

20 MR. FFITCH: Thank you, Your Honor.

21 MR. FINKLEA: Well, and I might say -- you know,
22 maybe I'm being overly optimistic on a month when I shouldn't
23 be, but it would certainly be our desire for the industrial
24 customers on the gas side to work with Public Counsel and
25 hopefully bring them along in supporting whatever we could come

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1 to an agreement when we didn't have that opportunity in the
2 previous proceeding.

3 And so this would be an opportunity with time and
4 dialogue and some technical work to try to assure Simon that
5 it's certainly not the industrial customers' desire to somehow
6 leave residential customers holding the bag. I always thought
7 decoupling was supposed to be designed in such a way that
8 whatever happened on the residential side would stay on the
9 residential side, and whatever happened on the industrial side
10 would stay on the industrial side as well. I hope it's no one's
11 desire to see to it that we do decoupling in such a way that
12 there's really dollars moving between the buckets.

13 So, hopefully, you know, through whatever process we
14 engage in in advance of these next six weeks, we can bring
15 people along on that.

16 JUDGE MOSS: I appreciate your comments very much and
17 agree that that's the ideal and that would be the goal at its
18 highest level to have everyone in agreement that this is the
19 right thing to do.

20 And I think with the right technical people involved,
21 those discussions can be truly meaningful and persuasive. You
22 know, facts are shown to support outcomes, then, you know, it
23 may be possible that you could gain the support of The Office of
24 Public Counsel, the support of the Staff, support of others.
25 That would be good.

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1 And so, you know, to that extent, Mr. ffitch, you
2 would have that opportunity as well to have that background
3 experience with the whole thing, too, so you get a -- you have a
4 much better -- and I think to the extent that those who are not
5 directly involved in the sense that -- you know, you represent a
6 different class of customers, so in that sense, you're not
7 directly involved, but you're affected potentially. If you can
8 become satisfied that you are not adversely affected, that's a
9 good thing.

10 MR. FFITCH: Certainly, Your Honor. We understand
11 that.

12 JUDGE MOSS: Sure.

13 MR. FFITCH: I was working through an alternate
14 scenario.

15 JUDGE MOSS: I understand.

16 MR. FFITCH: And I appreciate Mr. Finklea's comments,
17 and we would intend to be involved in the discussions, so...

18 JUDGE MOSS: Yeah. I have been working with you all
19 in this industry and other representatives in this industry for
20 a long time, and I have come to have the greatest respect for
21 you and your ability to sit down and work things out. I have
22 seen some very contentious cases resolved in a way that left
23 everyone shaking hands and smiling at the end of the day, so I
24 know it's possible. Perhaps we'll see it, perhaps we won't, but
25 we're going to at least provide an opportunity for it to happen.

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1 All right. Nothing further?

2 All right. Well, I have predicted an hour, and I
3 made it in 45 minutes, so very good.

4 Thank you all for being here. I do appreciate you
5 showing up on short notice. And those of you participating by
6 teleconference, I appreciate you being here today as well.

7 We'll be off the record.

8 (Proceeding concluded at 2:13 p.m.)

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