

WUTC v. Puget Sound Energy

Docket No. UG-230968 - Vol. I

January 30, 2024



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of)
)
WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
)
Complainant,)
) DOCKET NO. UG-230968
)
)
PUGET SOUND ENERGY,)
)
Respondent.) PAGES 1-20
)

PREHEARING CONFERENCE - VOL. I

BEFORE ADMINISTRATIVE LAW JUDGE MICHAEL HOWARD

January 30, 2024

Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, Washington 98504

TRANSCRIBED BY: JAN-MARIE GLAZE, RPR, WA CCR 2491

1 January 30, 2024
2 -o0o-
3 JUDGE HOWARD: So anyone present would -- we
4 would be deeming them consenting to being recorded. I
5 apologize, everyone. We're doing this in lieu of the
6 court reporter because I'm not seeing them on the call
7 at the moment, and we will have this transcribed later.
8 So good afternoon, everyone. Let's consider
9 ourselves on the record. My name is Mike Howard.
10 We're here today for prehearing conference on Docket
11 UG-230968, which is captioned Washington Utilities and
12 Transportation Commission vs. Puget Sound Energy.
13 Again, my name is Mike Howard -- excuse me,
14 Michael Howard. I'm an administrative law judge with
15 the Commission, and I'll be co-presiding this matter
16 along with the commissioners, who will not be joining
17 us at this particular prehearing conference.
18 Let's start by taking appearances and addressing
19 the petitions for intervention. We'll hear first from
20 the Company.
21 MS. BARNETT: Good afternoon, Your Honor.
22 Donna Barnett appearing on behalf of Puget Sound
23 Energy. I'm with Perkins Coie.
24 JUDGE HOWARD: Thank you. Staff?
25 MR. CALLAGHAN: Thank you, Your Honor. Nash

A P P E A R A N C E S

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1 Callaghan, Assistant Attorney General on behalf of
2 Commission Staff.
3 JUDGE HOWARD: Thank you. Could we hear from
4 Public Counsel?
5 MR. O'NEILL: Tad Robinson O'Neill, Assistant
6 Attorney General on behalf of Public Counsel.
7 JUDGE HOWARD: Thank you. And nice to have
8 you appear in one of my proceedings for the first time,
9 Mr. O'Neill.
10 MR. O'NEILL: This is my first time in front
11 of you, yes.
12 JUDGE HOWARD: Thank you.
13 Could we hear from AWEC?
14 MS. MOSER: Good afternoon, Your Honor.
15 Sommer Moser on behalf of the Alliance of Western
16 Energy Consumers.
17 JUDGE HOWARD: Thank you. And could we hear
18 from the Joint Environmental Advocates, which I
19 understand to be Northwest Energy Coalition, Climate
20 Solutions, and Washington Conservation Action.
21 MS. GRAVOTTA: Hello. This is Noelia
22 Gravotta from Earthjustice representing Joint
23 Environmental Advocates.
24 JUDGE HOWARD: All right. Thank you.
25 So with that, let's turn to the petitions to

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1 intervene. Are there any petitions for intervention
 2 other than the ones that have been filed in writing?
 3 Hearing none, let's proceed.
 4 We've received two petitions to intervene in
 5 writing in this docket, one from AWEC and one from the
 6 Joint Environmental Advocates. I am unaware of any
 7 written objections to these petitions. Are there any
 8 objections today?
 9 MS. BARNETT: No, Your Honor, not from PSE.
 10 MR. CALLAGHAN: None from Staff, Your Honor.
 11 MR. O'NEILL: (Inaudible) counsel.
 12 JUDGE HOWARD: Mr. O'Neill, I'm sorry. I
 13 didn't quite catch that.
 14 MR. O'NEILL: None from Public Counsel.
 15 JUDGE HOWARD: Thank you. All right.
 16 Hearing no objections, the petitions to intervene are
 17 granted.
 18 Let's move on to the procedural schedule for this
 19 proceeding. I have not considered this issue at
 20 length, but I would anticipate that this case would
 21 likely involve rounds of prefiled testimony and an
 22 evidentiary hearing. Perhaps it would be comparable,
 23 in terms of the overall length of the proceeding, to a
 24 power cost-only rate case in just not necessarily in
 25 the amount of evidence but in terms of the length of

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1 the schedule, although that is merely a suggestion.
 2 If we are looking at something comparable to PCO
 3 in terms of the amount of time for the case, I -- that
 4 would put the hearing possibly in early July. Clearly,
 5 the first week of July, many people will be on
 6 vacation. That might not be ideal. And I would also
 7 want to note that the week of July 15 is a conference
 8 for the commissioners, and they would not be available.
 9 So if that time frame does generally seem suitable
 10 for the parties, the parties might want to consider
 11 hearings -- I could throw out several dates, possible
 12 dates here, on June 20th, June 28th, July 10th,
 13 July 9th. We're skipping ahead past that conference.
 14 July 22nd through the 24th. And I would anticipate
 15 that this could be a one-day evidentiary hearing, so I
 16 would not plan on noting that schedule for a two-day
 17 hearing, but, of course, we can hear from the parties
 18 on that.
 19 Would it be helpful for us to adjourn, for me to
 20 leave the call, so the parties can discuss?
 21 MR. CALLAGHAN: I believe so, Your Honor.
 22 MS. BARNETT: Your Honor, I think it would be
 23 important for us to all get on the same page before we
 24 separate about what the scope of this proceeding is. I
 25 know, I, for one -- although I listened to the opening

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1 meeting, watched the open meeting, I'm confused as to
 2 the scope of what we're doing. I understand that this
 3 is just limited to the risk-sharing mechanism, and I
 4 know PSE did propose a risk-sharing mechanism that I
 5 understand Staff was not satisfied with, so I
 6 understand that is the limited and sole and only scope,
 7 but, again, it didn't appear clear from the prehearing
 8 conference order or -- prehearing conference notice or
 9 the Order 1 if that's the case and how -- what that
 10 means. So I guess I would like to hear from both you
 11 and maybe the other parties if I am understanding
 12 something differently.
 13 JUDGE HOWARD: Certainly. And I would like
 14 to hear from the other parties as well. I think that's
 15 a good point for us to discuss. When I went back and
 16 looked at Order 1, the suspension order, it did appear
 17 that Order 1 included the condition requiring the
 18 company to report on different investments in
 19 decarbonization, and I believe that was a topic raised
 20 in Commissioner Rendahl's motion.
 21 So I would turn to Mr. Callaghan.
 22 MR. CALLAGHAN: Thank you, Your Honor. My
 23 understanding was that the scope of this adjudication
 24 was just related to the -- the risk-sharing mechanism.
 25 So Staff's expectation was that the company would be

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1 filing initial testimony. Not to get into the merits
 2 of this, but Staff's position was that what's been put
 3 forward in this docket already was not actually
 4 risk-sharing mechanism. Our expectation was that
 5 initial testimony would include a different proposal,
 6 and that we would -- the scope would be limited to the
 7 risk-sharing mechanism itself.
 8 JUDGE HOWARD: Could I hear from Public
 9 Counsel?
 10 MR. O'NEILL: I was not present at the
 11 hearing so I don't know what was represented at the
 12 hearing, and so I have to defer to Mr. Callaghan on
 13 this.
 14 JUDGE HOWARD: Not a problem.
 15 Could I hear from AWEC? As I recall, AWEC was
 16 raising the issue of the investments in decarbonization
 17 projects.
 18 MS. MOSER: Thank you, Your Honor. We did
 19 raise concerns about those investments; however, I do
 20 not view those as within the scope of this proceeding.
 21 I think we are also looking at it as limited to the
 22 risk-sharing mechanism.
 23 JUDGE HOWARD: All right. Thank you.
 24 Could I hear from the Joint Environmental
 25 Advocates?

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1 MS. GRAVOTTA: Yeah. I think we're all on
 2 the same page that this is limited to the risk-sharing
 3 mechanism.
 4 JUDGE HOWARD: All right. Thank you.
 5 I think this was helpful. I think, given the
 6 parties' agreement, the prehearing conference order
 7 will note that the scope of this proceeding is focused
 8 on the risk-sharing mechanism, and hopefully that helps
 9 the parties with their discussions on the schedule.
 10 Is there anything else we should discuss before --
 11 before I leave the call and the parties can have some
 12 time?
 13 MR. CALLAGHAN: Just briefly, Your Honor, so
 14 Staff was thinking about the timing of this schedule,
 15 and we were thinking something more along the lines of
 16 a ten-month schedule, given the workload that's going
 17 on here at the Commission. I don't know if that's
 18 something that the commissioners would be willing to
 19 entertain, but we were thinking of something that's
 20 closer to, you know, an October hearing date.
 21 JUDGE HOWARD: I -- I -- I'm certainly
 22 understanding of workload concerns. I think that that
 23 could cut both ways though. That could suggest that we
 24 move past this before some of the rate cases come to
 25 their conclusion in their hearings. And also believe

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1 that the suspension date, the statutory suspension
 2 date, for the tariffs in this proceeding would be
 3 November 1st. So an October hearing -- I mean, this
 4 order would be on the relatively short order, but I
 5 think that that's still maybe cutting it a little
 6 close.
 7 MS. BARNETT: On that, I think -- well, PSE
 8 supports a longer time. I think that would benefit
 9 both the record and workload, but also, I mean, the
 10 tariffs are in effect, and I'm not really sure -- that
 11 was another question I had about what it means to
 12 suspend the tariff sheets when the tariff is in effect.
 13 I don't know if there -- I mean, the tariff sheets are
 14 in effect.
 15 JUDGE HOWARD: No, true.
 16 MS. BARNETT: I don't know what effectively
 17 that means; that the tariff sheets are suspended
 18 because...
 19 JUDGE HOWARD: No. Thank you.
 20 MS. BARNETT: So I don't think -- honestly,
 21 this doesn't have a statutory deadline as far as PSE
 22 is -- understands it, since they are in effect right
 23 now. There is -- certainly, subject to refund, but as
 24 far as timing, I don't think that's a relevant issue,
 25 but I may be wrong.

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1 JUDGE HOWARD: Certainly. Well, I'm glad you
 2 raise that. I'm going to consider this a little bit
 3 more, but I think that is a valid point that, unlike
 4 many proceedings, these rates are already in effect.
 5 So the suspension date is not the same. It's just my
 6 usual habit to calculate that based off of the initial
 7 filing.
 8 Well, if the parties are inclined to have a longer
 9 schedule for various reasons, then, I'm amenable to
 10 making that work, and I imagine that there will be
 11 times on the commissioners' schedules that far out.
 12 Is there anything else that we should discuss? I
 13 could -- I could look ahead, potentially, to some weeks
 14 in October, just to see if there's any obvious
 15 conflicts.
 16 It looks like October 8th, October 9th,
 17 October 15th, October 16th, and the 22nd and the 23rd
 18 would all be open at this time.
 19 MS. BARNETT: Thank you. That's helpful.
 20 JUDGE HOWARD: All right. Any other
 21 questions of the parties before we go off the record
 22 and I leave the call? All right. Hearing none,
 23 Mr. Callaghan, if you or another representative could
 24 send me an e-mail discussing, that would be helpful.
 25 And I'll leave the call, and we'll consider ourselves

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1 off the record. Thank you.
 2 MR. CALLAGHAN: Thank you.
 3 (Off the record.)
 4 JUDGE HOWARD: All right. Let's be back on
 5 the record.
 6 As I understand, the parties have concluded their
 7 discussion, so I would turn to perhaps either the
 8 Company or Staff to describe where we are at in our
 9 conversation.
 10 MS. BARNETT: I think Nash can take it away.
 11 MR. CALLAGHAN: Thank you, Your Honor. So
 12 we've reached a general consensus in terms of the
 13 parties' preferred schedule. So I'm just going to go
 14 in chronological order.
 15 So initial testimony from the Company would be
 16 April 25th. Response testimony from the other parties
 17 would be due July 18th. And, at that point, we would
 18 ask that the prehearing conference order specify that
 19 the response time for data requests be shortened to
 20 five business days.
 21 JUDGE HOWARD: Is that best efforts?
 22 MR. CALLAGHAN: No. The rule already has a
 23 mechanism to deal with that, so...
 24 JUDGE HOWARD: All right.
 25 MR. CALLAGHAN: Then we would be looking at

1 cross answer and rebuttal testimony on September 12th.
2 And, at that point, data request responses would be due
3 within three business days.

4 We're proposing the discovery cutoff to be
5 September 25th, and the due date for cross-examination
6 exhibits, cross time estimates, et cetera, would be
7 October 2nd.

8 For the public comment hearing -- and, again, we
9 don't know the Commission's availability here, but we
10 were proposing October 8th, with the evidentiary
11 hearing on October 9th. And then we had post-hearing
12 brief -- initial post-hearing brief on November 7th
13 with a reply brief on the 21st.

14 JUDGE HOWARD: All right. I am noticing that
15 there's nearly a two-month period of time between
16 response testimony and the deadline for rebuttal and
17 cross answering. Would the parties be amenable to
18 moving the deadline for rebuttal and cross answering a
19 week earlier so that the Commission has
20 approximately -- has a little bit more time before the
21 hearing to review all the -- to review all the
22 testimony and evidence?

23 MS. BARNETT: I think, as usual, this was a
24 carefully crafted calendar. I would -- I -- we did
25 discuss that, or at least a shorter time, and the

1 MS. GRAVOTTA: It's okay.
2 Environmental intervenors are fine with the
3 earlier deadline, but just clarifying that the
4 evidentiary hearing, I think that was the only date
5 that we could all make, so we can't have that pushed
6 back.

7 JUDGE HOWARD: Okay.

8 MS. MOSER: Thank you, Your Honor. I think,
9 you know, one other consideration was just trying to
10 avoid Labor Day week, which is, I think, the week
11 before, and just understanding that it may be difficult
12 to get a filing in. So it -- I would just flag that
13 that's still a concern.

14 JUDGE HOWARD: All right. Thank you.

15 MR. O'NEILL: The other -- from Public
16 Counsel, just -- the observation is that if we move the
17 hearing date back any further, we're worried it's going
18 to run into the rate cases that are all going to be
19 hitting right around the same time. And so we were
20 reluctant to push any more of this into later than
21 October 9th, just for that reason. There's going to be
22 a crush.

23 JUDGE HOWARD: Thank you. Thank you,
24 Mr. O'Neill. I am definitely tending to agree with
25 that.

1 parties -- I think there was a consensus of wanting
2 more time between response and rebuttal, given the
3 potential number of proposals we're going to be seeing,
4 and we don't really know what they're going to look
5 like.

6 I know there was also some discussion about a
7 couple dates in October. I don't know if it's an
8 issue, maybe we choose the later October date for the
9 hearing, but I -- I'm open. That would change a couple
10 other dates though too, so I -- I don't want to speak
11 for anybody else, but that's PSE's position is, we
12 would like that time for rebuttal, but we're open to
13 pushing back the evidentiary hearing time.

14 JUDGE HOWARD: Okay. Would any other party
15 like to weigh in?

16 MR. CALLAGHAN: Staff doesn't have any
17 conflict with the earlier cross answering deadline.

18 JUDGE HOWARD: Okay. I suppose -- I suppose
19 between the hearing and this deadline, we're pretty
20 much at four weeks. Okay.

21 Any other party like to weigh in? I'll just take
22 this under advisement.

23 MS. GRAVOTTA: Um --

24 MS. MOSER: Thank you, Your Honor. Sorry.
25 You can go ahead.

1 All right. Well, thank you. I will take this
2 under advisement. I expect that this schedule should
3 work for the Commission, but I do just want to make
4 sure that the Commission is able to fully review all
5 the evidence before -- before the hearing.

6 All right. Mr. Callaghan, any other issues around
7 the schedule that we should discuss or any other points
8 in disagreement?

9 MR. CALLAGHAN: Nothing from Staff, Your
10 Honor.

11 JUDGE HOWARD: Any other party?

12 MS. MOSER: No, Your Honor.

13 JUDGE HOWARD: All right. Hearing none, I
14 will again take this all under advisement, and this
15 will be in the prehearing conference order.

16 Turning to some of the other issues that we
17 commonly address at our prehearing conferences, we
18 would normally address at this stage whether the
19 parties want a protective order. I don't believe that
20 there's one in this docket. Is there any request for a
21 protective order in this docket? Turning first to the
22 Company.

23 MS. BARNETT: Yeah. I don't -- sorry, let me
24 turn my video on.

25 I honestly don't know what confidential

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1 information would be requested, but it's hard to dis --
 2 hard to know, so we can -- we can move to have one just
 3 in case, or we can move at a later time. I really
 4 don't have a preference, I suppose. It's hard to tell.
 5 I don't know. Maybe the other parties know what
 6 they're going to ask. I guess I don't know.
 7 JUDGE HOWARD: Any other party like to weigh
 8 in?
 9 MR. CALLAGHAN: Your Honor, Staff's
 10 preference would be to just have a protective order
 11 just in case. I think it's best to just take care of
 12 it now.
 13 JUDGE HOWARD: I'm inclined to agree, if
 14 there's no objection. Would anyone like to make an
 15 objection to one? All right. Hearing none, turning to
 16 some of the other matters that we commonly address.
 17 We are likely going to continue to suspend the
 18 requirements for filing paper copies of documents. We
 19 are going to follow the rules for electronic service of
 20 documents which are already in place. If the parties
 21 would like to designate any additional individuals for
 22 service or for courtesy service, please feel free to
 23 e-mail me directly.
 24 All right. And, finally, I think -- I don't
 25 believe we specifically discussed any deadline for

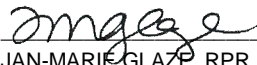
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1 errata sheets. Would there be any objection to setting
 2 a deadline for errata sheets one week prior to the
 3 hearing, which would be the same day as the
 4 cross-examination exhibits and other submissions?
 5 MR. CALLAGHAN: No objection, Your Honor.
 6 JUDGE HOWARD: All right. Thank you. And
 7 hearing no objections from any other party.
 8 Is there anything else that we should address at
 9 our prehearing conference today?
 10 MS. BARNETT: Sorry. Can I just confirm that
 11 the dates -- did we -- we did say the briefing dates to
 12 post-hearing briefing? For some reason, I slept on
 13 that.
 14 JUDGE HOWARD: Yes. I have November 7th,
 15 2024 --
 16 MS. BARNETT: Oh, thank you.
 17 JUDGE HOWARD: -- for initial briefs, and
 18 November 21st for reply briefs.
 19 MS. BARNETT: Thank you.
 20 JUDGE HOWARD: All right. Anything further
 21 before we adjourn?
 22 MS. BARNETT: No. Thank you, Your Honor.
 23 JUDGE HOWARD: All right. Thank you, all.
 24 We are off the record, and we are adjourned.
 25 MR. CALLAGHAN: Thank you, Your Honor.

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1 MR. O'NEILL: Thank you.
 2 MS. GRAVOTTA: Thank you, Your Honor.
 3 (Hearing adjourned.)
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1 CERTIFICATE
 2 STATE OF NEW HAMPSHIRE)
 3) ss
 4 COUNTY OF MERRIMACK)
 5 I, Jan-Marie Glaze, a Certified Court Reporter and
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 14 employee of any attorney or counsel employed by the parties
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 16 IN WITNESS WHEREOF, I have hereunto set my hand
 17 this 13th day of February, 2024.
 18
 19
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 23
 24
 25



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