

1                   BEFORE THE WASHINGTON UTILITIES AND  
2                   TRANSPORTATION COMMISSION

3	WASHINGTON UTILITIES AND	)	
	TRANSPORTATION COMMISSION,	)	
4		)	
	Complainant,	)	Docket Nos. UE-011570
5		)	and UG-011571
	v.	)	(consolidated)
6	PUGET SOUND ENERGY, INC.,	)	
		)	Volume X
7	Respondent.	)	Pages 1551 to 1599
8	_____	)	

9                   A hearing in the above matter was held on  
10                  April 5, 2002, at 10:30 a.m., at 1300 South Evergreen  
11                  Park Drive Southwest, Room 206, Olympia, Washington,  
12                  before Administrative Law Judge DENNIS MOSS.

13                  The parties were present as follows:

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25                  THE PUBLIC, via bridge line by SIMON FFITCH,  
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1 P R O C E E D I N G S

2 JUDGE MOSS: Good morning, everybody. We are  
3 convened for a pre-hearing conference in the matter  
4 styled Washington Utilities and Transportation  
5 Commission against Puget Sound Energy, Docket Numbers  
6 UE-011570 and UG-011571. We have a brief agenda this  
7 morning. We will take appearances just to see who is  
8 here, and then we will talk about schedule and take up  
9 any other business that parties wish to raise that's  
10 appropriate to a pre-hearing conference. We may conduct  
11 the portion of the scheduling discussion off the record,  
12 we will just see how that goes.

13 Let's go ahead and get the appearances for  
14 the record, and let's just start with the company,  
15 Mr. Quehrn.

16 MR. QUEHRN: Good morning, Your Honor, Mark  
17 Quehrn for Puget Sound Energy.

18 JUDGE MOSS: Let's go around the room.

19 MR. CHARNESKI: Michael Charneski for Kent  
20 and Bremerton.

21 MR. FINKLEA: Ed Finklea for the Northwest  
22 Industrial Gas Users.

23 MS. DIXON: Danielle Dixon, Northwest Energy  
24 Coalition and Natural Resources Defense Council.

25 MS. KIRKPATRICK: Traci Kirkpatrick, AT&T

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1 Wireless and the Seattle Times.

2 MR. GIBSON: Kirk Gibson, WorldCom.

3 MR. CEDARBAUM: Robert Cedarbaum for  
4 Commission Staff.

5 JUDGE MOSS: And I know we have a few people  
6 on the bridge line. Mr. ffitch, are you there?

7 MR. FFITCH: Yes, Your Honor, Simon ffitch  
8 for Public Counsel.

9 JUDGE MOSS: Are you on a speaker phone,  
10 Mr. ffitch?

11 MR. FFITCH: No, I am not.

12 JUDGE MOSS: Okay. I don't know if there's a  
13 volume control on this thing or not, hang on a second.  
14 All right, well, try to speak up a little bit, I can  
15 barely hear you. It may be my hearing rather than  
16 anything else, but let's see.

17 MR. FFITCH: I will speak up.

18 JUDGE MOSS: Thank you.

19 And I think Mr. Furuta was going to be on the  
20 line.

21 MR. FURUTA: Yes, I'm here, Norman Furuta for  
22 Federal Executive Agencies.

23 JUDGE MOSS: And I'm not sure if anyone else  
24 had informed me they would be on the line or not, so I  
25 will just ask and hope that no more than one answers at

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1 a time. Anybody else on the bridge line?

2 MR. BROOKHYSER: Yes, this is Donald  
3 Brookhyser for the Cogeneration Coalition.

4 MR. EBERDT: And this is Chuck Eberdt for the  
5 Energy Project, Multi-Service Center, and The  
6 Opportunity Council.

7 JUDGE MOSS: Okay, anybody else?

8 Okay, we have had a couple of folks join us  
9 who have not previously entered their appearances, so  
10 those who have joined us, go ahead and enter your  
11 appearances.

12 MR. VAN CLEVE: Thank you, Your Honor, Brad  
13 Van Cleve for the Industrial Customers of Northwest  
14 Utilities.

15 JUDGE MOSS: Anybody else?

16 MS. CLINTON: Good morning, Laura Clinton  
17 with Preston Gates and Ellis for the Cities of Auburn,  
18 Bellevue, Burien, Des Moines, Federal Way, Maple Valley,  
19 Redmond, Renton, SeaTac, and Tukwila.

20 JUDGE MOSS: Affectionately known as Auburn  
21 et al to keep that short in the future.

22 MS. CLINTON: Thank you.

23 JUDGE MOSS: Thank you.

24 Anybody else?

25 MS. JACKSON: Claire Jackson, Preston Gates &

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1 Ellis for Sound Transit.

2 JUDGE MOSS: It looks like we have one more,  
3 could we have your appearance, please?

4 MS. GROSSMANN: Yes, my name is Heather  
5 Grossmann with Preston Gates & Ellis representing  
6 Microsoft.

7 JUDGE MOSS: I'm going to encourage everybody  
8 to come up to counsel table to the extent we can fit you  
9 in. You can sit over here at the witness table or over  
10 here. There may not be room for everybody, but to the  
11 extent there's room, let's do that so we have the  
12 advantage of the microphones. I will need you, if  
13 you're going to say something and you don't take a seat  
14 up here at counsel table, you will need to move to a  
15 position with a microphone when you speak so that those  
16 on the conference bridge line can hear you.

17 Ms. Grossmann, since you are here for  
18 Microsoft and your motion or your petition to intervene  
19 is pending, I will tell you and state for the record  
20 that the Commissioners have that matter under advisement  
21 and have not yet reached a decision on the petition.

22 I understand that there's not going to be any  
23 opposition to the petition, Mr. Quehrn.

24 MR. QUEHRN: That's correct, no objection.

25 JUDGE MOSS: All right, I will convey that

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1 information back, and we will rule on that in due  
2 course.

3 MS. GROSSMANN: Thank you.

4 JUDGE MOSS: Anybody who has not gotten a  
5 copy of it, and I think Mr. Cedarbaum said he had  
6 E-mailed it out in addition to providing copies here in  
7 the room, there is a proposed litigation schedule that  
8 he kindly provided me this morning also, and I have  
9 taken a look at that. While we're still on the record,  
10 perhaps I can just poll the room and those on the  
11 telephone and see if there's anybody who is experiencing  
12 heartburn over these suggestions or any part of them,  
13 and we can consider that. In general, I will say it  
14 looks workable.

15 Well, I will comment more on it in just a  
16 minute, but first I want to say, I did receive from  
17 Mr. Eberdt a couple of E-mails, and I E-mailed you back  
18 this morning, Mr. Eberdt, we discussed briefly the  
19 problems that you might have in terms of witness  
20 conflicts, and my E-mail back to you this morning was to  
21 the effect that with this many dates being problematic,  
22 I doubt we're going to be able to do much to accommodate  
23 that, and we'll just have to work around it as best we  
24 can.

25 MR. EBERDT: I completely understand that,



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1 Your Honor.

2 JUDGE MOSS: Thank you. And similarly with  
3 others, we're just going to have to work the best we  
4 can. We've got a large case with a lot of parties, and  
5 that makes it, of course, all the more challenging to  
6 set a workable procedural schedule. Couple that with  
7 the limited time available for the commissioners to sit  
8 given all the business that we have pending this year,  
9 and we have had quite a challenge keeping up with our  
10 calendar and changes.

11 But I did review Mr. Cedarbaum's proposal,  
12 and I understand he has discussed it with a couple of  
13 parties but not had an opportunity to discuss it with  
14 most of you. The dates selected for hearing are ones  
15 where I think we have availability, and so that is not a  
16 problem at least as far as I know.

17 As far as the other aspects of the schedule,  
18 there are some fairly tight time frames on some of it,  
19 but I'm thinking that particularly on the gas schedule,  
20 but it does appear the way things are going that that  
21 part of the case at least will probably be fairly  
22 limited in the sense that many of the issues that are  
23 common issues will be resolved in the course of the  
24 electric docket, and so there will be less to deal with  
25 on the gas side than there might otherwise be if it were

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1 a case with no overlapping issues.

2 So any comments on the proposal that  
3 Mr. Cedarbaum has put forth?

4 Mr. Finklea, we have worked around Olympic, I  
5 noticed you were here yesterday for that one too.

6 MR. FINKLEA: Yes, Your Honor, I now have a  
7 three dimensional calendar that I carry with me at all  
8 times.

9 This is a general suggestion, we have found  
10 in numerous cases that if there is surrebuttal worked in  
11 so that, or you can even call it cross rebuttal, it  
12 tends to focus the hearing and also potentially make it  
13 shorter, because especially on the gas end of the case,  
14 if we go to litigation, it's as likely that we will be  
15 going to litigation over issues where some of the  
16 interveners and Public Counsel and Staff will be in  
17 dispute with each other as it is that we be in dispute  
18 with the company. So our suggestion is to try to figure  
19 out some way to work in cross rebuttal sometime between  
20 the rebuttal and the hearing so that the parties have an  
21 opportunity to rebut each other with pre-filed  
22 testimony, because the alternative tends to be that you  
23 try to accomplish through cross-examination what you  
24 would accomplish through cross rebuttal.

25 JUDGE MOSS: Okay, well, now we do -- we are

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1 working there with two different concepts. Surrebuttal  
2 testimony is testimony this is directed to new issues  
3 raised for the first time on a company's rebuttal case.  
4 Cross rebuttal, as you have described it, would be  
5 rebuttal to other interveners or Staff or Public  
6 Counsel's testimony.

7 As far as cross rebuttal is concerned, I  
8 certainly would see no difficulty at all in scheduling  
9 that to be on the same date as the company's rebuttal.

10 As far as surrebuttal is concerned, I am  
11 frankly somewhat reluctant to set a date for that and  
12 allow that into the process unless there is a showing of  
13 cause, and that would be the cause typically would be,  
14 oh, the company has raised something for the first time  
15 in its rebuttal case and we have had no opportunity to  
16 address it. Otherwise the company is typically entitled  
17 to have the last word through the filing of the  
18 testimony, and so I don't want to just open that door up  
19 at this juncture. If that happens, we can quickly  
20 address that in the time between the filing and the  
21 hearing.

22 MR. FINKLEA: Your Honor, it was cross  
23 rebuttal that I'm more focused on.

24 JUDGE MOSS: I thought that was the case.

25 MR. FINKLEA: Maybe I was being too loose

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1 with my terms, but it was cross rebuttal that I was  
2 focusing on.

3 JUDGE MOSS: Okay, good, well, I think, does  
4 everybody agree, we could just schedule that at the same  
5 time as the company rebuttal? That's typically what we  
6 do.

7 MR. CEDARBAUM: Just a question of  
8 Mr. Finklea, are you talking just about what's listed  
9 here under the gas schedule or the electric schedule as  
10 well?

11 MR. FINKLEA: My concern would only be with  
12 the gas case. I noticed that there's something at the  
13 bottom that says, gas issues could also be included in  
14 the electric schedule above if electric litigation  
15 issues are minimal. If that's a possibility, then I  
16 would want to have that opportunity on both, in both  
17 schedules. But my clients are only concerned with the  
18 gas side of the case or the aspects of the electric case  
19 that would affect natural gas customers.

20 MR. CEDARBAUM: Your Honor, I understand the  
21 theory of what I call a cross answer testimony or cross  
22 rebuttal testimony. My problem here though is that  
23 we've got very short time frames and on the Staff just  
24 resource workload ability to staff these sorts of things  
25 some serious limitation, and that in this circumstance I

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1 would oppose the cross answering testimony because it's  
2 just difficult to accommodate with the limited resources  
3 we have.

4           If it is going to be allowed, however, then I  
5 think it should be limited just to a separate gas  
6 schedule that runs along the lines that's been proposed  
7 on the document that was circulated to you. I know that  
8 if it was required on July 1st according to this  
9 schedule for Staff to file cross answering or cross  
10 rebuttal testimony on gas and electric issues, the  
11 availability of Staff witnesses for that purpose is very  
12 grave as well as given everything else that Staff is up  
13 to. It's potentially less of a problem if we're talking  
14 about cross answering testimony on September 17th just  
15 on the gas side, but quite frankly I haven't discussed  
16 that with Staff, so I'm not certain. But again, if this  
17 was something that was going to be required on July 1,  
18 that is just extremely difficult for Staff to be able to  
19 meet.

20           JUDGE MOSS: Your concern would be that that  
21 would be your only opportunity, I take it,  
22 Mr. Cedarbaum. In other words, there's basically, and  
23 this goes back to Mr. Finklea's point about gaining  
24 efficiency in the hearing, that if there's an  
25 opportunity for pre-filed cross testimony, cross

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1 answering, or cross rebuttal, whatever we want to call  
2 it, that that may actually save time at hearing, because  
3 we won't have to have the more extensive cross  
4 examination that would otherwise be necessary where  
5 parties are adverse to one another. So I just want to  
6 be sure I understand your concern is that your concern  
7 would be that you would be required to proceed in that  
8 fashion as opposed to by cross-examination of say an  
9 intervener who presented some proposal that Staff was  
10 very uncomfortable with.

11 MR. CEDARBAUM: Well, I think if one party  
12 which is in opposition to Staff filed cross answering  
13 testimony, I don't think as a practical matter Staff can  
14 just sit back or any party can sit back and just wait  
15 for cross-examination at the hearing to make their case.  
16 I think that really forces them into filing cross  
17 answering testimony, which raises the resource workload  
18 issues that I mentioned.

19 I also am not convinced that cross answering  
20 testimony saves time. I think it puts into the record  
21 or makes available for the record more pre-filed  
22 testimony upon which potentially more cross-examination  
23 occurs, so I don't necessarily agree with the theory  
24 that that is a time saver.

25 JUDGE MOSS: Okay.

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1                   MR. CEDARBAUM: I understand it's been done  
2 before this Commission on other occasions when the  
3 schedule has been more stretched out, and so it's -- we  
4 may have been able to accommodate that.

5                   JUDGE MOSS: Oh, sure, and then people want  
6 sur cross rebuttal and all this kind of stuff. We have  
7 had all kinds of procedures.

8                   Well, maybe the best thing to do without  
9 having an extended colloquy about this, it seems late in  
10 the game, but I think we could take this under  
11 advisement, and as we get a little closer in time to the  
12 time frame that we're looking at here, maybe mid June or  
13 so, and it does appear we're going forward with the  
14 hearing and all this sort of thing, we'll have a better  
15 sense of the issues by then that remain, we could always  
16 modify the procedural schedule at that point to provide  
17 for cross answering or cross rebuttal testimony. I  
18 might hear further argument on it, or I might just  
19 decide on my own one way or another that it's a good or  
20 bad idea given the posture of the case at that point in  
21 time. And so why don't I just defer any ruling on that  
22 today. If I did schedule it, I would schedule it to  
23 coincide with the company's rebuttal, so we'll just  
24 leave it tentative and take it up again a little further  
25 down the line.

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1                   And in that connection, everything we do  
2 today is in a sense tentative. The parties' goal as  
3 established through the interim settlement, of course,  
4 is to resolve the issues in the cases, gas and electric,  
5 by means of these collaboratives that are ongoing. I  
6 have seen a lot of you around the building over the last  
7 couple of weeks. Although I don't have the privilege of  
8 knowing what's going on, I can see that something is  
9 going on, so I'm sure you all are working hard. I think  
10 it's not unreasonable to think that you all will be  
11 successful at least in part, and therefore the issues  
12 may be quite narrow if we have to have any hearing  
13 process at all other than, of course, whatever  
14 settlement hearing process will be required.

15                   So that's our goal today is to set something  
16 that will work if we need it. And it might have to be  
17 tweaked a little bit if it turns out we do need it, but  
18 I don't want us to agonize over it too much, which is  
19 one reason I set this pre-hearing for 10:30 instead of  
20 9:30, I thought we wouldn't need to be here for an  
21 extended period of time this morning.

22                   So with those comments in mind, do we have  
23 any other comments on the proposal that Staff has put  
24 forth?

25                   Yes, Ms. Dixon.



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1 MS. DIXON: Yes, unfortunately the week of  
2 July 15th to the 19th is the only full week all summer  
3 where our expert witness is unavailable.

4 JUDGE MOSS: Well, that will narrow the  
5 hearing.

6 MS. DIXON: So I'm not sure if there's an  
7 opportunity for, you know, if it goes to hearing for him  
8 to be able to take the stand the preceding Friday or the  
9 following Monday or some way to get around that.

10 JUDGE MOSS: All right, well, we may have to  
11 make an accommodation for that. I will say this, that  
12 currently on the Commission's calendar which I have in  
13 front of me, the week of the 15th is other than the week  
14 of the 1st the only possible time we can hold this  
15 hearing. We have other hearings scheduled the second  
16 week, the fourth week, the fifth week, and I even see  
17 some entries here that say possible hearing during the  
18 first week, although I'm not sure what case that is.  
19 It's not mine. So that week of the 15th is pretty much  
20 it in that whole time frame, and I'm sure that's why  
21 Mr. Cedarbaum selected it or the parties that discussed,  
22 or maybe you were just lucky.

23 MR. CEDARBAUM: Just lucky. And just for the  
24 record, this is a proposed schedule by Staff, Public  
25 Counsel, and the company.

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1 JUDGE MOSS: Okay.

2 MR. CEDARBAUM: Just so I don't get either  
3 complete credit or lack of credit.

4 JUDGE MOSS: Right, we wouldn't want to see  
5 you injured in the parking lot on the way out.

6 Yes, ma'am.

7 MS. CLINTON: Your Honor, on that point, the  
8 Cities have very few conflicts in the next six months,  
9 but one of them is that our expert is unavailable the  
10 weeks of July 15th and the following week, the 22nd, so  
11 to the extent accommodations will need to be made, they  
12 will need to be made for two.

13 JUDGE MOSS: All right, well, I will say this  
14 then, you know, again, as we get closer, if it appears  
15 that these witnesses are going to have to appear and  
16 we're going to have to have a hearing, then we will  
17 obviously need to make some kind of accommodation for  
18 the witnesses. We always try to do that.

19 I am scheduled to be in hearing with the  
20 commissioners the entire week 8 through 12 and also 22  
21 through 26. That's the bad news. The good news is that  
22 I'm scheduled to be in hearings with the commissioners  
23 during those time frames, and that means that the Bench  
24 team can choose to make itself available to do something  
25 else if it needs to. And so we may have to do some

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1 tweaking in the Avista schedule as well.

2                   And, of course, we don't know what's going to  
3 happen with that proceeding either. My experience in  
4 doing this over the past 20 years is that the schedule  
5 you set at the outset rarely ends up being the schedule  
6 you end up with, so I'm anticipating that there may be  
7 some other changes. And, you know, it may turn out as  
8 we get closer in time too that we simply switch weeks.  
9 We'll put this hearing, we'll flip with Avista or  
10 something. So I think they are not available I think  
11 the week of the 15th due to a conflict with their  
12 general counsel, but we can -- we'll work it out.

13                   MR. FFITCH: Your Honor, this is Simon  
14 ffitch, Public Counsel.

15                   JUDGE MOSS: Yes, sir, Mr. ffitch.

16                   MR. FFITCH: I just wanted to comment that we  
17 do support this schedule. As Mr. Cedarbaum indicated,  
18 we took part in the discussion. We were trying to have  
19 a tentative proposal before Your Honor and the parties,  
20 and I think we did get lucky on this week, but our goal  
21 here was to try to sort of make the best use of the  
22 limited time working back from the effective date of  
23 rates and to give the Commission adequate time to make a  
24 decision and try to give the parties at least some  
25 minimal reasonable time for the other phases of

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1 testimony and rebuttal and hearing preparation. So we  
2 do support this schedule. I realize that other folks  
3 haven't had a chance to look at it yet, and we're happy  
4 to work with everybody on trying to accommodate.

5 JUDGE MOSS: Yeah, the most I want to do  
6 today, and I appreciate the fact that the schedule is  
7 well thought out in terms of the things you mentioned,  
8 Mr. ffitich, today what I want to do is establish a  
9 tentative schedule with the understanding that as we get  
10 closer and we know more, we may have to make some  
11 adjustments to it. And, of course, I will be mindful of  
12 the things that you're telling me here today about  
13 witness availability and so on and so forth.

14 I'm also mindful of the need for the  
15 Commission to have an adequate time to consider the  
16 parties' briefs, the record, and reach a decision and  
17 draft an order, which is a fairly labor intensive  
18 process. And I will say too, of course, I'm sitting up  
19 here by myself today, but I have three other people to  
20 think about, and they may have some things on their mind  
21 that they haven't shared with me just yet, and so that  
22 may influence what we finally end up with as well.

23 But again, I think what's been proposed here  
24 is pretty workable. Unless somebody has a strenuous  
25 objection, I think we'll just sort of tentatively adopt

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1 it. I see a couple of hands going up, and I will  
2 recognize Mr. Quehrn first, I saw his hand first.

3 MR. QUEHRN: Thank you, Your Honor. I just  
4 wanted to comment briefly on the May 22nd date and its  
5 purpose. When Mr. Ffitch and Mr. Cedarbaum and I looked  
6 at the schedule, it occurred to us that there, and the  
7 PCA is identified as an example, that there may be some  
8 of the collaboratives are going forward where we make  
9 some substantial progress but we don't quite hit the  
10 finish line such that it would be incumbent upon the  
11 company I think in that instance to supplement the case  
12 that's already been filed to kind of focus in on  
13 whatever modifications that we wanted to carry forward  
14 out of the collaborative short of a settlement, be it  
15 the PCA or be it any other issues. So that's kind of a  
16 date for supplemental direct testimony if necessary.  
17 Obviously if it all settles, no supplemental direct  
18 testimony would be necessary. Or if some of the  
19 collaboratives if they don't work out, we might revert  
20 back to this proposal, so it's really intended to be  
21 kind of a broader place holder than just the PCA, and  
22 again, an if necessary place holder.

23 The other comment I would like to make just  
24 in terms of in your consideration of accommodating other  
25 witnesses, as either Mr. Cedarbaum or Mr. Ffitch, I

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1 don't remember which, mentioned, we did sort of reverse  
2 engineer this from the September 1 date. And, of  
3 course, the company is willing to work to accommodate  
4 witness availability as is everyone else, but I think  
5 there was a strong feeling, at least there was on our  
6 part, that the time frame that's allowed for for post  
7 hearing briefing is important, and such that I think it  
8 would be the company's preference if we had to  
9 accommodate witness availability it would be the week  
10 before rather than the week after. Obviously  
11 practicality and logistics are probably going to really  
12 dictate that, but we would sure hate to see the time  
13 frame for the post hearing brief be eroded.

14 JUDGE MOSS: Yeah, I would be inclined to try  
15 to schedule on the week before as well, so that's the  
16 sort of bias that I have in terms of scheduling, and  
17 yeah, I appreciate the need to have an adequate  
18 opportunity for briefs.

19 Let's see now, while I've got -- while you  
20 have the floor, Mr. Quehrn, I want to direct a question  
21 back to you. I was just looking at the original  
22 schedule in the case, and if I have it right, the  
23 suspension date in this proceeding is October 27th, and  
24 the target date for rates on the gas side is November  
25 1st, so I guess I need to ask in that connection whether

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1 it's the intention of the company to offer a brief  
2 waiver of the suspension date to accommodate that.

3           And the reason that's important to me is that  
4 there's, under this tentative schedule at least, there's  
5 17 days between the briefs and the order. I don't  
6 regard that as a great deal of time I will have to tell  
7 you, and so I would not want to find myself pressed back  
8 to having to have an order out say two or three days in  
9 advance of the 27th if I wasn't going to get briefs  
10 until the 11th, so is that the company's intention?

11           MR. QUEHRN: To be candid, Your Honor, when  
12 we put this together, I hadn't focused on what the  
13 suspension date was. The schedule that you have before  
14 you on the gas side with rates going into effect on  
15 November 1st and the order being out on the 28th is  
16 fine, so if we need to provide a waiver to accommodate  
17 that schedule, I think we can do so.

18           JUDGE MOSS: It would be technically  
19 necessary to do so.

20           MR. QUEHRN: Okay, I just -- that's actually  
21 not an issue that I had considered before, but again,  
22 this was a schedule that we worked out that I have run  
23 past my clients, so whatever we need to do to get there,  
24 I think we would be willing to do.

25           JUDGE MOSS: I thought it would be a

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1 technicality, and it's just a few days, but it is a  
2 statutory requirement, so we would have to have a  
3 waiver.

4 MR. CEDARBAUM: Well, there's also, I'm  
5 sorry, Your Honor, the November 1 date was also part of  
6 our stipulation, so it's I mean presumably Puget  
7 understands that.

8 JUDGE MOSS: I don't know if you can imply --  
9 I guess you can imply a waiver from that. I wouldn't  
10 want to do so. I will have it on the record.

11 So anyway, Mr. Finklea, you had something for  
12 us?

13 MR. FINKLEA: Yes, Your Honor, I do notice  
14 that the note under the electric schedule assumes that  
15 "the company revenue requirement in total would be  
16 litigated during the electric phase of the proceeding",  
17 and I have some concern with that. If what -- I  
18 understand that if we're going to set electric rates, we  
19 have to deal with the allocation of revenue requirement  
20 between gas and electric, but it wasn't our intention to  
21 have the gas revenue requirement litigated as part of  
22 the electric rate case.

23 JUDGE MOSS: Well, it's one rate case, it's  
24 consolidated, so, you know, if I had my druthers, we  
25 would do all of this in one hearing.



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1                   MR. FINKLEA: That would be fine with us too,  
2 but with a whole schedule that's geared around the fact  
3 that they want electric rates in place before the gas  
4 rates go in place.

5                   JUDGE MOSS: Right, well, I appreciate your  
6 concern, but I think it's, you know, we did approve, the  
7 Commission did approve the settlement stipulation that  
8 provides for a sort of a dual time frame, if you will,  
9 with respect to the two proceedings, and so we in that  
10 sense got a phased case. And I think to the extent  
11 there are issues that are -- you're right, I mean it's  
12 necessarily the case that certain issues will have to be  
13 resolved in the electric case that will have  
14 implications for the gas side. I don't see any way to  
15 avoid that.

16                   MR. FINKLEA: Oh, I don't disagree with that,  
17 but there are discreet issues with regard to the gas  
18 revenue requirement that are not tied to the electric  
19 side of the company, and we have litigated cases with  
20 Avista as a combined company for years where that has  
21 not been a problem.

22                   JUDGE MOSS: Well, we will travel hopefully  
23 that this will not become a problem, but I will just  
24 leave it for today for the parties to discuss that among  
25 themselves as they get closer, and if it does appear

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1 it's going to cause some kind of a difficulty, we may  
2 have to consider some accommodation, but at this  
3 juncture, it's all speculative, so.

4 MR. FINKLEA: But so that I understand and  
5 can communicate to my client, the intention of this  
6 schedule would be that interveners' testimony on gas  
7 revenue requirement would be due the 17th of June; is  
8 that correct?

9 JUDGE MOSS: Is that correct, Mr. Cedarbaum?  
10 That's my understanding.

11 MR. CEDARBAUM: That was our intention.

12 MR. QUEHRN: That was our intention too, Your  
13 Honor.

14 JUDGE MOSS: So that would be the intention  
15 under the tentative schedule. And again, I don't see  
16 how you -- maybe there are some discreet issues, but it  
17 seems to me that's pretty much intertwined. I mean the  
18 revenue requirement is the revenue requirement, and you  
19 come up with that, and then you allocate it.

20 MR. QUEHRN: If I may address this, Your  
21 Honor. Actually, when we looked at this, we didn't see  
22 a way to separate the two. I would be happy to talk to  
23 Mr. Finklea and see if there's some other way we can  
24 address his concerns, but it was never intended that we  
25 would have sort of a split hearing on revenue

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1 requirements.

2 MR. CEDARBAUM: Your Honor, I would echo  
3 that. When we devised this schedule, we were thinking  
4 along the lines of total company revenue requirement in  
5 the first, the electric phase. But I would agree that  
6 if there is some discreet gas revenue requirement issue  
7 that can be deferred to the later schedule without  
8 somehow affecting the setting of electric rates, we can  
9 talk about that, but I'm just not aware how that works.

10 JUDGE MOSS: Yeah, I'm not sure what that  
11 would be, but maybe you all can discuss that among  
12 yourselves, and if such an issue exists, then we can  
13 consider putting it into the second schedule instead of  
14 the first.

15 MR. FINKLEA: Well, I do note that in the  
16 collaborative process, we have built the collaboratives  
17 so that the gas revenue requirement happens after rather  
18 than before, so I don't have those dates, and I don't  
19 think we have even set dates for when we're going to  
20 discuss collaboratively the gas revenue requirement.  
21 But it looks to me like we could very easily be in  
22 collaborative about the gas revenue requirement way into  
23 May and if it doesn't settle have testimony due by the  
24 17th of June, which I would have thought wouldn't be  
25 something Staff would want either.

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1                   MR. CEDARBAUM: I think we're in agreement  
2 that if -- to try to work that out around issues that  
3 are discreet gas revenue requirement issues that don't  
4 affect the setting of electric rates.

5                   JUDGE MOSS: But clearly any that do affect  
6 the setting of electric rates will have to be resolved  
7 one way or the other in the time of this earlier  
8 schedule, whether by collaborative or otherwise. So I  
9 mean I don't have anything to do with the scheduling of  
10 these collaboratives, so you all work that out. But  
11 clearly those common issues are going to have to be  
12 taken care of in time to allow Staff and anybody else  
13 who is putting on a case to prepare.

14                   So you're all in the same boat in that sense,  
15 Mr. Finklea, and I don't -- I think you're right, I  
16 think Staff's not going to compromise its own ability to  
17 put on a case, and so I think you will be protected in  
18 that fashion by the things as they develop over the  
19 course of the next few weeks, I would hope.

20                   MR. FINKLEA: Well, I would as well, Your  
21 Honor. I believe that the allocation of common costs  
22 between the gas and electric side is the side of the  
23 electric rate setting that has to be determined in order  
24 to set electric rates, but to use an example, if the  
25 company's gas rate base is \$100 Million or \$150 Million,

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1 that doesn't affect electric rates, and we could have a  
2 hearing over what is the proper, you know, what costs  
3 ought to be in the company's gas rate base, and that  
4 would have no effect that I'm aware of on how you set  
5 electric rates. The most common common issue has  
6 already been settled, which is rate of return.

7 JUDGE MOSS: Well, again, there may be some  
8 discreet issues that the parties identify that we can  
9 handle in that way, and I don't see a problem with that.  
10 But to the extent there's an overlap, that's the only  
11 point I'm trying to make and I think that Mr. Cedarbaum  
12 is trying to make, to the extent there, and Mr. Quehrn  
13 too, to the extent there is an overlap, it will need to  
14 be resolved at the first stage rather than the second  
15 for the obvious reason that you can't set the rates if  
16 you don't resolve the common issue. So that will be the  
17 way it will go.

18 We won't allow anything to prejudice  
19 anybody's rights to put on their case, and so, of  
20 course, we would -- if there were a dispute about later  
21 on some particular issue, we could consider then whether  
22 we would allow or require that to be taken up under the  
23 second schedule, so.

24 MR. CEDARBAUM: Your Honor, just for the  
25 record, I mean I would like to make it clear from my own

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1 perspective that if it turned out that some gas revenue  
2 requirement issues had to be dealt with in pre-filed  
3 testimony on June 17th, I don't see that as being  
4 prejudicial to Mr. Finklea's client. That was the date  
5 that we were all going to be filing direct testimony in  
6 this case from the very beginning anyway, so we can try  
7 to accommodate his issue, and I don't have any problem  
8 with that, but the notion that that's unfair I have a  
9 problem with.

10 JUDGE MOSS: Well, I would just view it as a  
11 concern that's been expressed at this point, so. And we  
12 will, if we need to, we'll take it up again, but I think  
13 everybody's got a common understanding now about where  
14 we are, so.

15 Okay, Ms. Dixon.

16 MS. DIXON: Separate subject, are we ready  
17 for that?

18 JUDGE MOSS: Well, if there's nothing more on  
19 that, we can take up a separate subject, yes.

20 MS. DIXON: Okay, I just wanted to note for  
21 the record the one thing I noticed missing from the  
22 proposed litigation schedule is public hearings. I'm  
23 assuming that hearings as written in here is referring  
24 to the adjudicated hearings, not general public  
25 hearings. And I'm not sure if today is the appropriate

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1 time to be discussing public hearings or whether that's  
2 something you envision taking up a few weeks down the  
3 line as we see how we're going along, but I wanted to  
4 make sure that we didn't lose that in coming up with a  
5 new procedural schedule.

6 JUDGE MOSS: Let's hear from Mr. ffitch on  
7 that.

8 MR. FFITCH: I appreciate Ms. Dixon bringing  
9 that up. That is something that we had intended to  
10 pose. I haven't discussed that with Staff or the  
11 company at this point. We do have, however, we are  
12 recommending that public hearings be held.

13 JUDGE MOSS: Well, I think we will just have  
14 to defer scheduling that until there is an opportunity  
15 for the parties to discuss among themselves when that  
16 might be fit into all of this. It does become a little  
17 problematic in the sense of, of course, having the two  
18 schedules. There is some slight overlap, and it might  
19 be best to try to target that period of time, but we can  
20 only schedule so many of these things. They are  
21 logistically challenging, and they are expensive, and so  
22 we can't simply schedule six or eight of them. We have  
23 to keep the number down to a reasonable number, and I  
24 think we had scheduled, I can't remember now, was it two  
25 or three, was it two.

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1                   MR. FFITCH: Your Honor, if I may just  
2 interject, I was going to recommend that we go ahead  
3 with the number and location that had previously been  
4 scheduled for the litigation days for the two hearings.

5                   JUDGE MOSS: Okay.

6                   MR. FFITCH: And one of them was in  
7 Bellingham, the other was in Federal Way.

8                   JUDGE MOSS: Okay.

9                   MR. FFITCH: I don't have the dates right in  
10 front of me here, but they were in August and September.

11                   JUDGE MOSS: I have one on August 22nd and  
12 one on September 9th. I'm not sure that's --

13                   MR. FFITCH: Yes, that's correct.

14                   JUDGE MOSS: Is that right, yeah.

15                   MR. FFITCH: I think those would need to be  
16 adjusted to be put earlier off the schedule that moved  
17 up, so we would want to move those up closer to around  
18 probably even July time frame. That would be our  
19 request or recommendation for the number and location of  
20 the public hearings. I don't have specific dates. I  
21 know that you have to work around commissioners'  
22 schedules, but obviously we would ask that they be held  
23 after the rebuttal testimony, after the June 17th date,  
24 and sometime, you know, before the, probably before the  
25 briefs are filed, after the hearing, but not too long



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1 after the hearing.

2 JUDGE MOSS: We're losing you, Mr. ffitch.

3 MR. FFITCH: I'm sorry, is that better?

4 JUDGE MOSS: Yes.

5 MR. FFITCH: Let me make an adjustment on the  
6 phone too. Hopefully that's better.

7 JUDGE MOSS: Yes, we can hear you better.

8 MR. FFITCH: I was just going to say that  
9 holding them prior to the briefing date allows parties  
10 to discuss any testimony received at the public hearing  
11 in their brief and also obviously gives the  
12 commissioners more time to think about what they hear at  
13 the public hearings.

14 The only other issue on this topic is that if  
15 we do reach settlement on issues, on the electric  
16 issues, for example, by May 31st and there's not going  
17 to be a litigation schedule or an evidentiary hearing,  
18 we would ask for at least one public comment hearing for  
19 the public to comment on any settlement that's proposed.  
20 And again, that ideally would be held very close in time  
21 to the formal settlement hearing.

22 JUDGE MOSS: Well, the parties have, not just  
23 in this proceeding, but in many proceedings seem to have  
24 fallen into the pattern of suggesting settlement hearing  
25 dates and so forth, so I suspect you all will suggest a

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1 date if that eventuates, and that could probably be done  
2 in consultation with me, and we could see what we could  
3 set up.

4 MR. FFITCH: Thank you, Your Honor.

5 JUDGE MOSS: Okay.

6 MR. FFITCH: I guess we would ask that if  
7 there's going to be a schedule adopted on the litigation  
8 side that the public hearing dates and locations be set  
9 at the same time if at all possible.

10 JUDGE MOSS: At the same time as we adopt our  
11 tentative schedule for litigation?

12 MR. FFITCH: Yes.

13 JUDGE MOSS: All right, well, I am mindful of  
14 what you said, that you would like to have those prior  
15 to the briefs. Now you were suggesting that the number  
16 and location would be the same. Are you thinking about  
17 one in the context of the electric schedule and one in  
18 the context of the gas schedule or both in the context  
19 of the electric schedule?

20 MR. FFITCH: I was thinking in the context of  
21 the electric schedule. With this sort of bifurcation,  
22 if you will, it might be appropriate to add a hearing.  
23 I guess one alternative, and I haven't really thought  
24 that out yet, but one alternative would be to add a  
25 hearing in the area in a part of the service territory

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1 for Puget where the gas service is their main service,  
2 such as more in the Seattle metropolitan area or I  
3 believe other Cascade Utilities, Cascade Gas Company  
4 service territories, not Cascade Gas, but other public  
5 utility district territories where Puget does provide  
6 gas. And I guess I would want to get back to you on  
7 that recommendation, maybe discuss that with other  
8 parties, if we would need to add a special hearing in  
9 the gas phase.

10 JUDGE MOSS: All right, well, why don't you  
11 discuss that with other parties and maybe with the  
12 consumer affairs staff here and get back to me in the  
13 next couple of days.

14 MR. FFITCH: I will do that.

15 JUDGE MOSS: Or I should say next week, today  
16 is Friday, so next week sometime.

17 All right.

18 MR. CEDARBAUM: Your Honor, just one brief  
19 comment if nobody else has, it has to do with whether  
20 the hearings for July 15 to 19 would be moved forward or  
21 backward just because they need to be, and Mr. Quehrn  
22 had offered his suggestion that they be moved forward,  
23 if necessary, and, of course, that looks better from his  
24 perspective because we have less time to prepare  
25 discovery on the rebuttal.

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1                   JUDGE MOSS:  Now that wasn't the reason he  
2 gave, Mr. Cedarbaum.

3                   MR. CEDARBAUM:  But that's just the way it  
4 works out.  But if it moves back, then it's more  
5 difficult for briefing and for the Commission on the  
6 order side.  So we would strongly recommend that the  
7 Commission keep the July 15 to 19 time frame, but if  
8 there are, you know, one or two parties such as the  
9 Energy Coalition or some of the Cities that need to have  
10 their witness on the Friday prior to the 15th or the  
11 Monday after the 19th, that seems to us to be the much  
12 more preferable way to go rather than to move the whole  
13 week of hearings just to accommodate what might be a  
14 couple of witnesses, so I will make my pitch for that.

15                   JUDGE MOSS:  Okay.

16                   MR. CEDARBAUM:  Thank you.

17                   JUDGE MOSS:  Yes, ma'am.

18                   MS. GROSSMANN:  Your Honor, if I may go back  
19 to the issue of Microsoft's petition to intervene.

20                   JUDGE MOSS:  Why don't you come up to the  
21 microphone so Mr. ffitich and Mr. Furuta and Mr. Eberdt  
22 can hear you.

23                   MS. GROSSMANN:  Certainly.  This is Heather  
24 Grossmann and I am wanting to see, if possible, if you  
25 could provide any clarification or provide actual

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1 information as to when Microsoft may be able to  
2 anticipate any judgment or decisions from the Commission  
3 regarding their decision to grant or deny Microsoft's  
4 petition.

5 JUDGE MOSS: Only in the sense that I can  
6 tell you that we will do it as soon as we can get to it.

7 MS. GROSSMANN: Okay, thank you, Your Honor.

8 JUDGE MOSS: And I would anticipate that  
9 would be fairly soon, but it does require that I meet at  
10 least individually with the commissioners who are  
11 sitting in this case, and I'm not sure when that's going  
12 to be.

13 Was there another hand?

14 MS. CLINTON: I just wanted to --

15 JUDGE MOSS: Please use the microphone.

16 MS. CLINTON: Laura Clinton again for the  
17 Cities, and I just wanted to reiterate that I don't  
18 think we have any trouble with the idea of moving  
19 testimony forward by a day, but I did want to emphasize  
20 that our expert is actually unavailable both the week of  
21 the 15th and the following week of the 22nd, so it would  
22 have to be maybe the Friday before for her testimony,  
23 but otherwise I am not troubled by keeping the hearings.

24 JUDGE MOSS: Well, I had mentioned at an  
25 earlier pre-hearing I suspect it was, Ms. Arnold was

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1 present at that one, the possibility that the issues  
2 that are of interest to the Cities, that being primarily  
3 the Schedule 70, 71, 72 I think it is, struck me at the  
4 time and continues to strike me as being a set of issues  
5 that is sufficiently discreet that it might be resolved  
6 on a separate track in the sense of I would even  
7 anticipate it would be possible to have a stipulated  
8 record. I don't see that, I may be wrong, I mean tell  
9 me I'm wrong, but it just strikes me on the face of  
10 things that it is not a fact intensive piece of the  
11 case. Now maybe it is in some way that I don't yet  
12 appreciate, but it seems to me that there would be a  
13 limited body of fact that would be significant to the  
14 outcome of that piece of it. I have been proven wrong  
15 before, but that's just my impression.

16 MR. CHARNESKI: For Kent and Bremerton, I  
17 think you may very well be right in large part. There  
18 are very discreet legal issues actually as opposed to  
19 factual issues, and to the extent those could be carved  
20 out and dealt with separately, particularly because if  
21 that could save the Cities time in attending some of  
22 what is otherwise going on, I think that would be very  
23 beneficial.

24 JUDGE MOSS: Mr. Quehrn, do you have  
25 something on this point or not?

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1 MR. QUEHRN: No, Your Honor.

2 JUDGE MOSS: I try to sense it when people  
3 want to speak, so sometimes I get it wrong.

4 MR. QUEHRN: No.

5 JUDGE MOSS: Yeah, I would encourage, I won't  
6 require, but I would encourage that the various  
7 representatives of the various Cities discuss this among  
8 themselves, and do please take the time to do that and  
9 perhaps discuss it with Mr. Quehrn as well, and give  
10 some serious thought to how you might best proceed.  
11 Because it could be that you could all gain some  
12 significant efficiencies for yourselves as well as  
13 promoting the efficiency of the overall hearing process,  
14 and I would certainly appreciate that. This is a big  
15 case, it's difficult to manage. So do have those  
16 discussions fairly soon, and you might want to get back  
17 to me with a proposal as to how we might do that. I'm  
18 not ready to come up with one full blown off the head of  
19 Zeus sitting here this morning, but maybe we could make  
20 some progress in that way. And I think, again, my view  
21 of it facially is that it's largely a question of legal  
22 and policy questions as opposed to factual questions,  
23 although there may be some factual questions as well,  
24 but if they are few, then they can perhaps be brought  
25 forward on stipulation.

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1                   Anything else we need to discuss in terms of  
2 schedule? I mean my inclination at this juncture is to  
3 just adopt this as a tentative schedule subject to  
4 commissioner review and consideration and -- well, maybe  
5 I should back up a half a step and say, my thought at  
6 this moment is to take this schedule to the  
7 commissioners and get their input on it, and then we  
8 will make some final decisions. There may be a little  
9 bit of tweaking that occurs as a result of that  
10 interaction. And then, of course, as we get closer in  
11 time and know better what is the lay of the land, we may  
12 make some additional adjustments depending on the  
13 circumstances of the case.

14                   Nobody is throwing anything at me.

15                   MR. FFITCH: Your Honor.

16                   JUDGE MOSS: Mr. ffitch, are you going to say  
17 something?

18                   MR. FFITCH: -- pre-hearing order with the  
19 schedule in it?

20                   JUDGE MOSS: Yeah, it would be my intention  
21 to enter a written order, and I would hope to be able to  
22 do that next week as well as rule on Microsoft's  
23 petition by next week. That would be my goal, and I  
24 think that probably can be accomplished.

25                   MR. FFITCH: Your Honor, there was one other



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1 matter regarding the discovery turnaround. I don't know  
2 if other parties had intended to raise that. I believe  
3 we have an understanding that the discovery turnaround  
4 will be -- it already has been informally adjusted to  
5 five business days, and I think it would be useful if  
6 that could be recognized in the order as well.

7 MR. QUEHRN: Your Honor, I do want to address  
8 that as well. Mr. ffitch is correct, there is that  
9 agreement, and it should be reflected in the order. The  
10 agreement, because it is an accelerated schedule, also  
11 incorporated the procedural mechanisms we built around  
12 the three day turnaround that we had for the interim  
13 case. In other words, there was some things that we had  
14 agreed to to make it go more efficiently, when the  
15 requests are received, how they are provided, and it  
16 would be the company's request that if the five day,  
17 five business day schedule is reflected in your order  
18 that it also incorporate those procedural mechanisms  
19 that we used for the accelerated schedule in the interim  
20 case. That's the way we have been dealing with it  
21 informally so far.

22 JUDGE MOSS: And this would have been from  
23 one of my prior pre-hearing orders?

24 MR. QUEHRN: Yes.

25 JUDGE MOSS: Those mechanisms were spelled

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1 out in one of the orders, weren't they?

2 MR. QUEHRN: They were, and roughly they had  
3 to do with receiving it before noon on the day of the  
4 request, and then we had -- we set up a special E-mail  
5 address to receive them and had a protocol for faxing  
6 and sending. And clearly all the parties who were  
7 involved at that point have been following that process.  
8 It's been working quite well. It would be worthwhile  
9 perhaps for some of the new parties, however, to have it  
10 set out again in the order so we can all see what steps  
11 are anticipated.

12 JUDGE MOSS: All right, that can easily be  
13 done.

14 MR. QUEHRN: And then, and I had not  
15 discussed this with Mr. ffitich so I don't want to imply  
16 that this was part of our discovery discussion, when we  
17 were looking at the schedule that we have all sort of  
18 thought tentatively makes sense going forward, it  
19 occurred to me that after the June 17th date when Staff,  
20 Public Counsel, and the intervener direct testimony is  
21 filed that we might want to again revisit the time for  
22 turning around data requests. And it would be the  
23 company's proposal at that point with the very same  
24 procedural protections that we had just referred to that  
25 we reduce the turnaround to three business days from

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1 July 1st through I guess really up through the date of  
2 hearings, just because we have condensed that time frame  
3 so much that I think if we didn't have a more  
4 accelerated schedule, it would be difficult to complete  
5 discovery before hearings.

6 JUDGE MOSS: Are you asking that that be made  
7 part of this order?

8 MR. QUEHRN: I'm asking that it be made part  
9 of this order. I'm just indicating to you that I hadn't  
10 really discussed that with anybody until we walked in  
11 here today.

12 JUDGE MOSS: So I need to give everybody an  
13 opportunity to respond to that if they wish.

14 MR. QUEHRN: Yes, Your Honor.

15 JUDGE MOSS: Mr. Cedarbaum, do you want to  
16 respond to the suggestion that the discovery response  
17 time be reduced to three days after June 17th and before  
18 July 1st?

19 MR. CEDARBAUM: I'm sorry?

20 JUDGE MOSS: Or I guess really after June  
21 17th right up to the hearing I suppose.

22 MR. CEDARBAUM: That's correct, and with that  
23 understanding, we have no objection to that turnaround  
24 time.

25 JUDGE MOSS: Mr. ffitich.

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1 MR. FFITCH: No objection.

2 JUDGE MOSS: Mr. Furuta.

3 MR. FURUTA: Does the three days include  
4 weekends, or are they business days?

5 JUDGE MOSS: Three days, it would have to be  
6 business days.

7 MR. FURUTA: Okay, with the understanding  
8 that -- with regard to me, I have to run discovery  
9 request responses by, of course, both my witness and my  
10 Washington D.C. office, and sometimes that process can  
11 bog down a bit, but I think we could probably live with  
12 that three day turnaround as long as we have some  
13 provision for discussing with the company or whoever  
14 makes the request in case we run up into a snag and  
15 require a little bit more time.

16 JUDGE MOSS: Well, my experience in dealing  
17 with these parties is that they are certainly willing to  
18 work with each other individually to accommodate special  
19 needs. And, of course, if there is ever a situation  
20 that can not be resolved in that informal way, then it  
21 will be brought to me, and I will resolve it hopefully  
22 in a fair and just way.

23 MR. FURUTA: Yes, with that understanding, I  
24 think that's fine with us.

25 JUDGE MOSS: All right.

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1 MR. FURUTA: Thank you.

2 JUDGE MOSS: Mr. Finklea.

3 MR. FINKLEA: Your Honor, with the  
4 understanding that the three day only applies to those  
5 issues that would go to hearing the 15th of July, if  
6 there is discovery ongoing in the gas phase of the case,  
7 that three day turnaround wouldn't kick in until the  
8 30th of August under the proposed schedule.

9 JUDGE MOSS: That sounds to me consistent  
10 with what you're proposing, Mr. Quehrn, that it would be  
11 a three day turnaround during the time between the say  
12 Staff, Public Counsel, intervener direct and the  
13 company's rebuttal so the company would have an adequate  
14 opportunity to do its rebuttal.

15 MR. QUEHRN: Correct, what I would suggest on  
16 that, Your Honor, so the parties don't get into a  
17 discussion about which schedule it was intended to apply  
18 to, we had a process during the interim case where if  
19 the party making a data request believed it applied to  
20 matters that were then within the scope of the interim  
21 case, they would so designate with an I behind the data  
22 request. Maybe it's E here or some other appropriate  
23 designation, but the designation would be made by the  
24 party making the request. It would not be something  
25 that would be subjectively determined by the party

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1 receiving the request, it would be our own  
2 clarification.

3 JUDGE MOSS: Yeah, that seemed to work well  
4 in the earlier phase, just to put a letter there. We  
5 could do an E for the electric case and a G for the gas  
6 case, but that would be clear enough. So yeah, we --  
7 well, I should ask if there's anybody else who wants to  
8 be heard on it.

9 MR. FFITCH: Your Honor.

10 JUDGE MOSS: Yes, sir.

11 MR. FFITCH: Can we use a different letter  
12 for gas or GS, because we already have hundreds of DRs  
13 designated as G.

14 JUDGE MOSS: You're right, how about GAS,  
15 will that work?

16 MR. FFITCH: That will work for Public  
17 Counsel.

18 JUDGE MOSS: All right, that's short enough.  
19 All right, Mr. Cedarbaum.

20 MR. CEDARBAUM: It sounds like a good plan to  
21 me. I just -- there will be lots of data requests that  
22 will go out, they already have gone out, that apply to  
23 both gas and electric, they just may be total company  
24 requests, and I don't want to be, you know, should I put  
25 a gas and an electric on those or leave them blank,

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1 which means both gas and electric or what? Because I  
2 don't -- it will be Staff's interpretation of what it  
3 applies to, and I don't want to have those letters held  
4 against me.

5 MR. QUEHRN: And maybe, Your Honor, I need to  
6 clarify what at least I thought I was suggesting. It  
7 would purely be the gas and electric distinction was  
8 sort of just of convenience. It would be as to things  
9 that are fairly within the scope of what's going to be  
10 heard within these schedules. And as we have discussed  
11 before, there's at least one area of revenue  
12 requirements where there will be both gas and electric  
13 issues that we anticipate will be determined, so I  
14 wouldn't want that designation to be interpreted as a  
15 limiter like Mr. Cedarbaum was suggesting, because that  
16 wasn't my intent.

17 JUDGE MOSS: I have a lot of faith in you all  
18 working this out. I think that what you will do is send  
19 a cover letter that says numbers X through 4,000-X apply  
20 to this stage of the case, and we need your answers in  
21 three days, and you all will work those sorts of things  
22 out. And to the extent you can't or there's some  
23 dispute, I am confident equally that you will bring it  
24 to me, and I will work it out for you if necessary.  
25 Parties rarely have to bring these sort of things to me

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1 I find, and I appreciate that.

2 Anything else?

3 Yes, Ms. Dixon.

4 MS. DIXON: I'm curious what the process is  
5 going to be if optimistically we reach global settlement  
6 on all issues, and then I'm assuming that there would be  
7 some type of a Commission hearing, one or two days,  
8 whatever it is, in June so that rates become effective  
9 July 1st. Is that going to be a part of your order? I  
10 mean I understand the Commission's schedule is so packed  
11 that I don't even know what days they have available in  
12 June and whether that's already kind of a predetermined  
13 what those dates would be.

14 JUDGE MOSS: Well, you know, I think that's  
15 getting too speculative to try to set a date for that.  
16 It depends entirely on when the parties --- again, let's  
17 operate for the moment under the assumption that the  
18 global settlement issue referred to is achieved, it  
19 would depend entirely on when that is filed as to when  
20 we would have a settlement hearing. We would probably  
21 -- we might have to make an adjustment for a public  
22 hearing at that point in time, so I wouldn't set that at  
23 this juncture.

24 What is the target date for bringing the  
25 settlement forth, May 31st; is that right?



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1 MR. QUEHRN: Yes.

2 JUDGE MOSS: Anything else, is there any  
3 other business we need to take up today?

4 All right, then I appreciate you all being  
5 here, and we will get an order out in due course, and  
6 good luck to you all.

7 (Hearing adjourned at 11:30 a.m.)

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