

**Errata to  
2010 Wholesale Power Rate Case Initial Proposal**

**Transcript of Pre-Hearing Conference, February 18, 2009  
WP-10-TPH-BPA-01 / TR-10-TPH-BPA-01**

**WP-10-TPH-BPA-01-E01 / TR-10-TPH-BPA-01-E01**

1. On page 2, in the address for Messrs. Kuzma and Kari, delete the ZIP code extension “1400” and insert in its place the number “5579”.
2. On page 2, in the title for Mr. Metcalfe, delete the text “management” and insert in its place the text “Management”.
3. On page 2, in the firm name for Mr. Sanger, delete the text “Cleeve” and insert in its place the text “Cleve”.
4. On page 2, in the firm name for Mr. Grim and Ms. Kandra, after the text “Benedict” insert the text “, Haagensen & Lloyd, LLP”.
5. On page 2, in the address for Mr. Flynn, delete the suite number “2000” and insert in its place the number “1800”.
6. On page 2, in the address for Mr. Obenchain, delete the suite number “1800” and insert in its place the number “2000”.
7. On page 3, in the address for Ms. Ackerman, delete the text “P.O. Box 10207 Portland, OR 97296-0207” and insert in its place the text “988 NW Nottage Dr. Portland, OR 97229”.
8. On page 3, under Association of Public Agency Customers, delete the name “Brookyser” and replace it with the name “Brookhyser”.
9. On page 3, in the firm name for Mr. Brookhyser, after the text “Kahl” insert the text “, LLP”.
10. On page 4, in the address for Mr. Johnson, delete the ZIP code “97305” and insert in its place the ZIP code “97035”.
11. On page 4, in the address for Mr. Dotten, delete the ZIP code “97305” and insert in its place the ZIP code “97035”.
12. On page 11, line 9, delete the text “had” and insert in its place the text “have”.

A redline version of the Prehearing Conference transcript is attached to this errata.

UNITED STATES OF AMERICA  
U.S. DEPARTMENT OF ENERGY  
BEFORE THE  
BONNEVILLE POWER ADMINISTRATION

BPA-10 WHOLESALE POWER RATE     ) BPA Docket WP-10  
ADJUSTMENT PROCEEDING         ) BPA Docket TR-10

PREHEARING CONFERENCE

TAKEN BEFORE HEARING OFFICER PETRILLO

DATE TAKEN: February 18, 2009  
TIME: 1:30 p.m.  
PLACE: Bonneville Power Administration  
Rates Hearing Room  
Portland, Oregon

COURT REPORTER: Teresa L. Rider, RPR, CSR

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MR. CLIFF PERIGO

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1 PROCEEDING

2 HEARING OFFICER PETRILLO: I'd like to go ahead and

3 get started. One more reminder, if you'd like to enter an

4 appearance today, please sign the sign-up sheet. I'll be

5 giving the sign-up sheet to the reporter, and she'll be

6 entering the appearances based on the sign-up sheet.

7 Good afternoon. It's Wednesday, February 18th, 2009.

8 This is the prehearing conference in the 2010-2011 Wholesale

9 Power and Transmission Rates Proceeding. As you know from the

10 Federal Register Notice, this is a consolidated proceeding

11 designated Docket BPA-10 with two sub dockets: the power sub

12 docket WP-10 and the transmission sub docket TR-10.

13 My name is Sam Petrillo. I'm the hearings officer

14 designated by the Administrator to preside over these matters.

15 The purpose of the prehearing conference today is to establish

16 a service list and procedural schedule and discuss some other

17 procedural matters that have been outlined in the draft orders

18 that have been circulated.

19 Because of the way we're taking appearances today, as

20 I indicated, all of the people who have signed the sign-up

21 sheets will be entered as appearing in the conference today.

22 And I'll be handing that sign-up sheet to the court reporter

23 who will be then including the appearances on the conference

24 transcript. That will save all of you from having to enter

25 appearances orally today. If anybody hasn't signed, please do

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1 so now.

2 If you want to speak today, I ask you to do so slowly  
3 and clearly so that the reporter can take all your words, and  
4 announce yourself so she knows who's speaking.

5 We have a number of draft orders that we need to go  
6 over, but before that, do we have any preliminary matters?

7 MR. BENNETT: We talked about it off line, but  
8 perhaps we should explain.

9 We held a prehearing conference scheduling  
10 conference, I believe, on the 10th, which we discussed a  
11 proposed schedule that BPA published in the Federal Register  
12 and orders that we distributed. And based on that conference  
13 and just on some editorial changes, actually, we made a number  
14 of changes to orders after that and discovered, actually, just  
15 a few hours ago that several of the changes we had made  
16 internally intended to be the orders that were posted -- by the  
17 way, it's Barry Bennett, BPA -- a couple of them are editorial  
18 changes, others are substantive changes that we did discuss and  
19 agreed to at the scheduling conference.

20 Inadvertently, those had not been put in the orders  
21 that were posted. We made those changes just in the last few  
22 hours and posted on the tech forum, for anybody listening in on  
23 phone, should be on line, the tech forum, and also in the back  
24 of the room for distribution, red lined and clean copies of  
25 those orders.

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1           The red lines are showing changes from what we last  
2   posted after the scheduling conference, and the three orders  
3   that are affected are the special rules order of practice, the  
4   order on data requests and data responses and the document  
5   numbering system and pre-marking of exhibits and briefs. They're  
6   not extensive but parties want to be familiar with them.

7           HEARING OFFICER PETRILLO: Thank you, Mr. Bennett.  
8   Anyone else?

9           The first matter I'd like to discuss is the petitions  
10   to intervene that have been filed. On the table is a list of  
11   parties who filed a petition to intervene as of 1:00 p.m.  
12   today. I think most parties have probably picked that up  
13   already. If you don't see your name on it, please let me know.

14           Is there anyone who's filed a petition to intervene  
15   in the room who is not shown on the list?

16           MS. FISHER: Yes, Your Honor. Ann Fisher for M-S-R  
17   Power Agency. And I believe the Hearing Clerk did find it. It  
18   just didn't make the list.

19           HEARING OFFICER PETRILLO: We'll add you to the list,  
20   make you No. 40.

21           My understanding is that the petitions were not  
22   posted on the website and, therefore, there's been no  
23   opportunity to object. So we can handle this in a couple of  
24   ways.

25           There's a hand in the back.

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1 MS. ANDRUS: Stephanie Andrus on behalf of the Public  
2 Utility Commission of Oregon. We filed a petition yesterday  
3 and I don't see ours here.

4 HEARING OFFICER PETRILLO: We'll add that to the  
5 list, as well.

6 I was saying there was a couple of ways we could  
7 handle this. We could take time to go over it and see if there  
8 are any objections now, or I could give the parties some time  
9 to look this over and get back with me at a time certain,  
10 perhaps tomorrow. Any preference?

11 MR. BENNETT: Rather than taking time now, tomorrow  
12 would be fine. I'm not sure people know they have objections.  
13 We'd be fine giving people time so we don't have to take time  
14 right now, a couple of days or whatever.

15 HEARING OFFICER PETRILLO: Most of these petitions  
16 were filed in a timely manner. The problem is they weren't  
17 posted. Pursuant to the notice, objections would have been  
18 received today at the conference. So what I'd like to do is if  
19 you do have an objection, I'd like to get it by tomorrow at  
20 close of business, which I believe is 4:30. Any objections  
21 should be filed by then.

22 The next draft order we have is the service list.  
23 All of the parties who have indicated that the persons to be  
24 served will be included on the service list. We do have some  
25 parties who have asked for more than two persons to be included

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1 on the list. My feeling is that given the fact that this is a  
2 consolidated proceeding, we may have more individuals involved  
3 and, therefore, I'd be willing to allow three on the list.  
4 Some people have asked for more than that, but hearing --  
5 unless I hear something exceptional, I think I'm going to limit  
6 it to three.

7 Any questions or concerns about that?

8 MR. MURPHY: Paul Murphy for Cowlitz PUD. I  
9 understand the historic reason for the limitation on the number  
10 of parties receiving service because things had to be  
11 duplicated and mailed out. That's no longer the case, and I'm  
12 not sure why that particular provision, then, isn't just  
13 scrapped. Essentially it's just a name on an e-mail list.

14 HEARING OFFICER PETRILLO: My concern is that it is  
15 in the rule. And while I can waive it for good reason, and I  
16 know that in some cases the parties have agreed to have three  
17 on the list, nevertheless it's in the rule, and I can't scrap  
18 it on my own.

19 MR. BURGER: Can I just get some clarification, Paul?  
20 Do you need four or five on the list, is that your concern, for  
21 Cowlitz?

22 MR. MURPHY: No, we're going to settle for two. I  
23 just keep hoping that Bonneville will update its general rules  
24 of practice and get into at least the 20th Century, hopefully  
25 the 21st.

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1 MR. BURGER: So noted. Thank you.

2 MS. ACKERMAN: This is Susan Ackerman, and I would  
3 second what Paul said.

4 I was one of the people who asked for four names, and  
5 part of that is because I'm separated from my client and there  
6 are a number of clients that are interested in the data, and so  
7 that was the reason why we asked for four. If I have to, I can  
8 scrap someone, but it just seems like a badly timed rule, I  
9 guess.

10 MR. KARI: Don Kari for Puget Sound Energy. I was  
11 wondering if it might be possible to draw a distinction between  
12 the service list and the e-mail distribution list and include  
13 additional people in the e-mail distribution list?

14 HEARING OFFICER PETRILLO: Does that pose problems?

15 MR. BURGER: I'm not sure that there's much, if any,  
16 distinction given the way the system is now configured. I'm  
17 looking over to Leslie just for confirmation.

18 MS. DIMITMAN: I think there is a difference. The  
19 official service list is the official service list and you must  
20 provide whatever you provide to the parties to the people on  
21 that list.

22 The website, any party can designate the individuals  
23 that they want to have permission to the website. There is a  
24 difference.

25 MR. BURGER: I stand corrected. I apologize.

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1           MR. MURPHY: Your Honor, I think the more important  
2 issue is that I believe that there's an automatic e-mail  
3 generated when certain sorts of information is filed. And I  
4 think probably what would be useful is that the people who are  
5 really going to follow this get that automatic e-mail. I think  
6 that's the fundamental issue.

7           MR. BURGER: That's the service list. No, it's not?  
8 I will back out of this discussion.

9           HEARING CLERK: When we have the website up and going,  
10 I believe parties should be able to access that aren't official  
11 parties who would be found on the service list, and those  
12 people can choose to be notified with the e-mails regarding  
13 filings, so it shouldn't be a problem to limit the number on  
14 the service list.

Deleted: had

15           HEARING OFFICER PETRILLO: Does that solve your  
16 problem, Ms. Ackerman?

17           MS. ACKERMAN: Yes.

18           HEARING OFFICER PETRILLO: Well, I think what we  
19 ought to do then is wade into the three draft orders that have  
20 been changed, and let's start first with the special rules  
21 order of practice.

22           I'm operating under the assumption that parties have  
23 had a chance to look at the red line changes that were included  
24 on the copies on the table. Are there any questions and  
25 concerns regarding this order?

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1           Hearing none, it will be adopted.

2           Let's move on to the next one. That would be the  
3 order on data requests and responses. Again, there have been  
4 changes again in this one, as well. Any concerns or comments?  
5 Hearing none, it will be adopted.

6           Next order, document numbering and pre-marking of  
7 exhibits. There have been a few minor changes in that. Any  
8 concerns or comments?

9           MR. KARI: One question - and maybe I just missed it.  
10 I apologize if I did - that I had is what would be the filing  
11 designation code for legal memoranda that would be filed, say,  
12 at the time of testimony, and this would not be the initial  
13 brief or the brief of exceptions, but other legal memoranda?  
14 And I wonder if there's a letter for that.

15           HEARING OFFICER PETRILLO: I'm going to defer to my  
16 clerks on that one.

17           MR. BENNETT: Do we need to add one for that? Is  
18 there one?

19           MR. BURGER: Last time, at least in TRM, I think --  
20 for both TRM and WP-07 supplemental, we used the motion  
21 designation guide. I don't know that it really matters that  
22 much, but I think we ought to just plan on doing that now, and  
23 if there are developments or improvements to the system between  
24 now and that time, we'll let everybody know.

25           HEARING OFFICER PETRILLO: Does that satisfy you, Mr.

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1 Kari?

2 MR. KARI: Thank you, yes.

3 HEARING OFFICER PETRILLO: Anything further for this  
4 order? Then it will be adopted.

5 We have another order on acronyms. A copy should  
6 have been on the table, as well. Any concerns or comments on  
7 this document? Hearing none it will be adopted.

8 Let's go now to the procedural schedule. My  
9 understanding is that there have been some minor changes in  
10 this schedule from the Federal Register Notice based on  
11 discussions that were held at the scheduling conference. Any  
12 concerns or comments regarding the proposed schedule? Hearing  
13 none, it will be adopted.

14 That leaves us with the service list order, which as  
15 I indicated, will be compiled based on the petitions to  
16 intervene that have been filed in this matter and the number of  
17 persons per party that we've discussed, which is now three.

18 The petitions to intervene order which will include  
19 all of the parties that have -- are included on the list,  
20 provided there are no objections, and we'll get those  
21 objections, if there are any, by tomorrow at close of business.

22 With respect to the initial proposals, my  
23 understanding is that the transmission initial proposal that we  
24 have both hard copies and that's also been filed on the web; is  
25 that correct?

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1 MR. BENNETT: Correct.

2 HEARING OFFICER PETRILLO: And with respect to power,  
3 for now it's just been posted on the web?

4 MR. BURGER: Correct. And I don't think that  
5 Bonneville will be providing hard copies. They're just  
6 available on the web.

7 HEARING OFFICER PETRILLO: That pretty much covers  
8 all of the items on my list today.

9 Is there anything else for the prehearing conference?  
10 Mr. Bennett?

11 MR. BENNETT: I think Mr. Burger has something, as  
12 well. On the transmission initial proposal, BPA's staff and a  
13 number of its customers entered into a settlement of most -- a  
14 partial settlement of the transmission case covering most of  
15 the issues in the transmission case. And our initial proposal  
16 on those issues does reflect the terms of the settlement.

17 Paragraph 7 of the settlement provides that at the  
18 prehearing conference, the signatories to the settlement will  
19 move the hearing officer to specify a date within a reasonable  
20 time of the prehearing conference by which any party to the  
21 rate case that has not executed the settlement must object to  
22 it, identify the issues they wish to raise and choose to  
23 preserve for hearing. And if a party does not object, we  
24 propose that the Administrator adopt the settlement and the  
25 parties will waive their rights to discovery and

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1 cross-examination and the right to contest the settlement if  
2 they don't so object.

3           So I would like to move the hearing officer to set a  
4 date one week from today at the close of business of February  
5 25th for parties to -- anyone who has not signed the settlement  
6 and who is a party and has not signed the settlement to object,  
7 or failing objection waive their rights to filing any testimony  
8 or other evidence contesting it, any discovery or  
9 cross-examination.

10           MR. MURPHY: Barry, how did you pick that date?

11           MR. BENNETT: I guess a couple of things. It seemed  
12 -- I guess you may not have been involved but many parties  
13 were, and so we had extensive discussions, and people -- many,  
14 many people are very aware of what's in it, and it's not  
15 particularly complicated. I didn't think it would take that  
16 much time. And we're hoping to, if no party does object, avoid  
17 discovery and clarification of the witnesses on the parts that  
18 have been settled. And if we can get this resolved a week from  
19 today, there's still a couple of days left for clarification,  
20 and before we really have much discovery data requests, we can  
21 do that.

22           MR. MURPHY: There's an awful lot of material that is  
23 made available to parties for the first time today, and  
24 clarification is starting pretty quickly. I would expect that  
25 parties will spend a significant amount of the time between now

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1 and the beginning of the clarification trying to ascertain what  
2 they want to clarify.

3 I'm a little bit concerned that that very short  
4 turnaround may result in parties saying they're going to  
5 contest it just because they don't have time to evaluate it.  
6 And I'm wondering whether -- if, in fact, as I think you expect  
7 that most parties are going to go along with the settlement,  
8 I'm not sure that it advances the ball very much by putting an  
9 unduly short period of time, because then people do things for  
10 just-in-case purposes.

11 MR. BENNETT: I know the last couple of times I was  
12 involved in a case like this, we did have a week and that did  
13 not happen. I don't want to be in that situation.

14 As far as most parties go, BPA might have to consider  
15 if any party doesn't go along, so most parties may not cut it.  
16 And as I say in the last two cases I've been involved in, one  
17 week is what we had. It appeared to work. And given -- I  
18 don't want to be put in a position forcing parties to do that  
19 and that's not in BPA's interests at all. But given the  
20 tightness of the schedule, if BPA has to change its initial  
21 proposal, there's not a whole lot of time as it is.

22 I guess I would ask what other parties' thinking is,  
23 those who have not signed the settlement, what their thinking  
24 is on this?

25 MS. ANDRUS: This is Stephanie Andrus. I need to ask

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1 a clarification.

2           When you're talking about parties, you're talking  
3 about the parties to the WP-10 case, not parties that might  
4 have entered into a settlement in the previous transmission  
5 case?

6           MR. BENNETT: I'm talking about parties to this case,  
7 to the BPA-10 case.

8           MS. ANDRUS: Are you talking about all the parties  
9 have a week to review the settlement and tell you in that week  
10 whether they object to it or not?

11           MR. BENNETT: I would say the settlement is pretty  
12 straightforward. It's been out there for months.

13           As I said earlier, many people were involved. It was  
14 an extensive public process with a lot of back-and-forth  
15 settlement documents and comments and the like posted going  
16 back, I guess, to November, I believe. So it's been a very  
17 public process.

18           And the settlement is to keep the rates exactly the  
19 same and to change the language of about three rate schedules  
20 -- two rate schedules. It's incredibly straightforward and  
21 really quite minor. It's no change to the transmission rates  
22 and just a few language changes to a couple of rate schedules.  
23 There's so little to it, it's hard to see why it would be  
24 burdensome to do in a week. It's not as if we're raising  
25 rates, reallocating costs between parties or anything like that

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1 at all.

2 HEARING OFFICER PETRILLO: Any other comments?

3 MR. KARI: Your Honor, I wonder if we could ask  
4 Bonneville to simply send out a copy of the settlement to all  
5 the parties.

6 MR. BENNETT: It's been posted for quite a while. I  
7 suppose we could post it again through tech forum.

8 The draft was posted and the final was posted in  
9 December. It's been posted since December, so about for two  
10 months it's been posted after an extensive public process. I  
11 suppose we could send it out through the tech forum again.

12 HEARING CLERK: It's on the transmission rates  
13 website.

14 MR. BENNETT: It's there. It's been there for  
15 months.

16 MR. KARI: I'm not doubting you, but if you send it  
17 to us, we know precisely what it is and it will take some time  
18 to navigate otherwise.

19 MR. BENNETT: We can do that.

20 Under those circumstances, the way I described the  
21 settlement, I guess I would ask Mr. Murphy or anyone else, we  
22 don't want objections -- we don't want people to feel they just  
23 have to throw an objection in case. Again, there's so few  
24 changes that I don't think that has to be, but we don't want to  
25 be in that position. So I guess I'll ask again if we -- is

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1     there a reason we should expect that?

2                 MR. MURPHY: I don't know if you should expect it,  
3     but I believe the PGP was following that. I was hoping that  
4     Scott Brattebo was here.

5                 MR. BENNETT: Scott was involved, absolutely.

6                 MR. MURPHY: I just want to verify with Scott that,  
7     in fact, the PGP is totally on board with it.

8                 MR. BENNETT: That's fine.

9                 MR. MURPHY: But we could live with one week.

10                MR. BENNETT: Okay. Great.

11                HEARING OFFICER PETRILLO: Anything further?

12                MR. THOMPSON: This is not on the topic of the  
13     transmission settlement.

14                HEARING OFFICER PETRILLO: We're going to stick with  
15     that for just a minute because I'm going to deal with Mr.  
16     Bennett's motion.

17                Based on the discussion we've heard, I'm going to  
18     agree with Mr. Bennett that the date for objections to the  
19     partial settlement in the transmission docket should be  
20     February 25th at the close of business, which is 4:30 p.m. I'm  
21     assuming that if any party has extreme difficulties with that  
22     deadline, they'll file a motion and I'll entertain it, but I'll  
23     accept that deadline of February 25th and include it in the  
24     schedule.

25                Anything further?

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1           MR. BROOKHYSER: Don Brookhyser. It just occurred to  
2 me from looking at the procedural schedule that we've got  
3 single events for clarification and cross-examination for both  
4 of the subsets of these cases. I assume that we will subdivide  
5 clarification and cross-examination so that we take care of the  
6 transmission case then do the power rate case separately? I  
7 guess I'd ask BPA if that's their intent, also.

8           MR. BENNETT: Yeah. In fact, we have an internal  
9 meeting scheduled to try to work out a coherent schedule for  
10 that.

11          MR. THOMPSON: I hate to raise this issue, because it  
12 might be off the topic and it may not require that it be  
13 discussed on the record. I'd be happy to go off the record if  
14 you like. But it just occurred to me we had discussions at the  
15 scheduling conference about language in the Federal Register  
16 Notice that prohibited utilities from offering participant  
17 comments, and I can't remember what the follow-on to that  
18 conversation was.

19          And my question is is there something we should do on  
20 the record that would help facilitate a solution to that? I'd  
21 be happy to go off the record to discuss that, if counsel would  
22 prefer it that way.

23          MR. BURGER: I'd be happy to respond as to what at  
24 least Bonneville's plan is with that.

25          The issue, for those who weren't here, was there was

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1 a provision in the Federal Register Notice that effectively  
2 said if you are eligible to be a party to this rate case, you  
3 would not be permitted to file participant comments in this  
4 proceeding.

5           There was some objection to that from a variety of  
6 public power representatives. We had a discussion during that  
7 scheduling conference and we, Bonneville, agreed to modify the  
8 Federal Register Notice to be more in line with the way the  
9 rules are currently drafted, in that if a party is not -- not  
10 just eligible but actually intervenes in the proceeding, under  
11 those circumstances, they would not be eligible to file  
12 participant comments, since they were a party to the  
13 proceeding.

14           We are in the process of -- we have actually drafted  
15 a modification to the Federal Register Notice and, quite  
16 frankly, I need to get it signed by Steve Wright in order to  
17 submit it to the Federal Register, and we will be publishing a  
18 correction or a modification, however you want to refer to it,  
19 in the near future.

20           HEARING OFFICER PETRILLO: So if I understand you  
21 correctly, the modification in the notice would be to reconcile  
22 it with the existing rules?

23           MR. BURGER: Correct.

24           HEARING OFFICER PETRILLO: Did that answer your  
25 question, Mr. Thompson?

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1           MR. THOMPSON: It does. Thank you very much. I  
2 wasn't clear on the path. It sounds like a good path. Thanks.

3           MR. MUNDORF: Terry Mundorf, Western Public Agencies  
4 Group.

5           This is a request for either Peter or Barry, and  
6 perhaps both. The sooner that they could advise us about what  
7 the sequence of the clarification witnesses would be, probably  
8 the better next week will go. I understand there's lots of  
9 mechanics, and I don't want to try to get in the middle of  
10 that. The sooner we know, the better organized we'll be and  
11 the better use we'll make of Bonneville's witnesses time. Just  
12 a request.

13           MR. BURGER: It is on the top of our to-do list, now  
14 that we got the initial proposal finished.

15           HEARING OFFICER PETRILLO: Any other comments?  
16 Hearing none, the conference is adjourned. Thank you very  
17 much.

18           MR. BURGER: We're going to deal with a matter off  
19 line.

20           (Hearing concluded at 2:05 p.m.)

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1 CERTIFICATE

2

3 STATE OF OREGON )  
 ) ss.  
 4 County of Multnomah )

5

6 I, Teresa L. Rider, Notary Public for Oregon, certify  
 7 that the hearing here occurred at the time and place set forth  
 in the caption hereof; that at said time and place I reported  
 8 in Stenotype all testimony adduced and other oral proceedings  
 had in the foregoing matter; that thereafter my notes were  
 reduced to typewriting under my direction; and the foregoing  
 9 transcript, pages 5 to 22 both inclusive, contains a full, true  
 and correct record of all such testimony adduced and oral  
 10 proceedings had and of the whole thereof.

I further advise you that as a matter of firm policy,  
 11 the Stenographic notes of this transcript will be destroyed two  
 years from the date appearing on this Certificate unless notice  
 12 is received otherwise from any party or counsel hereto on or  
 before said date.

13 Witness my hand and notarial seal at Portland,  
 Oregon, this 3rd day of March 2009.

14

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16

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18 Teresa L. Rider, RPR, CSR  
 CSR No. 29906  
 My notary commission expires: 03-08-09

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