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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION
3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,) Docket No. UE-030751
4)
 Petitioner,) Volume I
5) Pages 1 to 27
 vs.)
6)
AVISTA CORPORATION, d/b/a)
7 AVISTA UTILITIES,)
)
8) Respondent.
)
9 _____)

10 A pre-hearing conference in the above matter
11 was held on December 11, 2003, from 1:25 p.m to 2:00
12 p.m., at 1300 South Evergreen Park Drive Southwest, Room
13 206, Olympia, Washington, before Administrative Law
14 Judge KAREN CAILLE.

15 The parties were present as follows:

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19 AVISTA CORPORATION, by DAVID J. MEYER,
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21 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,
22 by MATTHEW PERKINS, Attorney at Law, Davison Van Cleve,
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24 Joan E. Kinn, CCR, RPR
25 Court Reporter

0002

1 THE PUBLIC, by ROBERT W. CROMWELL, JR.,
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3 2000, Seattle, Washington, 98164-1012, Telephone (206)
4 464-6595, Fax (206) 389-2058, E-Mail
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6 CITIZENS UTILITY ALLIANCE AND SPOKANE
7 NEIGHBORHOOD ACTION PROGRAM, via bridge line by DON
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0003

1 -----
2 INDEX OF EXHIBITS
3 -----

4

5	EXHIBIT:	MARKED:	ADMITTED:
6	KELLY O. NORWOOD		
7	T1	22	21
8	T2	22	21
9	3	22	21
10	RICHARD L. STORRO		
11	T4	22	21
12	T5	22	21
13	T6	22	21
14	7	22	21
15	8	22	21
16	C9	22	21
17	10	22	21
18	11	22	21
19	C12	22	21
20	13	23	21
21	14	23	21
22	15	23	21
23	16	23	21
24	17	23	21
25	18	23	21

0004

1	C19	23	21
2	20	23	21
3	C21	23	21
4	C22	23	21
5	C23	23	21
6	24	23	21
7	C25	23	21
8	TIMOTHY J. CARLBERG		
9	T26	23	21
10	27	23	21
11	C28	23	21
12	WILLIAM G. JOHNSON		
13	T29	24	21
14	RONALD L. MCKENZIE		
15	T30	24	21
16	31	24	21
17	C32	24	21
18	CATHERINE M. ELDER		
19	TC33	24	21
20	T34	24	21
21	TC35	24	21
22	T36	24	21
23	37	24	21
24	38	24	21
25	39	24	21

0005

1	40	25	21
2	C41	25	21
3	42	25	21
4	43	25	21
5	44	25	21
6	45	25	21
7	C46	25	21
8	47	25	21
9	48	25	21
10	DONALD W. SCHOENBECK		
11	TC49	25	21
12	T50	26	21
13	51	26	21
14	52	26	21
15	53	26	21
16	54	26	21
17	55	26	21
18	ALAN P. BUCKLEY		
19	T56	26	21
20	57	26	21
21	58	26	21
22	59	27	21
23			
24			
25			

0006

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

2 JUDGE CAILLE: Good afternoon, we are here
3 for a pre-hearing conference that has been scheduled
4 pursuant to a notice dated November 26th. This
5 pre-hearing conference is being held in Olympia,
6 Washington at the Commission's headquarters in one of
7 their hearing rooms. My name is Karen Caille, and I am
8 the Administrative Law Judge assigned to this
9 proceeding.

10 The pre-hearing conference for today was
11 intended to mark exhibits and cross exhibits and take
12 care of any other procedural matters we would have
13 before our hearings began on Monday, December 15th, but
14 the parties have, three of the four parties have reached
15 a settlement stipulation, and we are now in a settlement
16 mode. So what we are going to be discussing this
17 afternoon is the process for the settlement hearing on
18 Monday, and then we'll go to taking care of the exhibits
19 and any other housekeeping matters.

20 So let's begin with appearances, and we'll
21 begin with you, Mr. Meyer.

22 MR. MEYER: If I might do the short form of
23 appearance?

24 JUDGE CAILLE: Sure.

25 MR. MEYER: David Meyer for Avista.

0007

1 MR. PERKINS: Matt Perkins here for the
2 Industrial Customers Northwest Utilities.

3 JUDGE CAILLE: Thank you.

4 MR. CROMWELL: Robert Cromwell on behalf of
5 Public Counsel. I do not know whether Mr. Andre or
6 Mr. O'Rourke might be on the bridge line for SNAP and
7 CUA.

8 JUDGE CAILLE: Is there anyone on the bridge
9 line?

10 Maybe I should make sure that the bridge line
11 is on.

12 (Discussion off the record.)

13 JUDGE CAILLE: Mr. Trotter.

14 MR. TROTTER: Thank you, I'm Donald T.
15 Trotter, Assistant Attorney General for the Commission.

16 JUDGE CAILLE: All right, the signing parties
17 to the settlement are Avista, ICNU, and Commission
18 Staff, and those parties have submitted a settlement
19 stipulation which the Commission will review with
20 witnesses on Monday, December 15th. Perhaps since I
21 have recently talked with Public Counsel about the
22 agreed process by the parties, would you mind,
23 Mr. Cromwell, just putting that on the record for us.

24 MR. CROMWELL: Not at all. Your Honor, after
25 the settlement stipulation was filed by Mr. Trotter, I

0008

1 believe it was Wednesday the 10th, I contacted --

2 (Bridge interruption.)

3 JUDGE CAILLE: Hello, you are at the Avista
4 ERM pre-hearing conference.

5 MR. ANDRE: Yes, good.

6 JUDGE CAILLE: Who is on the line, please?

7 MR. ANDRE: This is Don Andre and John
8 O'Rourke.

9 JUDGE CAILLE: Thank you. Do you want to
10 enter your appearance?

11 MR. ANDRE: Yes.

12 JUDGE CAILLE: Okay, if you will just state
13 your name and whom you represent.

14 MR. ANDRE: Don Andre, Spokane Neighborhood
15 Action Program.

16 JUDGE CAILLE: And Mr. is it O'Rourke?

17 MR. O'ROURKE: Yeah, John O'Rourke, Citizens
18 Utility Alliance of Washington.

19 JUDGE CAILLE: Thank you.

20 All right, go ahead, Mr. Cromwell.

21 MR. CROMWELL: Thank you, Your Honor. As I
22 said, Thursday I contacted the respective settling
23 parties, of whom Public Counsel was not a member, as
24 well as contacting SNAP/CUA, and proposed that for
25 efficiency we might focus the Commission's review of the

0009

1 settlement, and by doing so we would enable this
2 Commission to make a determination of whether it
3 believes the settlement is in the public interest. If
4 thereafter it found that it was not or was not in whole,
5 then the parties could go back to a litigated proceeding
6 and we would bring the case before you.

7 But at this point in time, it's my
8 understanding that all the parties have agreed to the
9 following three principles. First, that we would
10 stipulate into the record the pre-filed testimony and
11 exhibits of the witnesses which have been already filed
12 with the Commission previously as well as any exhibits
13 identified today. I believe I have maybe a dozen or a
14 few more that I have proffered. I don't believe any
15 other party has proffered any exhibits. We would also
16 waive cross-examination of our respective witnesses for
17 purposes of the settlement hearing only. A consequence
18 of that, of course, would be that Ms. Elder would not be
19 brought up from California to testify. And then finally
20 Public Counsel as well as SNAP and CUA would orally
21 present their objections to the Commission at the
22 settlement review hearing on Monday.

23 If the Commission wanted a filing of some
24 sort before then, we could attempt to do so, or
25 certainly if the Commission requested briefing after the

0010

1 hearing, we could certainly accommodate that as
2 requested, but we wouldn't be proposing it at this time.
3 Those were the three concepts that I had shared with the
4 other parties, and it's my understanding that we had a
5 consensus on that.

6 JUDGE CAILLE: Mr. Meyer.

7 MR. MEYER: It is, but I think also in your
8 communication with the other parties, and I would like
9 this clarified, you indicated in your E-mail to us that
10 from your perspective, Mr. Cromwell, if the settlement
11 is approved, we are done with the docket. And if the
12 settlement is not approved or partially approved, the
13 case reverts to litigation depending on the parties'
14 respective positions on the orders. Is that your
15 position?

16 MR. CROMWELL: That is my position, although
17 I don't believe under ER 408 it's appropriate for me to
18 comment on communications that might have occurred in
19 the context of settlement discussions, but that is the
20 position that we're taking and I think was the principle
21 by which the three concepts that I have outlined came
22 forward. It was that obviously the Commission has a
23 non-unanimous settlement before it in this matter. I
24 think it's in everyone's interests as well as the
25 efficiency of the Commission's own operations for the

0011

1 Commission to determine whether it's going to adopt that
2 settlement. If it chooses not to adopt that settlement
3 or to only adopt it in part, then the respective parties
4 are going to need to determine their position. It may
5 be that we're back to square one as we were recently in
6 another matter, and we set it to litigation, we go
7 forward on that track, or alternatively the Commission
8 accepts the settlement and that resolves the matter.

9 JUDGE CAILLE: Mr. Cromwell, there's no need
10 to file anything written, but the Commission, of course,
11 will want to hear your objections on Monday, and my
12 understanding is your objections are going to be to the
13 settlement in total.

14 MR. CROMWELL: Correct.

15 JUDGE CAILLE: So did I hear from everyone
16 that wanted to be heard from about the procedure, agreed
17 procedure?

18 Do you have anything, Mr. Trotter?

19 MR. TROTTER: Thank you, Your Honor. Just in
20 terms of waiving cross of the witnesses, just as
21 clarification, I assume that meant that the witnesses
22 would not be subject to cross on their testimony, but
23 obviously there would be questions and answers related
24 to the settlement stipulation, and we would intend to
25 provide Mr. Buckley to respond on behalf of Commission

0012

1 Staff to any questions that the Commissioners have about
2 that with respect to the Staff's view of the settlement.

3 JUDGE CAILLE: Thank you, that's what we were
4 expecting.

5 MR. CROMWELL: That was my assumption as
6 well, Your Honor.

7 JUDGE CAILLE: So just so I -- let me just
8 clarify something you said, Mr. Trotter. So will the
9 parties be cross examining at all on the settlement?

10 MR. TROTTER: I will have no questions of any
11 witness perhaps other than clarification of another
12 question that someone asks regarding the settlement, but
13 I don't intend to cross examine the company witnesses or
14 any witness for ICNU on the settlement.

15 MR. MEYER: Same holds true with us.

16 JUDGE CAILLE: Okay. So essentially what we
17 need are a panel of witnesses for the Commissioners to I
18 don't want to say cross examine but I guess that's what
19 they would be doing on the settlement.

20 Mr. Meyer, were you intending to bring
21 everyone with you?

22 MR. MEYER: We will have -- I don't know that
23 we're going to bring all four or five of our witnesses.
24 We were going to make Mr. Norwood available as the
25 sponsor for the company of the settlement. We may have

0013

1 one or two others in attendance who had otherwise
2 provided technical testimony in the case.

3 JUDGE CAILLE: And will Mr. Schoenbeck be
4 here?

5 MR. PERKINS: Yes, we intend to make
6 Mr. Schoenbeck available.

7 JUDGE CAILLE: And Mr. Buckley.

8 As far as further process, do the parties
9 want to present the settlement first and then have
10 Public Counsel state the objections, or shall we go with
11 Public Counsel first?

12 MR. MEYER: I think my preference would be to
13 have Public Counsel go first, and that would allow to
14 the extent that there is some followup that the
15 Commission wants to pursue with the panel of witnesses,
16 given what comments may have been made, they can do
17 that.

18 MR. CROMWELL: My expectation was that
19 Mr. Trotter would be presenting the settlement as he
20 typically does on behalf of Staff, and then I would
21 respond to that.

22 JUDGE CAILLE: I'm just trying to think of
23 the most efficient way to handle this, and that was one
24 of the things that we discussed.

25 MR. TROTTER: Yes, typically, I shouldn't say

0014

1 typically because it's done many different ways, but if
2 the Commission wants an overview of the settlement, I
3 think in this particular one it's fairly straightforward
4 in terms of specific number of issues, a specific
5 resolution of those issues, so I'm not sure it's that --
6 that it requires extensive introduction, I would be
7 happy to do that if it's necessary. Otherwise, it does
8 make sense, I mean whether the other parties go first,
9 Public Counsel and then other parties have a chance to
10 respond doesn't matter so much to me. Just
11 efficiencywise it probably makes sense for Public
12 Counsel to state its objections and SNAP and CUA to
13 state their objections, and then that will tend to focus
14 perhaps some of the questioning later. But whether it's
15 done in that way or a rebuttal kind of way doesn't
16 matter to me.

17 JUDGE CAILLE: Okay. As an aside, Mr. Andre
18 and Mr. O'Rourke, were you going to participate on
19 Monday in this, or is Public Counsel your spokesperson?

20 MR. ANDRE: We're still considering that, we
21 haven't decided.

22 JUDGE CAILLE: Well, I think that the
23 Commissioners have a pretty good idea of the settlement
24 in terms of the settlement, so why don't we go with a
25 hearing from Public Counsel and SNAP and CUA first, and

0015

1 then we'll have a panel of witnesses to be questioned if
2 for whatever reason the Commission might need to.

3 I have a question about an exhibit,
4 Mr. Meyer, Mr. McKenzie's confidential exhibits. You
5 will find that on page 5, and it's RLM-CI. I don't have
6 a description for that exhibit, and I just wasn't sure
7 how to describe it, because I don't know, I'm not sure
8 if it's the same as RLM-1 or in addition to, so maybe we
9 could go off the record for a minute.

10 (Discussion off the record.)

11 JUDGE CAILLE: Does everyone else understand
12 that that was just a continuation of the -- I'm the only
13 one who didn't understand I guess. So on
14 Mr. McKenzie's, on page 5 of the exhibit list, there's
15 RLM-1 and RLM-1C. Maybe I will just put the pages in
16 there, and that way it will explain itself. I'm
17 thinking that I'm going to give that a separate exhibit
18 number, however, since in other areas where we have
19 redacted and confidential, I'm giving them the same
20 exhibit number except -- well, I guess, yeah, because
21 this isn't exactly the same, it's a continuation.

22 MR. MEYER: Yeah.

23 JUDGE CAILLE: All right. Okay, I am ready
24 to begin marking exhibits. Is there anything before we
25 begin that process that parties need to discuss?

0016

1 Okay, you should have before you this exhibit
2 list that is a draft exhibit list. As soon as we get
3 these marked, I will get an electronic copy to you. And
4 the only cross exhibits that we have are cross exhibits
5 from Public Counsel for Mr. Storro, so you will find
6 after page 2 those cross exhibits in your packet.

7 So let's begin with Mr. Norwood. Then the
8 first exhibit will be T1, second T2, and third exhibit
9 is 3, and that covers Mr. Norwood's direct and rebuttal
10 testimony and one exhibit.

11 Then for Mr. Storro I'm just going to go
12 ahead with the numbering straight, so T4, will be T4, 5,
13 6, 7, 8 and C9, so T4 through C9 are the direct,
14 rebuttal, supplemental rebuttal of Mr. Storro.

15 MR. TROTTER: Excuse me, Your Honor, there
16 was I think RLS-4.

17 JUDGE CAILLE: Oh, thank you, 10, yes, thank
18 you. So let me correct that for the record, T4 through
19 10 are the direct, rebuttal, and supplemental exhibits
20 for Mr. Storro.

21 Then we begin with the cross-examination
22 exhibits for Mr. Storro, this is Public Counsel's
23 cross-examination exhibits, and let's begin the marking
24 with 11, so did everyone come out with 25 at the bottom?
25 So exhibits 11 through 25 are Public Counsel's

0017

1 cross-examination exhibits for Mr. Storro.

2 For Mr. Carlberg, 26, 27, so T26 through C28
3 will be the direct testimony and exhibits of
4 Mr. Carlberg.

5 T29 is the direct testimony of Mr. Johnson.

6 T30 through C32 are the direct testimony and
7 exhibits for Mr. Ronald McKenzie.

8 Beginning with TC33 through Exhibit Number
9 48, those are the testimony and supplemental testimony
10 and exhibits of Catherine M. Elder.

11 TC49 through 55 are the testimony and
12 exhibits of Donald Schoenbeck.

13 And T56 through 59 are the testimony and
14 exhibits of Mr. Buckley.

15 I just thought of something. If you will
16 return to Public Counsel's cross-examination exhibits,
17 that's the third page in your packet, the last exhibit
18 is a confidential exhibit. The one DR-180 is a
19 confidential exhibit. I'm starting from the bottom
20 working up. And DR-179. So that would be C22, C23, and
21 C25.

22 MR. CROMWELL: Your Honor, I was going to say
23 I think C19 and C21 would be the same designation
24 according to your system.

25 JUDGE CAILLE: Oh, C19 and C21 are the same?

0018

1 MR. CROMWELL: Well, they're also C's, as is
2 12 up at the top, the one that's a CD-ROM as well as
3 paper documents.

4 JUDGE CAILLE: All right, so I will recap
5 this for everyone. There are a few that didn't have the
6 confidential designation, and then there were some that
7 did, so here are the ones that -- here's everything. It
8 would be C12, C 19, C21, C22, C23, and C25.

9 Now I did have, as I said, as soon as this is
10 over I will get to work on an electronic copy of this so
11 that it's all nice and pretty and ready for Monday. I
12 do have a question about a couple. Does anyone have any
13 objection to Mr. Cromwell's proposal to submit the
14 CD-ROM, well, it was the excerpts that I thought I
15 should get everyone's buyoff on.

16 Which exhibits were those, Mr. Cromwell?

17 MR. CROMWELL: Your Honor, I believe it's
18 what has been marked as C21.

19 JUDGE CAILLE: C21.

20 MR. CROMWELL: And I believe there's one
21 other one where we have only included an excerpt, and I
22 don't think it's marked on this list. Let me look. I
23 think it is C25. For the record, without describing the
24 contents thereof, what has been marked as C21 I believe
25 is a one month excerpt of the records that Avista

0019

1 produced in response to that data request. C25
2 similarly is, let me just make sure it's one day, I
3 believe it is one day. It is one day's excerpt from I
4 believe what is colloquially called the deal tickets
5 that were produced in response to ICNU Data Request 2.1.
6 The reason for excerpting those was that the actual
7 documents are voluminous, and we felt for purposes of
8 the Commissioners' review and the record in the
9 proceeding, a representative example would be good for
10 the record to have. The issue with C12 which I believe
11 comprises both printed documents as well as a CD-ROM,
12 there was a supplemental response that was also
13 produced, again that was voluminous and was produced in
14 discovery on a CD-ROM originally. We have submitted to
15 the Commission a copy of the CD-ROM we received from the
16 company under the assumption that one versus seven
17 copies of that would be sufficient. Is that a
18 sufficient description?

19 JUDGE CAILLE: Yes, it is, thank you.

20 As far as I can tell, from the Commission's
21 perspective the Commission doesn't have a problem with
22 the excerpts. If the Commission does, then they can ask
23 for a complete set.

24 Is there anything from any of the parties?

25 MR. MEYER: We don't object.

0020

1 JUDGE CAILLE: Okay.

2 MR. CROMWELL: Your Honor, I suppose while
3 we're on it, we could move all the exhibits.

4 JUDGE CAILLE: Into evidence.

5 MR. CROMWELL: And just have that done on the
6 record.

7 JUDGE CAILLE: All right, why don't we do
8 that.

9 Shall I just read it in, or do you each want
10 to offer your own?

11 MR. MEYER: Can we just say as marked on the
12 record?

13 JUDGE CAILLE: All right.

14 MR. MEYER: We don't object to the admission
15 of the exhibits as marked on the record.

16 JUDGE CAILLE: Okay.

17 MR. TROTTER: Same.

18 MR. CROMWELL: Public Counsel has no
19 objection to any of the exhibits marked on the record.

20 MR. PERKINS: ICNU has no objection.

21 JUDGE CAILLE: Mr. O'Rourke and Mr. Andre?

22 MR. ANDRE: This is Don Andre, Spokane
23 Neighborhood Action Program has no objection to the
24 admission of the exhibits on the record.

25 JUDGE CAILLE: And Mr. O'Rourke?

0021

1 MR. O'ROURKE: Citizens Utility Alliance has
2 no objections.

3 JUDGE CAILLE: Thank you.

4 (Exhibits T1 through 59 admitted.)

5 JUDGE CAILLE: All right, is there anything
6 further from anyone?

7 MR. MEYER: Not from us.

8 JUDGE CAILLE: All right.

9 Anything from Mr. O'Rourke or Mr. Andre?

10 MR. ANDRE: No.

11 JUDGE CAILLE: All right, thank you everyone,
12 and 1:30 on Monday.

13 (Hearing adjourned at 2:00 p.m.)

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E X H I B I T L I S T

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KELLY O. NORWOOD

4 T1

(KON-T) Direct Testimony filed June 23, 2003.

5 T2

(KON-T) Rebuttal Testimony filed September 18,
2003.

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7 3

(KON-1) Docket No. UE-011595, pages 14-16 of
the Fifth Supplemental Order and pages 4-8 of
the Settlement Stipulation.

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11

RICHARD L. STORRO

12 T4

(RLS-T) Direct Testimony filed June 23, 2003.

13 T5

(RLS-T) Rebuttal Testimony filed September 18,
2003.

14

15 T6

(RLS-T) Supplemental Rebuttal Testimony filed
December 8, 2003.

16

17 7

(RLS-1) Natural Gas Sale Benefit Example.

18 8

(RLS-2) Summary of Fixed Priced Gas Sales,
July 2002-Dec 2002.

19

20 C9

(RLS-3C) Confidential Ex. Position Report.

21 10

(RLS-4) Natural Gas Sales Timing Analysis
Public Counsel Cross Exhibits.

22

23 11

Avista Response to PC DR 157.

24 C12

Confidential--Avista Response to PC DR 170C

25

[CD-ROM].

0023

1 13 Avista Response to PC DR 172.
2 14 Avista Response to PC DR 173.
3 15 Avista Response to PC DR 174.
4 16 Avista Response to PC DR 176.
5 17 Avista Response to PC DR 177.
6 18 Avista Response to PC DR 178.
7 C19 Confidential--Avista Response to PC DR 182C.
8 20 Avista Response to PC DR 184.
9 C21 Confidential--Avista Response to WUTC DR 178C
10 (representative excerpt only) (one month
11 excerpt of records).
12 C22 Confidential--Avista Response to WUTC DR 179.
13 C23 Confidential--Avista Response to WUTC DR 180.
14 24 Avista Response to WUTC DR 181.
15 C25 Confidential--Avista's Response to ICNU DR 2.1
16 (representative excerpt only) (one day excerpt
17 of deal tickets).
18
19 TIMOTHY J. CARLBERG
20 T26 (TJC-T) Direct Testimony filed June 23, 2003.
21 27 (TJC-1) Manufacturer GSU Transformer List.
22 C28 (TJC-2C) Confidential Ex. Coyote Springs 2
23 GSU Alternatives.
24
25

0024

1 WILLIAM G. JOHNSON

2 T29 (WGJ-T) Direct Testimony filed June 23, 2003.

3

4 RONALD L. MCKENZIE

5 T30 (RLM-T) Direct Testimony filed June 23, 2003.

6 31 (RLM -1) Monthly reports July through December

7 2002 and copy of Company's Annual Filing to

8 Review Deferrals, pp. 1-131 of 157.

9 C32 (RLM-C1) Confidential Ex. pp. 132-157.

10

11 CATHERINE M. ELDER

12 TC33 (CME-1TC) Confidential Testimony filed August

13 25, 2003.

14 T34 (CME 1T) Redacted Version of Testimony filed

15 August 25, 2003.

16 TC35 (CME-STC) Confidential Supplemental Testimony

17 filed December 3, 2003.

18 T36 (CME-ST) Redacted Version of Supplemental

19 Testimony filed December 3, 2003.

20 37 (CME-2) Curriculum Vitae.

21 38 (CME-3) Matrix of Gas Sales during Avista ERM.

22 Period July 2002 - December 2002 (From Ex

23 RLS-2).

24 39 (CME- 4) Avista response to Public Counsel DR

25 164.

0025

1 40 (CME-5) Avista response to Public Counsel DR
2 169.
3 C41 (CME-6C) Confidential Ex. - Avista Forward Gas
4 Sales and Weighted Average Market Index Heat
5 Rate (MIHR).
6 42 (CME-7) Avista Response to Public Counsel DR
7 167.
8 43 (CME-8) Avista Response to Public Counsel DR
9 168.
10 44 (CME-9) Avista Response to Public Counsel DR
11 158.
12 45 (CME-10) Avista Response to Public Counsel DR
13 159.
14 C46 (CME-11C) Confidential Ex. - Analysis of
15 Potential Savings Resulting from the
16 Availability of Coyote Springs II during the
17 2002 ERM Review Period.
18 47 (CME-12) Avista Response to Public Counsel DR
19 170.
20 48 (CME-13) Avista Response to Public Counsel DR
21 180.
22
23 DONALD W. SCHOENBECK
24 TC49 (DWS-T) Confidential Testimony filed August
25 25, 2003.

0026

1 T50 (DWS-T) Redacted Version of August 25, 2003
2 testimony.
3 51 (DWS-1) Curriculum Vitae.
4 52 (DWS-2) ERM - WA Jurisdiction; Actual vs
5 Authorized Net Expenses, Load and Generation,
6 July 2002 - December 2002 Remove Enron
7 Buy-out and Coyote Springs 2 Credit.
8 53 (DWS-3) ERM - WA Jurisdiction; Actual vs
9 Authorized Net Expenses, Load and Generation,
10 July 2002 - December 2002 Remove Enron
11 Buy-out.
12 54 (DWS-4) Avista - Coyote springs Gas Sales
13 Analysis, Forward vs Spot Market Valuation.
14 55 (DWS-5) ERM - WA Jurisdiction; Actual vs
15 Authorized Net Expenses, Load and Generation,
16 July 2002 - December 2002 ICNU Coyote Springs
17 2 Credit.
18
19 ALAN P. BUCKLEY
20 T56 (APB-1T) Testimony filed August 25, 2003.
21 57 (APB-2) Avista Monthly Gas Sales - March 2002
22 through October 2003.
23 58 (APB-3) Operating Costs of Coyote Springs II
24 Included in rates for total system and WA
25 jurisdiction.

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1 59 Revised (APB-4) Summary of Gas Sales vs.
2 Electric Sales with Coyote Springs II
3 operational.

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