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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 In Re the Matter of )  
AVISTA CORPORATION d/b/a )  
4 AVISTA UTILITIES ) DOCKET NO. UE-010395  
Request Regarding the ) Volume I  
5 Recovery of Power Costs ) Pages 1 - 10  
through the Deferral )  
6 Mechanism. )  
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9 A prehearing conference in the above matter  
10 was held on April 23, 2001, at 1:38 p.m., at 1300 South  
11 Evergreen Park Drive Southwest, Olympia, Washington,  
12 before Administrative Law Judge DENNIS MOSS.

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14 The parties were present as follows:

15 AVISTA CORPORATION, by DAVID J. MEYER,  
General Counsel and Senior Vice President, East 1411  
Mission, Spokane, Washington 99202.

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17 WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION, by DONALD T. TROTTER, Assistant Attorney  
General, 1400 South Evergreen Park Drive Southwest,  
18 Post Office Box 40128, Olympia, Washington 98504.

19 THE PUBLIC, by SIMON J. FFITCH, Assistant  
Attorney General, 900 Fourth Avenue, Suite 2000,  
20 Seattle, Washington 98164.

21 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,  
by IRION A. SANGER, Attorney at Law, Davison Van Cleve,  
22 1300 Southwest Fifth Avenue, Suite 2915, Portland,  
Oregon 97201.

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24 Kathryn T. Wilson, CCR

25 Court Reporter

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P R O C E E D I N G S

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JUDGE MOSS: We have convened in our first prehearing conference in the matters filed, In Re the Matter of Avista Corporation, doing business as Avista Utilities -- and I'm just going to pause here and say this is the most awkward caption I've ever read -- Request Regarding the Recovery of Power Costs Through the Deferral Mechanism, Docket No. UE-010395.

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We have convened in a prehearing conference and have had some off-the-record discussion led by Mr. Meyer for the applicant here, and the essence of the suggestion is that the parties are working conscientiously toward a settlement of the proceeding and that the prospects of that are sufficiently positive that the request is that we not set a schedule today, but there are some other matters to take up.

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I would want to take appearances here momentarily. I have one petition to intervene from the Industrial Customers of Northwest Utilities, and it will be my intention to act on that today. I don't have any other written petitions, but of course we will ask if there are others.

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Any requests or motions in terms of discovery, protective order, that sort of thing, we

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1 will at least touch on those subjects and see if there  
2 is any need to deal with that today or perhaps defer  
3 that until Friday. It does not appear to me there  
4 would be any discussion of the issues today. That will  
5 probably not be called for, so I will put that off my  
6 agenda, and again, I think I've already mentioned we  
7 are going to defer discussion of procedural schedule  
8 and process itself until Friday.

9           What we will do at the suggestion of counsel  
10 is schedule a telephone conference for some time on  
11 Friday and take up further discussion. I guess it will  
12 be in the nature of a status conference in part, and  
13 then if the status is that settlement is not indicated  
14 at that point in time, then we will proceed to develop  
15 a procedural schedule, and on that score, I would want  
16 to encourage the parties now, if we get there, to try  
17 to work among themselves to resolve those issues so we  
18 don't have to spend a great deal of time on the  
19 telephone conference arguing about that sort of thing.

20           So with that basic agenda outlined, we'll  
21 take formal appearances for the record, and we will  
22 start with Avista; Mr. Meyer?

23           MR. MEYER: Thank you, Your Honor. Appearing  
24 for Avista in this proceeding, David Meyer, general  
25 counsel for Avista Corporation.

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1 JUDGE MOSS: Since this is our first  
2 prehearing conference, I will ask you to go ahead with  
3 your address, phone, fax, and e-mail information so we  
4 have that in our record.

5 MR. MEYER: Address is East 1411 Mission  
6 Avenue, Spokane, Washington. The zip is 99202. Phone  
7 number is (509) 495-4316, and e-mail,  
8 dmeyer@avistacorp.com.

9 JUDGE MOSS: I have your fax number as (509)  
10 495-4361.

11 MR. MEYER: That's right.

12 JUDGE MOSS: Any other appearances for  
13 Avista? Mr. Sanger?

14 MR. SANGER: On behalf of the Industrial  
15 Customers of Northwest Utilities, Irion Sanger.  
16 Address is 1300 Southwest Fifth Avenue, Suite 2915,  
17 Portland, Oregon, 97201. Phone number is (503)  
18 241-7242. Fax is (503) 241-8160. E-mail is  
19 mail@dvclaw.com.

20 JUDGE MOSS: Mr. ffitch?

21 MR. FFITCH: Simon ffitch, assistant attorney  
22 general, public counsel section of the Washington  
23 Attorney General, 900 Fourth Avenue, Suite 2000,  
24 Seattle, Washington, 98164. Fax number is (206)  
25 389-2058. Telephone number is (206) 389-2055. E-mail

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1 is simonf@atg.wa.gov.

2 MR. TROTTER: My name is Donald T. Trotter,  
3 assistant attorney general for the Commission staff.  
4 My e-mail is dtrotter@wutc.wa.gov. My fax number is  
5 (360) 389-2055, and my phone number is (360) 664-1189.

6 JUDGE MOSS: Thank you, Mr. Trotter. Do we  
7 have anyone else who wishes to enter an appearance  
8 today? Fine, and we have the petition to intervene by  
9 the Industrial Customers of Northwest Utilities. Is  
10 there any objection to the motion?

11 MR. MEYER: No objection.

12 JUDGE MOSS: There being no objection and the  
13 petition being well-taken, the petition will be  
14 granted.

15 Ordinarily at this point, we come to these  
16 issues of whether to invoke the discovery rule and  
17 protective order and that sort of thing. Do you all  
18 wish to defer that, or should we go ahead and take care  
19 of that business today?

20 MR. MEYER: We would be fine in deferring  
21 that from the company's standpoint. If and when we  
22 have a procedural discussion or on dates to litigate  
23 the case, if it comes to that, then there may be some  
24 modifications requested to that discovery rule, so that  
25 may or may not be moot.

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1 JUDGE MOSS: Mr. Sanger, are you comfortable  
2 with that?

3 MR. SANGER: We would prefer to invoke the  
4 discovery rules now, but we are willing to compromise  
5 if other parties are adamant against it, but we don't  
6 see any reason in postponing it.

7 JUDGE MOSS: I wouldn't describe Mr. Meyer as  
8 being adamant. Mr. ffitch, how do you feel about it?  
9 I know there has been some informal exchange of  
10 information going on, at least as between staff and the  
11 company and perhaps public counsel as well, and I  
12 turned first to our intervenors since they sometimes  
13 are the odd person out on this sort of thing.

14 MR. FFITCH: I think as a practical matter,  
15 we are likely to be focusing on the settlement  
16 discussion this week. I would kind of defer to the  
17 other parties on whether to invoke the rule or not this  
18 week.

19 MR. TROTTER: Your Honor, on behalf of staff,  
20 we issued substantial informal discovery in  
21 anticipation of the rule being invoked, and we would  
22 just recommend that intervenors do the same. I'm sure  
23 the company will get on them as soon as they get them,  
24 given that the company was asking for a rather  
25 expedited schedule. As a practical matter, I think it

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1 just makes sense that if the intervenors want to issue  
2 it, issue it, but let's wait until Friday to argue out  
3 the details.

4 JUDGE MOSS: I assume the company would be  
5 willing to respond informally to the Industrial  
6 Customers, and we can proceed in that fashion, and  
7 Mr. Sanger, if it becomes a problem, you let me know  
8 and we will take care of it. Otherwise, we'll defer  
9 the discussion until Friday, particularly in light of  
10 the suggestion that there might be some tweaking to the  
11 practice that might be suggested. So let's put that  
12 off, and we will similarly put off the issue of a  
13 protective order, and the parties may wish to offer  
14 some suggestions on the protective order that would  
15 vary somewhat from the standard order, and we can also  
16 take that up at the appropriate time.

17 As I mentioned, we'll defer a procedural  
18 schedule looking forward optimistically to a positive  
19 development through the course of the week and then  
20 report back on Friday afternoon. What is the pleasure  
21 of the parties in terms of timing? I was looking at my  
22 calendar, and it happens to be fairly open on Friday.  
23 I think I do have some sort of lunch engagement that's  
24 not reflected on here.

25 MR. MEYER: I don't think there are any

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1 conflicts. There are preferences for earlier rather  
2 than later on Friday.

3 MR. FFITCH: Ten o'clock?

4 JUDGE MOSS: That works well for me. We will  
5 set that.

6 MR. MEYER: This will be a call-in?

7 JUDGE MOSS: What I will try to do is get the  
8 conference bridge line set up for that. Let me put it  
9 this way: If you do not hear from me, you may assume  
10 that I have successfully reserved the conference bridge  
11 line and we'll use that, and everybody has that number.  
12 Otherwise, I will send an e-mail out to everyone  
13 indicating some alternative number or some alternative  
14 means to set that call up. Since we have a small  
15 number of parties, I think we can manage it fairly  
16 easily. I sometimes find myself in a bind on this sort  
17 of thing, in which case I may call on a party to set  
18 that up, and it will probably be Avista, but we will  
19 make the arrangements. I just don't have that  
20 information in front of me.

21 Is there any other business we need to take  
22 up? I will mention just a couple of points for filing  
23 away, and this would be true whether there is a  
24 settlement in the case or not so this will be useful  
25 information for you to have. I've checked with our



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1 records center, and on filings in this proceeding, we  
2 need the original and 14.

3           Although I'm sure you are all very familiar  
4 with it, I'm obligated to remind you that all filings  
5 must be made through the Commission secretary or by  
6 mail addressed to the secretary at WUTC, P.O. Box  
7 47250, 1300 South Evergreen Park Drive Southwest,  
8 Olympia, Washington, 98504-7250, or by hand delivery to  
9 the street address.

10           We do ask, and I'm going to emphasize this  
11 point, to the extent you all do make some filings in  
12 this case, whether it be a settlement agreement or  
13 something else, please do try to file it  
14 electronically. It makes my life a lot easier when I'm  
15 dealing with these papers if I have electronic copies.  
16 So it's not just a nod to the cyber age but something  
17 that is actually quite useful to us, so please do that.  
18 You can do that by e-mail attachment or by submitting a  
19 three-and-a-half-inch diskette in whatever format you  
20 use.

21           Service on parties must be simultaneous with  
22 filing. The Commission ordinarily does not accept  
23 filings by fax, but in appropriate circumstances, if  
24 you will request that through me, I will grant that  
25 freely as the needs of the case dictate.

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1           I'm thinking at this juncture I will not  
2 enter a prehearing conference order until after our  
3 discussion on Friday, at which time I will enter some  
4 sort of an order. It may be fairly pro forma if things  
5 go the way everyone hopes they will, but I will defer  
6 that for now, and given that we are deferring most of  
7 our prehearing matters until Friday, I won't mention  
8 some of the other procedural dates that we normally  
9 require in terms of the prehearing, the last prehearing  
10 conference where we do the exhibit exchange. We will  
11 talk about all that stuff if we have to.

12           If there is no other business today, then I  
13 thank you all very much for being here and look forward  
14 to talking with you on Friday morning. We are off the  
15 record.

16           (Prehearing conference convened at 1:50 p.m.)

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