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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3	WASHINGTON UTILITIES AND)	
	TRANSPORTATION COMMISSION)	
4)	
	Complainant,)	
5)	
	vs.)	DOCKETS NO. UE-090134/
6)	UG-090135
	AVISTA CORPORATION, d/b/a)	Volume I
7	AVISTA UTILITIES,)	Pages 1 - 34
)	
8	Respondent.)	

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A prehearing conference in the above matter was held on February 24, 2009, at 1:30 p.m. at 1300 South Evergreen Park Drive Southwest, Olympia, Washington, before Administrative Law Judge ADAM TOREM.

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The parties were present as follows:

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WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, by GREGORY J. TRAUTMAN, Assistant Attorney General, 1400 South Evergreen Park Drive Southwest, Post Office Box 40128, Olympia, Washington 98504; telephone, (360) 664-1187.

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AVISTA CORPORATION, by DAVID J. MEYER, Vice President and Chief Counsel, 1411 East Mission Avenue, Post Office Box 3727, Spokane, Washington 99220; telephone, (509) 495-4316.

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PUBLIC COUNSEL, by SIMON J. FFITCH, Assistant Attorney General, 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104; telephone, (206) 389-2055.

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THE ENERGY PROJECT, by RONALD L. ROSEMAN, Attorney at Law, 2011 14th Avenue East, Seattle, Washington 98112; telephone, (206) 324-8792.
Kathryn T. Wilson, CCR

0002

1 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,
2 by IRION A. SANGER, Attorney at Law, Davison Van Cleve,
3 333 Southwest Taylor, Suite 400, Portland, Oregon
4 97204; telephone, (503) 241-7242.

5 NORTHWEST INDUSTRIAL GAS USERS, by THOMAS A.
6 BROOKS, Attorney at Law, Cable, Huston, Benedict,
7 Haagensen & Lloyd, 1001 Southwest Fifth Avenue, Suite
8 2000, Portland, Oregon 97204: Telephone, (503)
9 224-3092.

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

2 JUDGE TOREM: My name is Adam Torem. I'm an
3 administrative law judge for the Utilities and
4 Transportation Commission. It is Tuesday afternoon,
5 the 24th of February, 2009, at a little after 1:30 in
6 the afternoon. These are two consolidated dockets;
7 first, UE-090134 and UG-090135. This is the Avista
8 Utilities general rate case, and today is the scheduled
9 prehearing conference.

10 Let me summarize quickly what the matter
11 before the Commission is and the agenda for today.
12 First, according to the docket in our records center,
13 Avista has filed to revise its electric and natural gas
14 service tariffs as of January 23rd, 2009. The proposal
15 is to increase electric rates by 69.8 million dollars,
16 a gross increase of 16 percent, and to increase natural
17 gas rates by 4.9 million dollars, or 2.4 percent.

18 However, on the electric side, there is a
19 proposed decrease in the Company's established Energy
20 Recovery Mechanism, or ERM, surcharge. That will be
21 decreased as proposed, 32.4 million dollars, or 7.4
22 percent, and according to the math, the net proposed
23 electric rate increase of 3.6 percent. So again, 8.6
24 percent on the electric side for the proposed rate
25 increase, and 2.4 percent on the natural gas side.

0004

1 Commission staff reviewed the filings and
2 indicated they were complete, complied with our
3 regulations, so the Commission suspended the filings on
4 the 3rd of February, 2009, consolidated the two cases
5 together, and then set the matters for hearing.

6 Today, we are going to identify the parties
7 for this case, including those that have already filed
8 petitions to intervene. We'll address a variety of
9 procedural items. Hopefully, we will set a schedule
10 that everyone agrees to, and we will talk about the
11 public comment hearing that's going to be necessary in
12 the affected community. We will take appearances
13 first, and I will start with Avista.

14 MR. MEYER: Would you prefer the long form of
15 appearance?

16 JUDGE TOREM: Yes.

17 MR. MEYER: David Meyer appearing on behalf
18 of Avista. The street address is 1411 East Mission,
19 PO Box 3727, Spokane, Washington, 99220-3727.
20 Telephone number is (509) 495-4316; fax number, (509)
21 495-8851, and e-mail is david.meyer@avistacorp.com.

22 JUDGE TOREM: Moving on to Commission staff?

23 MR. TRAUTMAN: Greg Trautman, assistant
24 attorney general for Commission staff. My address is
25 1400 South Evergreen Park Drive Southwest, Post Office

0005

1 Box 40128, Olympia, Washington, 98504. My telephone
2 number is area code (360) 664-1187. My fax number is
3 area code (360) 586-5522, and my e-mail address is
4 gtrautma@utc.wa.gov.

5 JUDGE TOREM: Thank you, Mr. Trautman. Are
6 you going to have an assistant on the case?

7 MR. TRAUTMAN: Not at the present time.

8 JUDGE TOREM: Mr. ffitch?

9 MR. FFITCH: Good afternoon, Your Honor.
10 Simon ffitch, senior assistant attorney general for the
11 office of Public Counsel. My address is 800 Fifth
12 Avenue, Suite 2000, Seattle, Washington, 98104-3188.
13 Office phone is (206) 389-2055; fax, (206) 464-6451;
14 e-mail, simonf@atg.wa.gov.

15 JUDGE TOREM: For ICNU?

16 MR. SANGER: My name is Irion Sanger. I'm at
17 the law firm of Davison Van Cleve; address, 333
18 Southwest Taylor, Suite 400, Portland, Oregon, 97204.
19 Telephone number is (503) 241-7242; fax number, (503)
20 241-8160, and e-mail address, ias@dvclaw.com.

21 JUDGE TOREM: Is Mr. Van Cleve also going to
22 be representing your client?

23 MR. SANGER: Yes. We filed a notice of
24 appearance for Mr. Van Cleve and myself.

25 JUDGE TOREM: Mr. Brooks?

0006

1 MR. BROOKS: My name is Tommy Brooks. I'm
2 appearing on behalf of the Northwest Industrial Gas
3 Users. I'm with the firm Cable Huston. Our address is
4 1001 Southwest Fifth Avenue, Suite 2000, Portland,
5 Oregon, 97204. Our phone number is (503) 224-3092.
6 Our fax number is (503) 224-3176. My e-mail address is
7 tbrooks@cablehuston.com, and also appearing will be
8 Chad Stokes. He has the same information except his
9 e-mail is cstokes@cablehuston.com.

10 JUDGE TOREM: Mr. Roseman?

11 MR. ROSEMAN: My name is Ronald L. Roseman.
12 I'm an attorney. My address is 2011 14th Avenue East,
13 Seattle, Washington, 98112. I will be appearing on
14 behalf of The Energy Project. My e-mail address is
15 ronaldroseman@comcast.net. My fax is (206) 568-0138.

16 JUDGE TOREM: Thank you all very much. Is
17 there anyone else on the bridge line that needs to make
18 a petition to intervene or make an appearance in the
19 case? Hearing none, then all the parties are here in
20 Olympia.

21 Let's turn quickly to the petitions for
22 intervention that were filed. First, my notes say that
23 ICNU filed its petition on February 10th, 2009, and the
24 Northwest Industrial Gas Users filed their petition on
25 February 17th, 2009. Mr. Roseman, I take it you are

0007

1 going to orally petition to intervene today?

2 MR. ROSEMAN: That is correct, Your Honor.

3 JUDGE TOREM: Just so I can ask Avista on the
4 basis they have read the other petitions for
5 intervention, if you will state your client's
6 substantial interest or public interest in the matter
7 for the record, we can see if there are any objections.
8 So Mr. Roseman, if you will quickly do that.

9 MR. ROSEMAN: The Energy Project primarily
10 represents community action agencies who provide
11 services, both energy efficiency and rate assistance,
12 to low-income customers of Avista. During these
13 economically difficult times, substantial rate
14 increases have a tremendous affect on this population.
15 Affordability and access to utilities is an essential
16 service, so any substantial increase in rates to these
17 customers who are at the bottom tier financially
18 creates tremendous difficulty. That primarily is the
19 reason that The Energy Project wishes to intervene in
20 this proceeding.

21 JUDGE TOREM: Thank you. Mr. Meyer?

22 MR. MEYER: We have no objection to any of
23 the interventions.

24 JUDGE TOREM: Then they will all be granted.
25 It appears to me in past cases the Commission has

0008

1 entered a standard confidential protective order. Is
2 there any reason to upgrade that to a highly
3 confidential in this case?

4 MR. MEYER: I don't see a reason, Your Honor.

5 JUDGE TOREM: Any other parties object to the
6 entry of a confidential protective order? Seeing none,
7 we will get that issued along with the prehearing
8 conference order.

9 The next matter I have is the question of the
10 suspension date, and I want to make sure we are all in
11 agreement. It would appear that the filing, Mr. Meyer,
12 came in January 23rd with a stated effective date 30
13 days later on February 23rd, and the RCW that allows
14 the Commission to suspend those talks about a period
15 not exceeding ten months from the time the same would
16 otherwise go into effect, so I believe that would be
17 December 23rd.

18 MR. MEYER: That's our understanding, Your
19 Honor.

20 JUDGE TOREM: Any other parties think
21 differently? So then December 23rd is where we will
22 start backwards from with the suspension date.

23 Maurice Twitchell is going to be assisting
24 the Commission as an accounting advisor. He, I
25 believe, is listening on the line, and he and I spoke a

0009

1 little bit about how to make sure that piece goes
2 smoothly from the perception of the accounting side,
3 and I just wanted everyone to make sure they look at
4 WAC 480-07-510, and all of you, with due respect, have
5 been doing this longer than I have, but I wanted to
6 note that it will help tremendously if all the parties'
7 testimony will pay attention to a common starting point
8 essentially from a per-books filing that's been made by
9 the Company and don't launch with your own testimony,
10 whatever date we agree that comes in, with the
11 Company's adjusted filings.

12 So essentially for ease of tracking, I want
13 the Intervenors, Public Counsel and Commission staff,
14 who I believe has done this more closely in the past,
15 to make their filings so that there are really three
16 distinctions: A, Company adjustments should be labeled
17 as contested or uncontested, and if they are contested,
18 let's explain why your party or your client would
19 change that adjustment so we will all know what the
20 beef might be with a particular adjustment.

21 As needed, when you start doing your
22 calculations, particularly on a revenue shortfall case,
23 let's make sure we are all using similar numbers and
24 the appropriate rounding. So for a rate of return, if
25 you will think it a hard rate of return and two decimal

0010

1 points, that would be fantastic, and that way, the
2 numbers will come out in the math as we review each
3 parties' filing.

4 For a conversion factor, as I understand is
5 necessary in Avista's case with a split jurisdiction,
6 the numbers I found in past cases that seem to work
7 extend out to six digits, so if you will get a
8 six-digit rounding, pick that as your conversion factor
9 and make it a hard conversion factor, that will help
10 keep the numbers so they don't end up with a few odd
11 strings here or there, but most of that formatting is
12 required in 480-07-510, and if you are going to make
13 additional adjustments to the Company' proposals,
14 that's fine as well. By no means am I suggesting you
15 only address the Company's adjustments if you have your
16 own, but identify them as such and show me where they
17 come from from the per-books filing.

18 You all know that traditionally within a
19 couple of days of today's prehearing conference, we are
20 issuing a Bench request asking for accounting exhibits
21 to come with in with formulas and the results of
22 operations and not just values. So Mr. Meyer, since
23 your company's filing is the only one in thus far, if
24 you would go ahead in the next few days and send that
25 spread sheet in electronically that has the formulas

0011

1 that will allow all the parties, as well as Commission
2 staff, those advising the Commission itself to take a
3 look at those and begin with adjustments with the
4 formulas, not just with values.

5 If we don't see it in the next couple of days
6 on its own, we will issue a Bench request, but we are
7 hoping that will become the habitual filing in the
8 future and save us all some paperwork going back and
9 forth and arbitrary deadlines in which to respond. Any
10 questions about those accounting issues that are
11 probably rote and routine, but I wanted to be clear
12 about the expectations.

13 MR. MEYER: Your Honor, just to the latter
14 point, I understand that we filed with the case the
15 formulae, and so we are not sure what in addition to
16 that we should do, but if perhaps Mr. Twitchell could
17 confirm that he has what he and his group needs, we
18 would be happy to supply whatever in addition to that,
19 but I think they are there.

20 JUDGE TOREM: I honestly haven't opened it
21 yet, but if you've already anticipated that Bench
22 request and done it, then the rest of the parties
23 should be able to get into that as well. Mr. Twitchell
24 will probably check and send me an e-mail, and if
25 that's the case, I'll indicate as much in the

0012

1 prehearing conference order that Avista has already
2 done so, because I will try to put this language into
3 the prehearing conference order.

4 MR. MEYER: If somehow we are deficient, just
5 please advise and we will wait to be notified.

6 JUDGE TOREM: We will indicate something,
7 whether it's a-okay in the prehearing conference order
8 or a separate e-mail that it wasn't quite as what we
9 all expect from the statement today.

10 MR. MEYER: Thank you.

11 JUDGE TOREM: Any other questions about those
12 accounting requests? Seeing none, I think we are ready
13 to talk about the procedural schedule. In past cases,
14 one thing that I haven't seen even on the draft that
15 got handed to me today, in past cases, I believe
16 Avista's last case, companies have submitted a
17 supplemental round of testimony, but in the cases I
18 just cited to tend to take the Intervenors and Public
19 Counsel and Commission staff maybe not off guard but
20 resulted in a range of motions saying that it should or
21 shouldn't be allowed to supplement things, and I don't
22 mean to invite a supplemental filing. I simply want to
23 recognize what is past history and inquire of you,
24 Mr. Meyer, is there any reason today only a month after
25 the filing that you see fluctuation in prices either on

0013

1 the electric or the gas side or your predictors are
2 suggesting that there will be sometime between now and
3 summer that you are planning on a supplemental filing?

4 MR. MEYER: At this point, we are not
5 assuming that there would be or planning on one, but as
6 we get closer to that mid-summer period, we will
7 certainly try and provide enough advance notice to all
8 parties that in the event we do that that it will
9 provide an opportunity for some level of discovery on
10 anything that is by way of supplementation, or as we
11 have done in the past where we have discovered errors.

12 Often times through the discovery process, we
13 discover that things should have been done a little
14 differently, and we can correct for those so that the
15 record has the benefit of the best information. At
16 this point, we need to get closer to that period of
17 time.

18 JUDGE TOREM: What I want to say today is the
19 possibility that we will set a target date by which you
20 will send maybe a letter of intent that it's coming so
21 that discovery can be tweaked that way, and perhaps
22 even a firm cutoff date by which it should be in with
23 sufficient notice to the other parties so that their
24 testimony need not be rolled back by two weeks,
25 something along those lines. Mr. ffitch, were you

0014

1 going to interject?

2 MR. FFITCH: I did want to state for the
3 record that if Avista at any point during the case
4 files testimony which has the effect of increasing the
5 revenue requirement, it is our legal position that they
6 are required to file new tariffs under RCW Title 80,
7 and we are currently addressing that issue on appeal
8 from the last case and will continue to take that
9 position here.

10 Secondly, it is my understanding that some of
11 the gas prices upon which the current filing is based
12 have already fallen, so I think that presents a
13 different situation where the filing may, at least
14 based on what we currently know within the very recent
15 past about gas prices, may now be too high, so I'm not
16 sure what Avista is planning to do about that. That
17 may be something that's explored initially by parties
18 in discovery. We do not take the position at this
19 point that if the filing level is reduced that that
20 requires a tariff filing.

21 JUDGE TOREM: Thank you. Any other parties
22 wish to comment?

23 MR. TRAUTMAN: Just briefly, Your Honor.
24 Staff would just reiterate, as happened in the last
25 case, that while the Commission has indicated its

0015

1 desire to have the most accurate and up-to-date
2 information available, we would also ask the Commission
3 to pay attention to the due process consideration to
4 make sure that Staff and the other parties have
5 sufficient time to look at and respond to whatever new
6 testimony comes in.

7 JUDGE TOREM: That's exactly the reason I'm
8 raising it today. I know in past cases, these
9 supplemental filings have been approved with some
10 adjustments to filing dates, and it appeared to me
11 sitting second chair on those cases that there was a
12 lot of excitement that we could have done without, so I
13 want to make it as smooth a process. If we know it's
14 coming, we'll know when it's coming, and that doesn't
15 mean it will be accepted, but let's anticipate this.
16 It's been done before, and I don't want to be blind to
17 the fact that it very well could occur again.

18 I can't tell you which way the commissioners,
19 particularly with the new makeup, might rule on
20 petitions to have it or petitions to exclude it, so I
21 don't mean to offer any insight whatsoever because I
22 don't know what cards are in that hand.

23 Mr. Meyer, is the Company aware of any
24 dockets now pending or any dockets you intend to file
25 between now and the December 23rd suspense date that

0016

1 the Company might later seek to consolidate into this
2 case for any reason?

3 MR. MEYER: We are continuing to look at some
4 other filings, one of which may be, but which will not
5 involve a request at this point by us to consolidate,
6 perhaps, a filing relating to gas decoupling in as much
7 as the pilot program has been evaluated, and there will
8 be a final report issuing, and then by the spring,
9 there is an opportunity for us to file to continue that
10 program, so that may be in the offing, but at least at
11 this point, it was not our intent to consolidate that
12 with this proceeding. There may be other filings, none
13 of which we've at this point taken the position
14 internally at least that they must be or should be
15 consolidated.

16 JUDGE TOREM: Reading the summary testimony
17 for the case from your chairman, I didn't see anything
18 that gave me a hint as to the outstanding, what would
19 be fate of the decoupling pilot from the Company's
20 perspective nor any other accounting petitions that
21 were projected. So I just wanted to ask today to be
22 clear on the due-process question as to what the other
23 parties might be preparing for in the months ahead.
24 Anything else to discuss before we discuss a schedule
25 and working backwards?

0017

1 The sheet that I've been handed then by
2 Mr. Trautman was working back from the suspension date
3 of December 23rd, and the proposed hearing was mid
4 October. In talking with the commissioners today and
5 comparing their schedules, a September, October hearing
6 with briefs in early November is the concept they were
7 starting with, so this isn't too far off any margin
8 that we were suggesting.

9 I don't know, Mr. Meyer, what the Company's
10 position was. Mr. Trautman handed me this outline. I
11 don't know if it's worth going into on the record, or
12 if we should take a recess, let the parties hash this
13 out and come back with something, or I can give you a
14 couple of dates that I know don't work on the record or
15 off and we can start to see where things fall in.

16 MR. MEYER: First, before we go off the
17 record, I would like to distribute what I previously
18 distributed to the parties by way of Avista's proposed
19 schedule, and secondly, it might be helpful before we
20 go off the record to have some dates that simply won't
21 work for the parties.

22 JUDGE TOREM: So what jumps out at me,
23 Mr. Meyer, is that the hearing proposed by Avista, for
24 benefit of those on the bridge line, is three days,
25 September 9th, 10th, and 11th, with a potential

0018

1 carryover to the 15th and 16th if needed. The item
2 that was proposed by Staff, Public Counsel and ICNU had
3 hearings October 12th, 13th, and 14th with the 15th and
4 16th, if necessary. So again, the same number of days
5 but off by essentially a 30-day period. So if you want
6 to describe the further highlights, and I will ask
7 Mr. Trautman if he wants to be the spokesman for the
8 submitters, but I'll hear first from the Company.

9 MR. MEYER: I'll work from front to back on
10 this schedule, but just to note at this point, we are
11 happy to continue our discussions, but essentially, we
12 are proposing a ten-month versus an 11-month schedule
13 as measured from the date of filing, so as you pointed
14 out, there is one month of difference between the two,
15 and of course, there is some difference in terms of the
16 intervals of time between each of the dates, but for
17 the Avista proposal, we would suggest settlement
18 conference June 18th and 19th, followed by Staff and
19 Intervenor testimony on July 17th, another round of
20 settlement conferences on July 22nd and 23rd, rebuttal
21 and cross-answering testimony August 14th, hearings
22 September 9th through 11th, and the 15th and 16th if
23 needed, briefs to follow on October 9th, and an
24 aspirational date for an order of November 23rd.

25 JUDGE TOREM: That's the Monday before the

0019

1 Thanksgiving holiday week?

2 MR. MEYER: I believe that's correct.

3 JUDGE TOREM: Mr. Trautman?

4 MR. TRAUTMAN: Thank you, Your Honor.

5 Commission staff together with Public Counsel and ICNU
6 have proposed a different schedule, and on our
7 schedule, we have dates for the testimony filings, the
8 hearings, and the briefs with the settlement conference
9 date or dates could be established a bit later.

10 We have for Staff and Intervenor testimony a
11 filing date of August 21st, 2009; for rebuttal and
12 cross-answering testimony September 15th, 2009; for
13 hearings, the dates of October 12th to the 14th with
14 the 15th and 16th if necessary; briefs due November
15 13th, 2009; and the suspension date, December 23rd,
16 2009, and in making this schedule, at least on Staff's
17 part, we wanted to note one of our key witnesses will
18 be out of the country from September 1st through the
19 18th.

20 JUDGE TOREM: I know one of our commissioners
21 that latter part of the time period you just noted,
22 September 14th through 18, is hoping to be gone as
23 well. Mr. Meyer, I think those would be the additional
24 dates if needed on your schedule.

25 MR. MEYER: Were there any other

0020

1 Commission-related conflicts in September?

2 JUDGE TOREM: Possibly the last few days,
3 September 28th to October 2nd, but October was looking
4 pretty flexible, so I don't know if it's worth
5 everybody discussing meeting in the middle on these
6 dates or continuing in your own negotiations without
7 any suggestions from me.

8 MR. FFITCH: If I could say a couple of
9 things for Public Counsel for the record, and we also
10 are willing to have a conversation. However, we have
11 agreed with Staff's proposal here. We think it's a
12 reasonable schedule, and one thing that I wanted to
13 comment on, which you've identified also, Your Honor,
14 is that the Company's schedule, as Mr. Meyer has
15 acknowledged, is designed to essentially get an order a
16 month earlier than is necessary by statute.

17 Mr. Meyer has not so far to us and not so far
18 today provided any reason why we need to cut ourselves
19 short in the amount of time needed to analyze this
20 important case. We think that it's incumbent on the
21 Company to justify a reason for putting additional time
22 pressure on the parties and the Commission, and we
23 haven't heard that yet. So one of the design features
24 of the Staff schedule and one we've supported is that
25 it reasonably uses the amount of time that the statutes

0021

1 allow for this process.

2 The second point I would like to make is that
3 this case was filed prior to the expiration of the
4 previous suspension period, so we are already sort of
5 in a hurry-up situation, and that's another factor for
6 us in supporting a more reasonable schedule here.

7 JUDGE TOREM: The only observation I wanted
8 to make on the Commission's proposed schedule, the
9 parties agreed schedule, was that the briefing date of
10 November 13th was probably a week after what the
11 Commission and I discussed this morning, that first
12 week of November for briefs. There weren't any other
13 real hard and fast guidelines, but it would have been a
14 September and October hearing, and the first week of
15 November briefing was the general concept, and it
16 didn't get any more specific than that. So that's the
17 only guidance I have from the commissioners for you
18 this afternoon.

19 MR. MEYER: Your Honor, I'm happy to make
20 whatever argument you would like to receive now on
21 behalf of a ten-month versus an 11-month schedule.

22 JUDGE TOREM: Why don't we have that on the
23 record now, and after response, I'll let you go off the
24 record and be persuaded by each other or not off the
25 record and come back and see if there is any agreement

0022

1 on portions of the schedule or all of the schedule, and
2 if not, I can tell you a little bit about where the
3 Commission will want to be once I walk these back and
4 tell them where we are.

5 MR. MEYER: I think, Your Honor, as you
6 yourself noted, this is not always the case, but in
7 this cycle of filings, Avista is this calendar year
8 first in the door. Often times when we are having this
9 discussion, we are battling for hearing time, if you
10 will, with other utilities that have already had cases
11 filed and were trying to find available dates, and the
12 argument we usually hear from the other parties, and I
13 understand the argument, is that they've got scheduling
14 conflicts already. They are fully engaged doing audit
15 work or preparing testimony for other proceedings.

16 That's not the case this time around, so I
17 think the path is especially clear for the Commission,
18 if it so chooses, to accelerate by simply a month. In
19 our view, given the cooperative nature of the Company
20 as always displayed in terms of providing discovery and
21 assisting the parties in understanding our case that
22 this case ought to be able to be processed reasonably
23 to conclusion in a ten-month period.

24 As the testimony itself suggests, we continue
25 to battle the effects of regulatory lag, and I don't

0023

1 mean that in a pejorative sense. It's just a fact that
2 it takes a while to process cases, and we think that by
3 at least taking a month off an 11-month schedule is
4 some recognition of the fact that we are working well
5 with our regulators to speed this process up. Thank
6 you.

7 JUDGE TOREM: Was there anything particular
8 about the substance of this case though, and again, I
9 don't know where you started on the last case, but I
10 know with some of the settlements, we end up with
11 shortened deadlines, and as the parties have pointed
12 out, the actual rates taking effect one January were
13 ahead of what the suspension date would have been based
14 on not an all-party settlement but a multiparty
15 settlement and then the Commission having a shortened
16 hearing on simply those remaining contested issues. Is
17 there something special about this case that would
18 distinguish it from the last cases the Company has
19 filed?

20 MR. MEYER: We think it's a fairly
21 straightforward case. I don't think what we are
22 proposing here has features that are so unique or so
23 different from what the parties are accustomed to
24 seeing that they couldn't proceed with retaining
25 experts and getting on with the business of auditing

0024

1 this case.

2 There is one other concern I do have with the
3 Staff's schedule apart from the ten versus 11-month
4 feature. They have only built in essentially
5 three-plus weeks between the filing of their testimony
6 and the Company's rebuttal, and in our schedule, we are
7 closer to four weeks on that, and we need at least that
8 type of interval of closer to four weeks for the filing
9 of our rebuttal for two reasons.

10 First of all, it takes that long to make sure
11 the issues have been fully joined for the Commission,
12 and secondly, there is often times further efforts to
13 settle cases immediately after the filing of a rebuttal
14 case, and I would hate to be in a situation where we
15 think we can get across the finish line with an
16 all-party settlement but we are running out of time
17 because of our need to get to rebuttal testimony.

18 MR. TRAUTMAN: Your Honor, may I respond
19 briefly? Staff agrees with Public Counsel in that
20 first of all, this is on a fairly accelerated basis
21 already and that this filing was made less than a month
22 after the prior new rates have gone into effect. The
23 schedule accounts for the fact that there are several
24 substantial issues in this case. It is not generally
25 different from the schedules we've usually put forth

0025

1 for rate cases.

2 As for the interval for rebuttal and
3 cross-answering testimony, I think that can be
4 addressed. By my count on Avista's schedule, there are
5 28 days in the interval, and in Staff's schedule, there
6 is 25, so that could certainly be addressed.

7 JUDGE TOREM: Mr. Roseman?

8 MR. ROSEMAN: Thank you, Your Honor. All the
9 parties have been speaking to the ease in which these
10 cases progress, and therefore, the parties should be
11 willing to agree to this. My point of view is not from
12 the Company participating but the frequency that these
13 rate increases happen and the impact that they are
14 having on low-income customers, and I don't recall the
15 amount of the last rate case, but it came a month
16 earlier, and now, there is another request, whatever
17 rate case is approved by the Commission, that it also
18 take place a month.

19 I guess from my client's perspective they
20 feel like somewhat like a little bit of a piling on.
21 I'm not saying that the Company is not justified, but I
22 am saying that in a prehearing situation where there
23 really isn't any unusual circumstance to have the
24 Commission at the start take away an item that's
25 normally negotiated and impose it at the beginning of

0026

1 the process, I would argue that that, if possible,
2 should not occur. Thank you.

3 JUDGE TOREM: I certainly understand your
4 sentiments and where your client would be coming from.
5 As I understand it, there is a target date for the
6 order being built in. Certainly, the briefs are five
7 weeks apart on this. The Commission again would not be
8 imposing anything less than the suspension date that
9 parties have in common, and we've agreed to December
10 23rd.

11 So even if an order would come out earlier,
12 it may yet set the effective date where it at the
13 suspension period. I haven't heard anybody ask for
14 moving up the date yet. If I'm missing something, let
15 me know, and I realize that an earlier order allows for
16 the possibility, but it certainly doesn't mean that the
17 order has to come out with an earlier effective date.
18 Mr. Sanger?

19 MR. SANGER: I'm not going to repeat what any
20 of the other parties said. I want to point out in the
21 Staff-proposed schedule there are approximately four
22 weeks between the rebuttal filing and the hearing,
23 which is about a half week more than the Avista filing.
24 That was one thing that was attractive to us in the
25 Staff proposal. Often times we get really crunched

0027

1 when the Company comes in with schedule changes. We
2 also have our own scheduling issues, but I would
3 propose we go off the record and address those issues
4 if we have to and bring them up later on.

5 JUDGE TOREM: Any other party wish to speak
6 before the Company responds to what I've just asked
7 about the suspension date? Mr. ffitch?

8 MR. FFITCH: Just briefly, Your Honor. I
9 wish I were as optimistic as Mr. Meyer about how open
10 the schedule is, but as we look ahead, we see the
11 Pacific general rate case already filed. We are
12 advised that Puget will be filing in April, and we
13 already have a telephone merger adjudication under way.
14 So many of the parties in this room are very busy and
15 will be very busy throughout 2009 with cases. We are
16 not really operating on a clean slate.

17 JUDGE TOREM: Understood. Mr. Meyer?

18 MR. MEYER: Just a few observations. I think
19 there was some discussion here about what happened in
20 the last case and the last effective date of January 1
21 of this year to wrap up the last filing. Just to
22 remind all parties and for the record that the
23 January 1 date was a negotiated date. It was a
24 compromised date for which there were several
25 trade-off's as a part of the settlement process,

0028

1 several concessions. So it's important to keep that
2 particular date in mind because it was bargained for.

3 Secondly, your comment just a few minutes
4 ago, Your Honor, about even though the Commission might
5 issue an order earlier than December 23rd that it's
6 possible the order could provide that the rates
7 wouldn't become effective until December 23rd, I
8 understand that the Commission has discretion to do as
9 it will in that regard, but that would not be the
10 Company position. It would be our hope that we would
11 have an order by just prior to Thanksgiving or by the
12 first part of December with new rates effective at that
13 time as well.

14 JUDGE TOREM: We've noted it would be an
15 indelicate time to raise rates on December 23rd.

16 MR. MEYER: Yes, so we are sensitive to the
17 timing. That's the way it works out in terms of
18 suspension period, and it was our hope that we could
19 have a resolution with new rates wherever they are set
20 by the first part of December.

21 There are a lot of different constituents
22 that are affected by new rates. Certainly the
23 customers first and foremost are affected, and we are
24 very mindful of that. The investment community
25 continues to watch how successful we are in the timely

0029

1 recovery of our costs, and they too are interested in
2 how cases are process, so we answer to a lot of
3 different constituents, and we think under these
4 circumstances, we are first in the door this time
5 around that a ten-month schedule, I think, would be
6 appropriate. Thank you.

7 JUDGE TOREM: Any other comments? Let me
8 encourage you to get together and see where compromises
9 might be made between these two schedules. Take into
10 account the September 14th to 18th spot where we've got
11 one commissioner at least unavailable, and the week of
12 September 28th to October 2nd with a question mark
13 whether all three commissioners will be available.

14 I just want to suggest, Mr. Meyer, that if
15 there is an earlier than 11-month period from filing
16 until suspension date, an effective date, that any
17 building in to allow for that possibility not be
18 considered by the parties as room to back the schedule
19 up, because once we have a hearing date on the
20 commissioners' calendar, they are very busy as well,
21 and those dates will not really allow for the dates to
22 slip later on.

23 So if we agree all together or the Commission
24 has to set a date, that probably will be the hearing
25 date. The other days for filing we might be able to

0030

1 move around, but the hearing dates are going to be hard
2 to move as we get into the last couple of months of the
3 year. Anything else before we take a brief recess?
4 It's about a quarter after two. How long do the
5 parties want for discussion?

6 MR. MEYER: I think 15, 20 minutes.

7 JUDGE TOREM: I'll come back in 20 minutes.

8 (Recess.)

9 JUDGE TOREM: We did come back as appointed
10 50 minutes ago spending some time parsing the schedule
11 further. So first let me state that the interested
12 person's list has now been fleshed out as well. There
13 may be some e-mail to me from the parties to confirm
14 the correct e-mail addresses.

15 We also noted that I didn't bring up
16 discovery whatsoever, so we are going to invoke the
17 discovery rules, and going along with that was the
18 shortened notice for filings. As I understand it, the
19 parties want to agree that the standard response time
20 for discovery requests will be in effect until August
21 17th, which is going to be the first filing date for
22 response testimony. On and thereafter, discovery
23 requests will be responded to within seven days, and
24 that will stay at seven days reduced response time
25 until Friday, September 11th, when rebuttal testimony

0031

1 will come in, and that will reduce it again until the
2 hearing to a five-business-day response time.

3 The hearing schedule itself, again, I want to
4 on the record commend the parties for moving closer to
5 together then where we left off at 2:20, but there
6 wasn't an agreed schedule. Most of what I'm adopting
7 here as the schedule for the case is what was conceded
8 to and proposed by Staff, Public Counsel and all of the
9 intervenors joining with it, so it's going to go as
10 follows:

11 Working backwards, the suspension date is
12 December 23rd. Briefs are going to be due November the
13 6th. The hearing itself will be Tuesday, October 6th
14 through Friday October the 9th. If we need a
15 prehearing conference to mark exhibits or otherwise go
16 over any prehearing issues, we are going to do that
17 late in September. We will set a date if that is
18 necessary later on. Parties will be having a
19 settlement conference somewhere in the window of
20 August 24th to 28th. Rebuttal testimony will have come
21 in on September the 11th. September 11th will be after
22 the second settlement conference.

23 MR. TRAUTMAN: And cross-answering on the
24 same day as rebuttal.

25 JUDGE TOREM: Correct. Rebuttal and

0032

1 cross-answering will all come in on September 11th. So
2 several weeks before that, there will be a second
3 settlement conference, and that will be August 24th to
4 28th.

5 The next date working backwards is August the
6 17th, which is a Monday. That's when Staff, Public
7 Counsel, and all intervenor responsive testimony and
8 exhibits will be filed, and the first chance for
9 settlement conference will occur the week of July 20th
10 to 24th, somewhere in there, and the parties can let me
11 know what the dates are.

12 Public Counsel had requested that we docket a
13 date for them to issue a report on the status of
14 negotiating an agreeable public notice on the proposed
15 rate increase. If I have it correctly, this is what
16 becomes the bill insert, and that will be a month from
17 today, March 24th, 2009. We are hoping we can get it
18 on everybody's radar screen to have that done earlier
19 than later, but if that has to slip, let me know and we
20 will schedule that to a date that will work.

21 The other thing we talked about were requests
22 from Public Counsel to have two separate public comment
23 hearings, one in Spokane, one in Colville, and it might
24 be better if we schedule them closer together rather
25 than far apart. What I mean by that is let's not have

0033

1 them in August. It tends to be a busy month and
2 perhaps a hard month to attend because of vacation
3 schedules, but July and September are the requested
4 months. If we have to hold one, so be it, but if we
5 can have one in July, we'll try that. Public Counsel
6 is requesting that they start no earlier than 6:30
7 p.m., and the nights we choose be Tuesday, Wednesday,
8 or Thursday, certainly not a Friday, to encourage
9 attendance.

10 Those are the dates I have. We are going to
11 see if we can avoid dates between very early July, or
12 July 10th through 17th if we can so Mr. Meyer and also
13 Mr. Trautman can be there if they so choose, and we
14 will see what the commissioners' schedule look like for
15 July and September.

16 Were there any other items we needed to get
17 on the record this afternoon? Seeing none, I thank the
18 parties again for working hard to get a schedule to me
19 as agreeably as possible. If there are going to be any
20 indications as to what the settlement conference dates
21 will be just so we have them for the record, then We
22 know when to expect large gatherings of folks related
23 to the case in the building so we can avoid any ex
24 parte contacts, that sort of thing, send us a short
25 letter and we will go from there, and I'll look for

0034

1 some confirming e-mails as to e-mail addresses or phone
2 numbers that I might need to include in the appendices
3 to the order. I'm hoping to have the prehearing
4 conference order completed by tomorrow afternoon. It
5 will go out by the end of the week for sure. Seeing
6 nothing else, we are adjourned at 3:30.

7 (Prehearing conference adjourned at 3:30 p.m.)

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