

1                   BEFORE THE WASHINGTON UTILITIES AND  
2                   TRANSPORTATION COMMISSION

3	WASHINGTON UTILITIES AND	)Docket No. UE-011595
	TRANSPORTATION COMMISSION,	)Volume V
4	Complainant,	)Pages 253-281
		)
5	v.	)
	AVISTA CORPORATION d/b/a AVISTA	)
6	UTILITIES CUSTOMERS,	)
	Respondent.	)
7	_____	)

8

9                   A prehearing conference in the

10 above matter was held on May 23, 2003, at 9:30 a.m.,

11 at 1300 Evergreen Park Drive Southwest, Olympia,

12 Washington, before Administrative Law Judge THEODORA

13 MACE.

14                   The parties were present as

15 follows:

16                   AVISTA CORPORATION, by David

17 Meyer, General Counsel, E. 1411 Mission, Spokane,

18 Washington, 99202.

19                   INDUSTRIAL CUSTOMERS OF NORTHWEST

20 UTILITIES, by S. Bradley Van Cleve, Attorney at Law,

21 Davison Van Cleve, 1000 S.W. Broadway, Suite 2460,

22 Portland, Oregon, 97205.

23                   THE COMMISSION, by Donald T.

24 Trotter, Assistant Attorney General, 1400 Evergreen

25 Park Drive, S.W., P.O. Box 40128, Olympia, Washington

98504-0128.

Barbara L. Nelson, CCR  
Court Reporter

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1 PUBLIC COUNSEL, by Simon ffitch  
2 (for Robert Cromwell, Jr.), Assistant Attorney  
3 General, 900 Fourth Avenue, Suite 2000, Seattle,  
4 Washington, 98164.

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1                   JUDGE MACE:  Let's be on the record in the  
2   matter of Washington Utilities and Transportation  
3   Commission against Avista Corporation, d/b/a Avista  
4   Utilities Customers.  This is Docket Number  
5   UE-011595.  Today we are going to be holding a  
6   prehearing conference to address procedures regarding  
7   a prudence review of Avista's power cost deferral.

8                   The date today is May 23rd, 2003, and we  
9   are convened at the offices of the Commission in  
10  Olympia, Washington.  My name is Theo Mace, I'm the  
11  Judge who's been assigned to preside today at the  
12  prehearing conference.  I'd like to have the oral  
13  appearances of Counsel, and I'd like to begin with  
14  Staff and move around to my left.

15                  MR. TROTTER:  My name is Donald T. Trotter,  
16  I'm an Assistant Attorney General, appearing for the  
17  Commission in this case.

18                  MR. FFITCH:  Simon ffitch, Assistant  
19  Attorney General, Public Counsel.

20                  MR. MEYER:  David Meyer, General Counsel  
21  for Avista, representing Avista.

22                  MR. VAN CLEVE:  Brad Van Cleve,  
23  representing the Industrial Customers of Northwest  
24  Utilities.

25                  JUDGE MACE:  Thank you.  What I propose

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1 today is to use the list that was contained in the  
2 motion for prehearing as a framework for discussion  
3 of the issues. And I have a few other items on the  
4 agenda, but I think if we discuss these four items  
5 that are at page six of the motion for the prehearing  
6 conference, we should probably cover most of those  
7 items.

8 Does anybody have anything they want to  
9 suggest, other than use of this list, as a way of  
10 going forward today?

11 MR. MEYER: Well, Your Honor, I might  
12 suggest that we have not had a chance to visit or at  
13 least I've not visited with any other parties in the  
14 last week or so about this or about scheduling  
15 additional discussion around the issues. I would  
16 suggest that, perhaps early on, we just simply go off  
17 the record and see if we can't have some further  
18 dialogue about the process and we can bring something  
19 back to you more concrete, maybe something agreed  
20 upon.

21 JUDGE MACE: Well, I don't have a problem  
22 with that. Mr. Trotter.

23 MR. TROTTER: Well, we have had discussions  
24 with the Company over the last couple weeks about  
25 process and other matters. I think what has given

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1 rise to this hearing today is, and let me preface all  
2 of this by saying, although this is a joint motion,  
3 I'm right now speaking on behalf of Commission Staff,  
4 and I'll let Mr. ffitch and Mr. Van Cleve tell us  
5 what they think about what I'm about to say.

6 But the purpose of this hearing today was  
7 to set forth the procedures that or have the  
8 Commission decide what the procedures are going to be  
9 for this review. And it's the position of the  
10 Commission Staff that we need the Company to commit  
11 to a timely filing of a direct case, and we had a  
12 meeting -- I did not attend, but there was a meeting  
13 in early February to discuss issues. There have been  
14 correspondence on issues prior to that, and the Staff  
15 clearly understood that the Company would be making  
16 more of a filing than they made.

17 And so we've spent some time doing some of  
18 the preliminary discovery, but we have \$18 million at  
19 stake here and we're looking at what the Commission  
20 has done in other dockets, most recently UE-020417,  
21 which is the Pacific Power and Light docket, in which  
22 the Company filed for an accounting petition and  
23 eventually the Commission ordered them to file direct  
24 testimony and exhibits in support of the proposal.

25 We do see some significant issues. We can

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1 discuss those, either on or off the record, but for  
2 us, we need to establish the procedure, and we think  
3 that we need a decision as to, if the Company is  
4 willing to commit on the record that they will file a  
5 direct case with testimony, exhibits and work papers  
6 supporting their filing, then that would take a big  
7 step forward if there's consensus on that point and  
8 the Commission agrees.

9           But I think that's the threshold issues, is  
10 what type of filing is needed for us to move forward.  
11 And it's our position that we need a direct case in  
12 order to move forward, similar to the PacifiCorp  
13 docket.

14           JUDGE MACE: Let me go around, and then  
15 I'll come back to you. Mr. ffitch.

16           MR. FFITCH: Well, as signatories to the  
17 joint motion, I first of all would concur in what Mr.  
18 Trotter has said, and secondly, I think just perhaps  
19 emphasize that if the Company is prepared today to  
20 indicate that they are going to come forward with a  
21 direct case, that there's probably some value going  
22 off the record and then, you know, talking about how  
23 to structure the case.

24           But there is that threshold question of  
25 whether they're coming forward with a direct case and

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1 exhibits in support of the deferral. If not, we need  
2 to I think address that issue. I don't know how  
3 productive it is to go off the record, you know, if  
4 we don't have that established.

5 JUDGE MACE: Okay. Mr. Van Cleve.

6 MR. VAN CLEVE: I don't have any further --  
7 anything else to add to that. I haven't had any  
8 direct communications with the Company about this, so  
9 if they're willing to discuss a schedule and a  
10 process along the lines of what Mr. Trotter  
11 suggested, I'd certainly be willing to talk about it.

12 JUDGE MACE: The ball is back in your  
13 court.

14 MR. MEYER: Sure. My opening remark was  
15 really meant in a very constructive manner to see if  
16 we can't reach some meeting of the minds in terms of  
17 what process we would follow. And we could spend  
18 some time now arguing that very issue or we can have  
19 the benefit of an off-the-record discussion, but,  
20 again, I want to emphasize that what we want to do is  
21 provide the necessary information to complete the  
22 review process, and we have some thoughts on how we  
23 might most efficiently do that.

24 JUDGE MACE: Do those thoughts involve a  
25 filing along the lines that other counsel have

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1 mentioned today?

2 MR. MEYER: Well, I think -- here's what we  
3 have in mind. We don't have a problem, at some point  
4 in the process, having a set of prefiled documents,  
5 but we should narrow the issues through a further  
6 technical conference -- we're happy to schedule that  
7 at everyone's earliest convenience -- so we can  
8 narrow the issues, if not resolve the issues. But in  
9 the very least, even if we've narrowed the issues, we  
10 will then know how to tee up for Commission decision  
11 the specific issues that remain.

12 So rather than just leave here today  
13 without further off-the-record discussion and perhaps  
14 agreement around a technical conference that would  
15 define those issues and simply leave here with a  
16 prefiling date with us having to anticipate the  
17 issues that we would prefile on, it's better to know  
18 that in advance so we target in on what's at issue.  
19 And I think a technical conference to be set, to be  
20 scheduled, would serve that purpose well.

21 If there are issues that remain, obviously  
22 they're going to have to be teed up in some fashion  
23 before the Commission.

24 So in theory, we're -- we have no problem  
25 providing that information and getting it heard and



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1 decided by the Commission. I just would like to  
2 explore, we can do it on the record or off the  
3 record, a more efficient way of going about our  
4 business.

5 JUDGE MACE: Back to you, Mr. Trotter.

6 MR. TROTTER: Well, we have given some  
7 thought to that general concept. We don't object to  
8 a technical conference at a meaningful time in this  
9 proceeding; we just don't think this is the time.

10 The Company has the burden of proof in this  
11 case. They need to prove prudence of their  
12 transactions. We've done the preliminary work. We  
13 have some issues, not all, but we've done that in the  
14 wrong way. We haven't had the Company's direct case,  
15 we've had to develop the issues on our own, and  
16 that's not the right way to do it.

17 So a technical conference will only serve  
18 -- will limit the issues only -- or at least in large  
19 part because we don't know what the issues are. And  
20 so what we're struggling with is the absence of a  
21 direct case.

22 There has been some informal discussion, we  
23 have identified issues, we haven't had them  
24 addressed. The Company had an opportunity to address  
25 them in their initial filing. We thought that's what

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1 we were going to get. So the informal process has  
2 not been fully productive to date.

3 So what we think at this point is that the  
4 technical conference is a concept that has merit,  
5 we're willing to do it, we just don't think now is  
6 the time to do it. We can do it after we get the  
7 direct case, after we've had a chance to analyze it,  
8 and then it will be productive. Right now, we don't  
9 think it would be.

10 JUDGE MACE: Mr. ffitch.

11 MR. FFITCH: I don't have anything to add  
12 to that. I would agree.

13 JUDGE MACE: Mr. Van Cleve.

14 MR. VAN CLEVE: I just want to add that I  
15 think that the filing of testimony is important to  
16 create an evidentiary record in this case that, at  
17 least at this point, we think there are going to be  
18 some disputed issues, and that will create a basis  
19 for the Commission to make a decision if those aren't  
20 resolved.

21 And I think even in the answer that the  
22 Company filed to the motion for prehearing  
23 conference, there's factual assertions made in there  
24 that aren't supported by any testimony anywhere, and  
25 that just having a set of what were referred to as

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1 prefilled documents probably doesn't put this case in  
2 the right posture for the Commission to be able to  
3 decide it.

4 MR. MEYER: May I just add a little more  
5 context?

6 JUDGE MACE: Certainly.

7 MR. MEYER: Again, I want to reiterate that  
8 the Company, in the final analysis, has no problem  
9 with sharing the necessary information with the  
10 parties and with the Commission to efficiently  
11 address its annual filing.

12 I just want to note, however, that the  
13 settlement that we all entered into contemplated an  
14 annual review, 90-day annual review. It did not  
15 contemplate as part of that settlement a prefiling of  
16 a direct case. It didn't preclude it, but it didn't  
17 specify that this 90-day process would run its course  
18 as any other contested case.

19 The precedent or the experience that we  
20 have had, maybe that's a better way of putting it, in  
21 our Idaho jurisdiction, is to file the monthly  
22 reports, file annual reports, in much the same manner  
23 as we've done here. We have experience filing the  
24 PGA context in both jurisdictions, in which we  
25 provide periodic reporting.

1           I should note that every month, since June  
2 of last year, we have filed each month voluminous  
3 surcharge or deferral reports, one for every month.  
4 Then we filed our annual review filing, which had a  
5 cover letter and attached documents, as well.

6           Throughout the process, even several months  
7 ago, as we filed these monthly reports, we were  
8 getting periodic inquiries from Staff. So it's clear  
9 that they were paying some attention to these  
10 matters. So we have been sharing, as contemplated by  
11 the settlement agreement, monthly information to be  
12 followed, as we did, with our annual filing. That  
13 annual filing was prepared, as were the monthly  
14 filings, in matters similar to what we do in Idaho  
15 and what was done in the PGA context.

16           So that is the history, if you will, that  
17 is the context for what we did. We also -- we took  
18 the initiative and we scheduled, in advance of this  
19 annual filing, an informal meeting over here, which  
20 was well attended, I think by everyone at this table,  
21 to discuss the issues. That was not required of us,  
22 but we did it nonetheless in order to be helpful.

23           I don't think -- I know there wasn't  
24 closure around issues. There were questions in  
25 various areas, but the issues weren't sufficiently

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1 teed up at that point. I am suggesting that we can  
2 make more headway and use this Commission's time and  
3 the parties' time more efficiently if we have the  
4 benefit of another technical conference, see if we  
5 can resolve issues, see if we can fine tune other  
6 issues, and then we can move swiftly through any  
7 hearing process that might fall out of that.

8 MR. TROTTER: Just a brief rejoinder, Your  
9 Honor. First of all, paragraph four on page six of  
10 the settlement stipulation in this docket says, The  
11 Company agrees to make an annual filing. It doesn't  
12 say what kind of filing that is, so certainly one  
13 could argue that a normal filing, including testimony  
14 and exhibits, was implicitly required; one could  
15 argue that it wasn't.

16 Based on the meeting that we had in early  
17 February, it was the Staff's clear and explicit  
18 direction to the Company that they needed to file a  
19 direct case, testimony, exhibits and work papers.  
20 We've been in contact with the Company on issues  
21 since last October identifying questions regarding  
22 the reports that Mr. Meyer referred to. None of  
23 those issues were addressed in the filing the Company  
24 unilaterally elected to make on April 1st of this  
25 year.

1           So to our mind, the ball has always been in  
2 the Company's court in terms of making a meaningful  
3 annual filing, responding directly to the issues that  
4 have been brought to their attention, and supporting  
5 it with testimony, exhibits and work papers. For  
6 reasons of their own, they chose not to do that, but  
7 rather filed the summary documents that they filed on  
8 April 1st. So here we are, a month into it. We  
9 decided we needed to make this motion and so we've  
10 done that.

11           So that is what we're -- that is why we are  
12 asking for the Company to distribute their direct  
13 case. We tried the informal process, we identified  
14 our issues when we had them. We will continue to do  
15 that, but that hasn't -- so we've asked for a direct  
16 case, and so far one has not been provided. So we're  
17 at a point where we need it. We think the efficiency  
18 of the process will be enhanced by having that done.  
19 It's what was done in PacifiCorp case and other major  
20 prudence cases in the past.

21           We're talking about \$18 million here. We  
22 have a difference of opinion as to whether these are  
23 standard or nonstandard transactions. We think  
24 they're nonstandard and we need a lot of information  
25 about them. So we're willing to move forward, but we

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1 need a more certain process of the sort we've  
2 requested in the motion.

3 JUDGE MACE: Mr. Trotter, you've alluded to  
4 certain issues that you feel have already been  
5 defined between and amongst the parties. Can you  
6 give us some idea what those issues are at this  
7 point?

8 MR. TROTTER: Yeah, I can give you the  
9 major ones. First is the prudence of an Avista  
10 decision to buy out an Enron contract, and then also  
11 the period of cost recovery of that buyout, whether  
12 it should be a one-time charge or whether it should  
13 be amortized over the life of the contract. Another  
14 issue is prudence of Avista's gas contract sales.  
15 There were some market-priced contracts that were  
16 fixed and fixed contracts that were moved to market.  
17 Those need to be defended.

18 There's a major issue regarding the Coyote  
19 Springs II project. As you may recall, that project  
20 was supposed to go online spring of 2002, then the  
21 summer of 2002, then the fall of 2002. It's not in  
22 service yet. The Company needs to demonstrate the  
23 prudence of that project still not being in service  
24 and we need to understand the cost implications of  
25 not having that project in service.

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1           There's been other unusual, we believe,  
2 outages, one involving the Colstrip project. There  
3 may be others. The Company needs to defend the  
4 prudence of those activities and their impact on  
5 Avista's power cost. We've tried and are not yet  
6 successful in getting a full reconciliation between  
7 Avista's monthly reports and the annual report that  
8 it filed on April 1st, including the out-of-market  
9 gas sales calculations.

10           And then ultimately, there's an overarching  
11 issue regarding the applicability of the ERM to  
12 transactions -- what types of transactions are  
13 permitted. There's some language in the order about  
14 extraordinary versus -- just a moment. Ordinary --  
15 just a sec. Ordinary variations in power costs  
16 versus extraordinary costs, how to categorize those  
17 and how to deal with them. I refer the Commission to  
18 paragraph 38 of its Fifth Supplemental Order in this  
19 docket. Those are the major issues that we have  
20 identified.

21           JUDGE MACE: Thank you.

22           MR. TROTTER: And we don't portend to state  
23 the issues for other parties.

24           JUDGE MACE: Mr. ffitch.

25           MR. FFITCH: Public Counsel also has done



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1 some preliminary analysis. I don't think we're as  
2 far along as Staff. We would agree with the list of  
3 issues that Staff has. We have -- and we, I would  
4 say that we particularly focused on the problems of  
5 the prudence of the gas sales and on the question of  
6 Coyote Springs II, which is in rates, but not  
7 operating, as we understand it. I think those are a  
8 couple of big problems, in addition to the Enron  
9 contract.

10 I guess I'll just, you know, add a concern  
11 that we have about this generally. I think in terms  
12 of the impact on ratepayers, Mr. Trotter's referred  
13 to the \$18 million. This is not just an interesting  
14 theoretical exercise on what should be properly  
15 reflected in this account, but we're talking about an  
16 additional \$18 million of impact on a group of  
17 ratepayers that has just been hit very, very hard in  
18 the last couple of years with general rate increases  
19 and is now experiencing a flow-through of some more  
20 gas cost volatility in the PGAs.

21 So you know, we think it's doubly important  
22 to take a good, hard look at this ERM mechanism.  
23 This is the first time through -- the first time that  
24 this mechanism has had scrutiny, and we think that's  
25 another reason to make sure that we have a good

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1 direct prefiled case from the Company and that we  
2 have a good set of procedures and a record for the  
3 Commission to make a decision on.

4           So that's kind of a procedural issue, if  
5 you will, but also -- and a ratepayer impact issue  
6 that we see there.

7           JUDGE MACE: Thank you. Mr. Van Cleve,  
8 anything else?

9           MR. VAN CLEVE: I think that the list of  
10 issues that Mr. Trotter identified are the same ones  
11 that we identified. And just to reinforce the last  
12 point that Mr. ffitich made, this is the first filing  
13 of this type in what is likely to be an annual filing  
14 for the next five or more years, and while \$18  
15 million is a significant amount of money, it could be  
16 greater in later years, so we think that it is  
17 important to establish a precedent for the kind of  
18 process that's going to apply in the future.

19           JUDGE MACE: One thing I'm wondering if it  
20 would be beneficial for us to talk about is, in  
21 addition to these issues that you've raised, and I  
22 assume there are others or may be others, whether or  
23 not there's a specific type of information that you  
24 would wish to see before making a determination.  
25 Strike that.

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1           What I'm getting at is are there types of  
2 documents that you would want the Company to file, if  
3 it were required to file a case, in regard to certain  
4 information that you would want to see?

5           MR. TROTTER: Right. Well, first of all,  
6 this Company is very familiar with prudence reviews.  
7 They've been subject to them -- many in the past.  
8 And we don't purport to want to dictate to the  
9 Company the parameters of the prudence showing.

10           The problem that we find ourselves in is  
11 without their direct case, the way they see it,  
12 things they took into account and how they want to  
13 demonstrate prudence, absent that, we're operating in  
14 a vacuum. We have done some data requests and we  
15 continue to do so, or we would be happy to, at the  
16 hiatus, to permit them to get a case.

17           But we've put the cart before the horse  
18 here, making us do discovery on numbers without an  
19 appropriate starting point. I think the Commission  
20 addressed this to a large degree in the PacifiCorp  
21 docket I cited by simply requiring the Company to put  
22 their case forward and let the parties deal with  
23 that.

24           So we're not in a position to tell the  
25 Company what they need to prove and how they need to

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1 prove it. That's their job. That's always been  
2 their job. And under the statute, it's their  
3 statutory job. But we are willing to meet them  
4 halfway in terms of identifying the issues and -- but  
5 they need to look at what they did and prove to us  
6 why it's prudent, and then we'll -- that should be  
7 the starting point.

8 MR. MEYER: May I?

9 JUDGE MACE: Certainly.

10 MR. MEYER: I just have to comment on Mr.  
11 Trotter's observation that we're in a bit of a vacuum  
12 here and we don't have an appropriate starting point.  
13 I think that's greatly overstating it. We have  
14 provided, as I mentioned at the outset, monthly  
15 reports that were reviewed, and there were questions  
16 put to us along the way. We had that informal  
17 sit-down that we initiated. We made the annual  
18 deferral filing. In fact, just within the last few  
19 weeks, we even offered dates for a further technical  
20 conference for the purposes of explaining, as a  
21 follow-on to the first informal conference, and in  
22 lieu of just jump-starting a hearing process and  
23 slowing things down, the more efficient approach,  
24 which was let's have a further technical conference,  
25 let's build upon the last session, let's define the

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1 issues.

2           Look, if we disagree, we disagree, and  
3 we'll go to hearing and we'll be happy to make our  
4 case then. But let's not assert that there has been  
5 a vacuum of information or that there is nothing to  
6 work with here. And I'm sorry, but that tends to be  
7 the tone of what I'm hearing, and we disagree with  
8 that.

9           JUDGE MACE: Does anyone have anything else  
10 to add to this discussion at this point, the question  
11 about whether or not to go ahead with the technical  
12 conference approach or to require a filing? Anyone?  
13 If not, I'm going to take a ten-minute recess at this  
14 point and think about this for a minute. I think --  
15 I guess the question in my mind is whether we should  
16 go forward to try to come up with perhaps alternative  
17 schedules with regard to either one of those  
18 approaches, but I'd like to think about that for just  
19 ten minutes.

20           MR. MEYER: Thank you.

21           (Recess taken.)

22           JUDGE MACE: Let's be back on the record.  
23 I think I have a couple more questions to pose to the  
24 parties before we go any further. Mr. Trotter, you  
25 have indicated that you've met with the Company and

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1    apparently -- or maybe the other parties have met  
2    with the Company or discussed with the Company the  
3    matter of the deferrals, and it appears you've come  
4    to a significant list of issues.  You have been  
5    provided information by the Company other than the  
6    monthly and annual filings; is that right?

7           MR. TROTTER:  Yes, we received the monthly  
8    reports, the annual filing, we've done some data  
9    requests, and there was a technical conference in  
10   February.

11           JUDGE MACE:  I see.

12           MR. TROTTER:  And that's why we're opposing  
13   it now.  We've already had it and we don't see a lot  
14   of benefit to having another one at this point for  
15   all the reasons we've stated.

16           JUDGE MACE:  Has Staff conducted any kind  
17   of audit of monthly or annual documents, or is that  
18   part of what Staff proposes to do here?

19           MR. TROTTER:  The monthly reports were  
20   under review.  Just a moment.  I'm not positive --  
21   I'm not sure that any on-site audit has occurred for  
22   the monthlies.

23           JUDGE MACE:  Is that contemplated by Staff  
24   as part of this process or no?

25           MR. TROTTER:  I think not.  I think on the

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1 monthly reports, I think they're kind of heads up and  
2 we spotted items that we could spot. But this review  
3 process now is where the work, major work would be  
4 done. So to my knowledge, there has not been a site  
5 visit to Avista to audit anything, and that's partly  
6 because we don't -- it's not efficient unless you  
7 have the whole presentation so you know the scope of  
8 their case.

9 JUDGE MACE: And with regard to the issues  
10 that you stated for us today, you've received  
11 information from the company about those issues in  
12 the form of discovery responses?

13 MR. TROTTER: Well, we've had some  
14 information on it. It's mainly numbers, copies of  
15 contracts and so on. What we're missing is, of  
16 course, the demonstration of prudence that the  
17 Company has the burden to provide.

18 JUDGE MACE: Does any other party wish to  
19 address this question of the information the Company  
20 has provided?

21 MR. FFITCH: I guess we would agree  
22 strongly that it's not adequate at this point. Simon  
23 ffitich, for Public Counsel. I mean, once again, the  
24 Company has the burden of proof here. There were  
25 preliminary discussions. There was clear -- I guess

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1 not direction, but, you know, clear communication of  
2 the concerns of Staff, Public Counsel and ICNU, I  
3 believe, about what we expected -- what we thought  
4 would be appropriate for this 90-day process.

5           We're now into the 90 days, we don't have  
6 that information, and we're not starting on a clean  
7 slate. You know, this sort of go look through the  
8 haystack and see if you can find a needle and then  
9 ask us about it approach to this I just think is  
10 really counterproductive for a number of reasons.  
11 It's not even efficient for the company, really,  
12 ultimately, I don't think.

13           I think the 90-day process at this point is  
14 not really workable even under the Company's proposal  
15 here. That sort of puts us back at sort of a generic  
16 audit review, exploratory kind of level. That's, you  
17 know, that's rolling the clock back to some sort of  
18 point that you would be in very far in advance of  
19 actually getting into joining the issues and  
20 constructing a proceeding to create a record. I  
21 don't think we need to go all the way back to that  
22 point. We need to go forward and create some  
23 structure and get on with this.

24           JUDGE MACE: Anything else on this issue?

25           MR. MEYER: Nothing else from the Company.



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1                   JUDGE MACE:  What I'd like to do at this  
2 point is ask the Company, if the Commission decides  
3 that you should make a filing, when you might be able  
4 to make such a filing?  What would be a reasonable  
5 time frame for that?

6                   MR. MEYER:  Yes, Your Honor, we were  
7 discussing that during the break.  We could make an  
8 initial filing perhaps as early as June 23rd.

9                   JUDGE MACE:  Okay.  And do Staff and the  
10 other parties have some idea of how long it would  
11 take for them to review that filing and perhaps make  
12 a responsive filing?

13                   MR. TROTTER:  Well, Your Honor, one  
14 approach -- I don't have a direct answer to that  
15 question, but the approach that I would propose is  
16 that, one week after June 23rd, we have another  
17 prehearing conference, we have a chance to look at  
18 the filing, and we set a schedule at that time.  And  
19 at that time, we would be prepared to commit to a  
20 schedule justified by the filing made.

21                   MR. FFITCH:  I think that's a good  
22 suggestion, Your Honor.  I just would add that, in  
23 looking at scheduling for this matter, I think we  
24 also need to -- at least we would request from Public  
25 Counsel's perspective, that we also be cognizant of

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1 the schedule in the Avista benchmark -- gas benchmark  
2 mechanism case, which is running from April through  
3 October, with hearing testimony due in July and  
4 hearings in September, just to -- there may be some  
5 overlap for a number of the parties with consultants  
6 they're using, perhaps with the Company, with some of  
7 the people they have involved and for some of the  
8 attorneys, and I just think we ought to be aware of  
9 that case. That's also looking at some Avista gas  
10 issues, so just an observation.

11 JUDGE MACE: Mr. Van Cleve, do you have  
12 anything?

13 MR. VAN CLEVE: That approach would be  
14 acceptable to us.

15 MR. TROTTER: Let me just --

16 JUDGE MACE: I just wanted to say, I have a  
17 little discomfort with leaving here today with that  
18 kind of open-endedness. I recognize you would  
19 probably want to review the filing if a filing were  
20 required before going ahead with the schedule, but it  
21 would be helpful for me if I could get even some sort  
22 of a ballpark idea of when you would be able to  
23 respond.

24 MR. FFITCH: Well, I don't want to speak  
25 for Staff, but from Public Counsel's perspective, if

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1 it would help the Bench, we might be able to discuss  
2 off the record whether there would be some sort of a  
3 schedule that you could have in reserve or a  
4 tentative schedule running from the 23rd, and then if  
5 we had that prehearing conference Friday afterwards,  
6 we could then decide if we have that schedule, but we  
7 could take a look at whether that, in fact, would be  
8 workable, if we needed to modify it.

9 Mr. Trotter isn't hearing this, but that  
10 would be perhaps something we could offer to do at a  
11 break, try to come up with a tentative schedule.

12 JUDGE MACE: Would it be beneficial for us  
13 to take a little bit of time off the record to  
14 discuss that? I'm directing that question to you.

15 MR. TROTTER: I assume it would. We're not  
16 interested in a protracted schedule here at all, if  
17 that's the concern, but yes, I think we could benefit  
18 with some off-the-record discussion.

19 JUDGE MACE: What if we take another ten  
20 minutes, if that would be sufficient, and then come  
21 back and see what you come up with.

22 MR. TROTTER: Okay.

23 JUDGE MACE: Thank you.

24 (Recess taken.)

25 JUDGE MACE: Let's be back on the record.

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1 We've spent a fair amount of time off the record  
2 discussing a possible schedule if the Commission does  
3 order that the Company make a direct filing in this  
4 proceeding. And the schedule that is proposed is to  
5 have a direct filing by Avista on June 23rd. There  
6 would be a status report from the parties by June  
7 30th as to the feasibility of continuing the schedule  
8 as I'm going to relate it to the record next, and  
9 then August 25th would -- at least right now, August  
10 25th is scheduled for Staff and Intervenor filing,  
11 and September 17th would be a rebuttal filing by the  
12 Company, with a hearing tentatively scheduled now for  
13 October 15th through 17th.

14           And these dates would be confirmed in a  
15 prehearing conference order that would address the  
16 issue that has been raised, whether or not the  
17 Company would be required to make a direct filing or  
18 whether there would be an additional technical  
19 conference or what the procedure will be for this  
20 prudence review. Is there anything else that we need  
21 to address at this time?

22           MR. FFITCH: Your Honor, I guess, you know,  
23 one thing that occurs to me about this schedule is  
24 that we do have time between the Company filing and  
25 our filing, there is time there for the parties to

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1 talk also and narrow issues, if possible, and have  
2 discovery. That's one of the advantages of this  
3 schedule, from my perspective.

4 JUDGE MACE: Very well. Certainly I would  
5 encourage the parties to engage in any discussions  
6 that they think might lead to resolution of the  
7 issues. And if the parties feel they need some  
8 assistance from the Administrative Law Division to  
9 resolve issues, I believe a judge could be made  
10 available. We'd have to examine the request, but  
11 certainly I think the Commission is interested in  
12 resolution of the issues, rather than a contested  
13 proceeding, if that can be avoided.

14 Is there anything else? If not, then we're  
15 adjourned. Thank you very much.

16 (Proceedings adjourned at 10:38 a.m.)

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