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16 THE ENERGY PROJECT, by RONALD L. ROSEMAN,
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1 P R O C E E D I N G S

2 JUDGE CLARK: Good morning. It's
3 approximately 10:05 a.m, March 28th, 2008, in the
4 Commission's hearing room in Olympia, Washington. This
5 is the time and the place set for a prehearing
6 conference in Washington Utilities and Transportation
7 Commission, Complainant, versus Avista Corporation,
8 doing business as Avista Utilities, Respondent, given
9 docket numbers UE-080416 and UG-080417, Patricia Clark,
10 administrative law judge for the Commission presiding.

11 This matter came before the Commission on
12 March 4th when Avista Utilities filed tariff revisions
13 that would impact both its electric and natural gas
14 service in Washington. Avista requested expedited
15 treatment of the proposed tariff revisions, and on
16 March 6th, the Commission entered an order granting
17 that request and suspending this matter for hearing.
18 Notice of this prehearing conference was entered on
19 March 11th, 2008, setting a prehearing conference for
20 this date and time.

21 At this juncture, I will take appearances on
22 behalf of the parties. As this is the first
23 appearance, I need your name, address, telephone
24 number, fax number, and e-mail address. We will start
25 with you, please, Mr. Meyer.

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1 MR. MEYER: Appearing on behalf of Avista,
2 David Meyer. The address is Avista Corporation, East
3 1411 Mission Avenue, Spokane, 99220. The fax number is
4 area code (509) 495-8851, and e-mail is
5 david.meyer@avistacorp.com, and I think that takes care
6 of -- well, phone number, (509) 495-4316.

7 JUDGE CLARK: Thank you, Mr. Meyer.
8 Appearing on behalf of Commission staff?

9 MR. TRAUTMAN: Thank you, Your Honor.
10 Gregory J. Trautman, assistant attorney general for
11 Commission staff. My address is 1400 South Evergreen
12 Park Drive Southwest, Post Office Box 40128, Olympia,
13 Washington, 98504. My telephone number is area code
14 (360) 664-1187. My fax number is area code (360)
15 586-5522. My e-mail address is gtrautma@wutc.wa.gov.

16 Also appearing on behalf of Commission staff
17 is Michael Fassio, F-a-s-s-i-o, also an assistant
18 attorney general. He has the same address and fax
19 number as I have. His telephone number is area code
20 (360) 664-1192, and his e-mail address is
21 mfassio@wutc.wa.gov.

22 JUDGE CLARK: Thank you, Mr. Trautman,
23 Mr. Fassio. On behalf of Public Counsel?

24 MR. FFITCH: Good morning, Your Honor. Simon
25 ffitich, assistant attorney general, Public Counsel

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1 section, Washington Attorney General's office, 800
2 Fifth Avenue, Suite 2000, Seattle, Washington,
3 98104-3188. Phone number is (206) 389-2055; fax
4 number, (206) 464-6451; e-mail, simonf@atg.wa.gov.

5 JUDGE CLARK: Thank you. I have two written
6 petitions to intervene that I received yesterday. I
7 will be addressing those petitions to intervene as the
8 first preliminary matter on my agenda, but at this
9 time, I would appreciate having both of those
10 petitioners enter a full appearance for the record. I
11 call on you in no particular order, but starting with
12 the Industrial Customers of Northwest Utilities,
13 please?

14 MR. SANGER: My name is Irion Sanger, and I'm
15 with the law firm of Davison and Van Cleve appearing on
16 behalf of the Industrial Customers of Northwest
17 Utilities. My address is 333 Southwest Taylor, Suite
18 400, Portland, Oregon, 97204. My phone number is (503)
19 241-7242. My fax is (503) 241-8160, and my e-mail
20 address is ias@dvclaw.com.

21 JUDGE CLARK: Thank you, and appearing on
22 behalf of the Northwest Industrial Gas Users?

23 MR. FINKLEA: My name is Edward Finklea with
24 the law firm of Cable, Huston, Benedict, Haagensen and
25 Lloyd. I am appearing on behalf of the Northwest

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1 Industrial Gas Users, and we have filed a petition to
2 intervene and a notice of appearance.

3 My business address is 1001 Southwest Fifth
4 Avenue, Suite 2000, Portland, Oregon, 97204. My phone
5 number is (503) 224-3092. Our fax is (503) 224-3176,
6 and my e-mail address is efinklea@cablehuston.com, and
7 also appearing in this proceeding with me is my
8 partner, Chad Stokes; same address, same fax number.
9 His e-mail address is cstokes@cablehuston.com, and then
10 there is one other matter. The executive director of
11 the Northwest Industrial Gas Users is Paula E. Pyron,
12 and for purposes of e-mail distributions, we would
13 request that Ms. Pyron also be on the list, and she's
14 at ppyron@nwigu.org.

15 JUDGE CLARK: Thank you, Mr. Finklea. Is
16 there anyone who wishes to make an oral petition to
17 intervene at this juncture; Mr. Roseman?

18 MR. ROSEMAN: Thank you. My name is Ronald
19 Roseman. I apologize for not getting a written
20 petition in, but pressing business prevented that. I
21 am appearing on behalf of The Energy Project. My
22 address is 2011 14th Avenue East, Seattle, Washington,
23 98112. My telephone number is (206) 324-8792. My fax
24 number is (206) 568-0138. My e-mail address is
25 ronaldroseman@comcast.net.

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1 JUDGE CLARK: Thank you, Mr. Roseman. I'm
2 going to entertain as the first preliminary matter the
3 outstanding petitions to intervene, and first, I'm
4 interested if there is any objection to the petition
5 for intervention filed by ICNU, Mr. Meyer?

6 MR. MEYER: No objection.

7 MR. TRAUTMAN: No objection.

8 MR. FFITCH: No objection.

9 JUDGE CLARK: The petition does indicate that
10 ICNU has a substantial interest in the outcome of this
11 proceeding, and the petition to intervene is granted.
12 I turn next to the petition to intervene for the
13 Northwest Industrial Gas Users. Is there any objection
14 to that petition to intervene, Mr. Meyer?

15 MR. MEYER: No objection.

16 MR. TRAUTMAN: No objection.

17 MR. FFITCH: No objection.

18 JUDGE CLARK: Again, the petition to
19 intervene demonstrates a substantial interest in the
20 outcome of this proceeding, and that petition to
21 intervene is granted. Is there any objection to the
22 oral petition to intervene presented by The Energy
23 Project, Mr. Meyer?

24 MR. MEYER: No objection.

25 MR. TRAUTMAN: No objection.

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1 MR. FINKLEA: No objection.

2 JUDGE CLARK: The oral petition to intervene
3 presented by The Energy Project is also granted. Are
4 there any other preliminary matters that the parties
5 would like to address before we turn to the hot topic
6 of the morning, which is the procedural schedule to get
7 this matter to hearing? Any other preliminary matters?

8 MR. MEYER: Just an observation. It might be
9 helpful if we had a chance to continue our discussions
10 off the record, if we could take a brief recess to do
11 so, to see if we can arrive at an agreed-upon
12 procedural schedule.

13 JUDGE CLARK: The first question out of my
14 mouth is always, have the parties had an adequate
15 opportunity to confer. The answer is almost
16 universally no, so I do give you that opportunity if
17 you wish, and I do depart during that recess, so if you
18 would like to check in with me regarding availability
19 perhaps of hearing dates before I depart the hearing
20 room, you might want to take advantage of that
21 opportunity as soon as we go off record.

22 I'm just curious if there are any other
23 preliminary matters before we turn to that procedural
24 schedule. It doesn't appear that there are any. So
25 now we do turn to the procedural schedule. I am going

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1 to give you an opportunity to confer. I have a copy of
2 the Commission's calendar with me. I warn you, it is
3 very full with a number of proceedings before us right
4 now, but if I can give you an indication on the
5 availability of any hearing dates, I'm happy to do that
6 before I leave the hearing room. Is there any reason
7 -- I'm sorry?

8 MR. TRAUTMAN: I was going to ask about
9 particular dates.

10 JUDGE CLARK: I will be happy to do that off
11 record. Are there any matters that we should address
12 on the record before we take a recess? All right.
13 Then we are at recess until further call.

14 (Recess.)

15 JUDGE CLARK: We are back on the record.
16 Have the parties had an adequate opportunity to confer?

17 MR. MEYER: Yes, we have.

18 JUDGE CLARK: The record should reflect that
19 during the recess, I received two draft schedules, one
20 from Mr. Meyer and one from Commission staff,
21 Mr. Trautman. Mr. Meyer?

22 MR. MEYER: Thank you, Your Honor, and I
23 appreciate the extra time, and the Commission should
24 know that the parties had worked through this past
25 week, so today was not the first time that we had

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1 exchanged views on the subject, but even with that and
2 even with this morning's caucus, we couldn't come to
3 terms, so the version of the schedule that I handed
4 out, one very minor correction on that. I think we
5 have an error designated February 6th as the end of the
6 suspension period. I believe that's the 4th of
7 February.

8 JUDGE CLARK: That's correct.

9 MR. MEYER: With that correction having been
10 made though, the point of this schedule, and I know you
11 will hear a differing point of view from others in due
12 course here, but the point of this schedule is to
13 decide a case, essentially, within 10 months rather
14 than the full 11-month suspension period. The
15 ten-month period for processing the case I think is
16 doable.

17 You are going to hear a lot this morning
18 about other conflicts, and we were trying to be mindful
19 of those, and we did examine PacifiCorp's schedule as
20 well as the Puget schedules for their dockets and try
21 from Avista's standpoint to construct a schedule that,
22 albeit it may pose some difficulties for others
23 involved in other cases, I think is still doable. So
24 we were not unmindful of other scheduling conflicts and
25 still tried to create something that would work.

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1 But at least certain members of the
2 Commission, I think, have expressed in recent times an
3 interest in processing cases in less than the full
4 suspension period, if doable, if possible. Certainly
5 there is no requirement that it go the full 11 months
6 if that is the period within which it must be decided,
7 but it's not required that it run the full course. Ten
8 months, I think, is doable under any reasonable set of
9 circumstances under any reasonable assumption, even
10 with the press of other workload.

11 You will note that in the schedule, we've
12 allowed six months from essentially the date of filing
13 to the filing of Staff and Intervenor testimony. That
14 should be more than sufficient time to do the
15 discovery, and certainly, the first six-month interval
16 is in keeping with, or in some cases more generous
17 than, other schedules that have been approved by the
18 Commission for an initial filing.

19 Thereafter, as you see -- I will not read
20 into the record all of these dates because I've handed
21 this to you and I assume that will be reflected in the
22 record -- I want to draw your attention to a few dates
23 though. There are intervals that are pretty common
24 then from the filing of Staff and Intervenor testimony
25 to the filing of the Company case and also from the

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1 filing of the Company case to the hearing date, those
2 month-long intervals are consistent with what's been
3 done in the past.

4 The hearing dates of October 20th through the
5 21st, I recognize that the 21st is no longer available
6 based on your guidance this morning, but it will still
7 give us the 20th, the 22nd, and the 24th, so four of
8 the five days, and that should be more than sufficient
9 time in my estimation to conduct the hearings in this
10 case, and that would allow then for a briefing and a
11 reasonable period of time within which the Commission
12 could decide this matter in less than the full 11
13 months and perhaps closer to the front end of January.
14 Again, we don't presume to set a target date for the
15 Commission to decide, but at least it creates that
16 possibility for the Commission. This wraps itself up
17 then into a ten-month process.

18 So this is our preferred approach. As the
19 Company has been put in a position of filing more cases
20 in recent years, I think the comment has been made, at
21 least by certain commissioners, that that itself should
22 allow for more expedited processing of the cases.
23 There is more familiarity. We've just been in a case,
24 and one should allow why does it take the full 11
25 months as we proceed from case to case, from year to

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1 year, and we ought to look for reasonable ways to speed
2 things up. My words, not quoting from a commissioner.

3 So we just finished a case. We have this
4 case. We think that this case is pretty
5 straightforward, does not create issues that are out of
6 the ordinary, if you will. I know you will hear from
7 the other parties they can't assess that until they do
8 their discovery, and they will weigh in in due course
9 on that observation, I'm sure, but we think this is a
10 case that can get processed efficiently in ten months.

11 Having said all that, and that is our
12 preferred position, we are willing to show some further
13 accommodation, and unfortunately, we couldn't come to
14 final terms, but with what Mr. Trautman handed you,
15 there was a schedule there that again, I won't give you
16 all the dates on that, but when it comes to the hearing
17 dates, we could live with the November 12th through the
18 14th dates, and even the 10th, although that is
19 certainly not a preferred date, if we need to add that
20 to that week, but perhaps as we got closer to the dates
21 for hearing, we could decide whether we needed the 10th
22 at all or not, and we prefer not to use it just to
23 accommodate other concerns, but keep the 12th through
24 the 14th, and even hold the 20th and 21st, if
25 necessary, although we think we can get our business

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1 done that week of the 10th through the 14th, given some
2 availability there.

3 We've heard from ICNU that the 13th presents
4 a problem. It's also half a day, or a portion of the
5 day may be set aside for an open meeting, although you
6 indicated that even that is flexible. We are more than
7 willing on the 13th to accommodate ICNU's concerns,
8 given their potential unavailability to move witnesses
9 around, to identify those they have no interest in
10 cross-examining, and use that time to rest those
11 witnesses. We would show a lot of flexibility to
12 address their concerns in that regard. So the short of
13 that is we could make that week work, given what was at
14 least initially proposed but is no longer the position
15 of the other parties, that that week could be used.

16 Where there is the strongest divergence of
17 opinion though is on the briefing due date, and we are
18 willing to go along with this schedule so long as the
19 simultaneous briefs are due on December 12th. If we
20 were to push it beyond the 12th, it is our belief that
21 essentially we've turned this back into an 11-month
22 process rather than ten, and if that's where we are
23 going, then we would ask for your determination as to
24 whether our initial schedule, our preferred schedule
25 that I handed out, is the way to go, or whether this

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1 other alternative is the way to go.

2 So the long and short of it is we are mindful
3 of conflicts. We appreciate that, but we don't think
4 it should take 11 months, and we have a preferred
5 approach but will accommodate further with the
6 modifications I've given you that call for a November
7 hearing date instead of an October hearing date. So
8 thank you.

9 JUDGE CLARK: Thank you, Mr. Meyer.
10 Mr. ffitch?

11 MR. FFITCH: I want to get a clarification
12 from Company counsel if I could. With respect to the
13 Staff, Public Counsel schedule, the dates prior to the
14 hearing dates, I was unclear whether you were saying
15 those were acceptable or not to the Company.

16 MR. MEYER: Prior to the hearing dates, they
17 are. I think what Mr. Trautman handed to the judge had
18 a couple of minor changes. I think it showed the
19 settlement conference was the 25th and 26th, and that's
20 where we would land, as well as adding an additional
21 day -- I think it's August 21st to the 20th -- for an
22 initial settlement conference.

23 JUDGE CLARK: That's correct. The schedule I
24 have from Mr. Trautman does reflect those
25 modifications. Mr. Trautman?

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1 MR. TRAUTMAN: Thank you, Your Honor. Yes,
2 the schedule I presented to you, that's an agreed-upon
3 schedule among Staff, Public Counsel, ICNU, NWIGU, and
4 The Energy Project, and it is somewhat adjusted from
5 the original schedule that Staff proposed, and this is
6 to take into account the needs of the other parties,
7 particularly ICNU, but it also, the schedule in
8 contrast to the one or the two that Avista had
9 proposed, take into account the reality that for Staff,
10 and I know for Public Counsel and for some of the other
11 parties, there are other cases that are pending that
12 Staff is actively engaged in at the moment, and so for
13 example to say that well, we now have five or six
14 months of discovery, well, Staff is engaged in the
15 Puget Sound case. There is the merger docket. There
16 is the rate case, and there is the PacifiCorp rate case
17 as well, and those are realities that we have to take
18 into account in proposing the schedules, and in
19 particular, the hearing schedule.

20 The hearing schedule that's proposed by
21 Avista for hearings in the week of October 20th through
22 the 24th is not doable for Staff. The PacifiCorp
23 hearings start almost immediately thereafter and go
24 from Wednesday, October 29th, until the following
25 Wednesday, November 5th, and so that is not possible

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1 from Staff's perspective.

2 The dates that we had originally had included
3 November 12th through the 14th, but having discussed in
4 particular with ICNU, November 13th is not available,
5 and they strongly would prefer not to start on the
6 12th, and I believe the Commission would prefer not
7 starting on the 10th, besides which that would start
8 making a very choppy calendar. So the only day we
9 really had that was available to all the parties was
10 November 14th of that week, and rather than have the
11 hearing chopped up in that manner, we decided it would
12 be more efficient to start on November 20th and have
13 the 20th and 21st and then also have the 24th and 25th,
14 if necessary, for hearing dates.

15 We would then propose to have briefs due
16 earlier than our initial proposal, December 23rd. We
17 would be willing to move the briefing date until
18 December 19th if the Company were to provide for an
19 expedited transcript, but otherwise, we would need that
20 full period, particularly with the Thanksgiving
21 holiday, to get the transcript to the parties.

22 So the schedule that we propose then includes
23 the adjusted settlement conference dates, and we would
24 add a caveat that we would -- I think the parties have
25 all agreed we would like to be able if we need to make

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1 adjustments to the settlement conference date without
2 getting the Bench involved, but those are the dates we
3 intend right now.

4 The hearing dates would be November 20th and
5 21st, 24th and 25th if necessary; briefs due December
6 23rd or 19th, if there is an expedited transcript, and
7 also we would have the provision for public hearings,
8 and Public Counsel can speak more to that issue. Thank
9 you.

10 JUDGE CLARK: Thank you. Mr. ffitch?

11 MR. FFITCH: Yes, thank you, Your Honor. We
12 strongly support, of course, the schedule just
13 presented by Mr. Trautman, and I just wanted to add two
14 items to it. We would request that the Commission
15 schedule public comment hearings in Avista's service
16 territory during the month of September in Spokane and
17 then a second hearing in either Colville to the north
18 or Pullman to the south at the Commission's preference.

19 We would request that those be scheduled at a
20 convenient time in the evening so the public could
21 attend after normal working hours, so as we typically
22 do in cases, request a start time of six p.m. or later
23 for those hearings, and that they be scheduled not on a
24 Monday or Friday just because of trying to increase
25 attendance. We have conferred with Avista and with the

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1 Commission's consumer affairs staff about those
2 particular recommendations in terms of the location in
3 the month of September.

4 I will comment that we are asking for two
5 hearings in part because it's my understanding from
6 consumer affairs staff that they have received comments
7 from the public in the service territory asking for
8 hearings outside of Spokane. I'm advised also that
9 even without any public notice going out, the
10 Commission has already received over 50 public comments
11 on this case.

12 One other thing on the hearings, we
13 understand that the public comment hearings for the
14 PacifiCorp matter are in early September, if I
15 recollect, so even though we are making just a general
16 September recommendation, I understand that might push
17 these hearings into the middle or latter part of
18 September. Obviously, that's the Commission's call
19 based on the calendar.

20 One other matter, and that is the matter of
21 the public notice, the bill insert, if you will. We
22 would ask that the schedule in the case include a date
23 for the parties to report back, and we would volunteer
24 to do that on behalf of Avista and the consumer affairs
25 staff, report back 30 days from the date of the

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1 prehearing conference order on the status of public
2 notice, and we would commit to working with consumer
3 affairs staff and with the Company on format and
4 content of the public notice as we have done in other
5 cases.

6 I would also like to comment briefly in
7 response to some of the statements of Mr. Meyer
8 regarding the need for or the reasons why it's
9 reasonable to expedite the consideration of the rate
10 case. We strongly disagree with all of the reasons
11 that were listed by Mr. Meyer. We don't believe this
12 is a simple, straightforward case. We've already
13 identified some significant issues with the Company's
14 filing. For example, there is an innovative new
15 approach to seeking to include net plant investment in
16 the case. This piece of the case alone is over 35
17 percent of the increase. We think that's a contentious
18 matter.

19 There is also some unusual components that
20 add about 30 percent of the revenue requirements based
21 on some different settlement agreements with tribes and
22 with the state of Montana which are unusual agreements.
23 I'm finished with that discussion. We also have an
24 increased request for cost to capital. In an
25 environment where interest rates and capital costs are

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1 going down, where the Company has a decoupling
2 mechanism in place but never the less insisted on
3 filing a request for increased profit margin for its
4 investors, which is a contentious matter. So this
5 isn't a routine make-hold case. There are a number of
6 complex and contentious matters that have been
7 introduced with significant dollars attached to them.

8 I would also refer you to the Company's
9 proposed, I guess, desirable schedule. I know we are
10 actually pretty close based on what Mr. Meyer is
11 saying, but if you look at their proposed schedule, you
12 will see that there is a desirable date for new rates
13 to be effective over a month before the end of the
14 suspension period. That is an entirely discretionary
15 sort of wishful date on the Company's part. There is
16 no justification for that other than the fact that
17 Avista would like to have rates go into effect sooner.

18 I can't help but observe that we are still
19 within the suspension period, according to my calendar,
20 from the last case. Avista received rates as a result
21 of the settlement of the last rate case that went into
22 effect in January of this last year. We are still
23 within the suspension period of the last rate case as
24 of today. I believe April 1st, and Mr. Meyer can
25 correct me if I'm wrong, April 1st is the suspension

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1 period in the last case.

2 So I strongly object to any suggestion that
3 there is a justification for expediting the review of
4 this matter, and I would strongly support the jointly
5 developed Staff, Intervenor schedule that's been
6 presented to you.

7 JUDGE CLARK: Thank you, Mr. ffitch. Does
8 anyone else wish to be heard regarding the procedural
9 schedule? Mr. Roseman.

10 MR. ROSEMAN: The Energy Project joins in the
11 comments of Mr. Trautman and Mr. ffitch. The only
12 point that I thought I wanted to emphasize was
13 commenting on Mr. ffitch's last comment about we are
14 still in the suspension case. The last case, the rates
15 went in earlier than the 11-month period as a result of
16 the settlement.

17 The organization I represent represents
18 people on fixed incomes. The speed on which these rate
19 cases go into effect and the frequency of them
20 obviously creates a tremendous hardship for these
21 individuals, and it is our wish that at least -- we
22 can't control certainly the frequency of rate cases,
23 but we certainly can ask to give the full 11-month time
24 frame before another rate case goes into effect,
25 especially when it comes on the heels of the prior one

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1 that was implemented in for a shorter period of time
2 than that.

3 Also, The Energy Project is a small
4 organization but is involved in all the cases that
5 Mr. ffitich and Mr. Trautman have alluded to, so
6 speeding up the time frame for a group that struggles
7 to get their witnesses and be able to pay their
8 witnesses and to participate adds another burden.
9 Thank you.

10 JUDGE CLARK: Thank you, Mr. Roseman. Does
11 anyone else wish to be heard.

12 MR. SANGER: Again, I won't repeat what Greg,
13 Simon, and Mr. Roseman stated. I do support their
14 comments. I would like to state that the scheduling
15 issues that we worked around to develop the joint
16 Staff, Intervenor testimony are real scheduling issues,
17 and the schedule that Staff proposed is one that we can
18 support, and we strongly urge that you adopt it.

19 In addition to the cases that Mr. Trautman
20 mentioned, ICNU is also involved in two cases in
21 Oregon, a PacifiCorp case in Oregon and a PGE Oregon
22 rate case, which rates by statute need to be in effect
23 by January 1, and that raises additional scheduling
24 issues for us, and the issues raised by the Company,
25 Avista, in warranting the expedited schedule is simply

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1 that they want the rates effective one month earlier.
2 There aren't real scheduling issues associated with
3 that, and given the fact that we are in an
4 unprecedented time of number of rate cases and merger
5 cases and other things that are going on in Washington
6 and the addition cases going on in Oregon, I would
7 strongly urge you to adopt the scheduling proposed by
8 Staff.

9 It represents a careful balancing of the
10 various dates that are out there by all the parties in
11 trying to get something that is physically possible.
12 Everyone is going to have a very difficult fall for
13 everyone that's involved in these cases, and the
14 schedule that Staff proposed is something that can
15 physically actually work, and I encourage you to adopt
16 it.

17 JUDGE CLARK: Mr. Finklea?

18 MR. FINKLEA: The Northwest Industrial Gas
19 Users also support Staff and Intervenor's proposed
20 schedule. We have a few less constraints than the
21 other parties simply because as a gas user group, we
22 don't deal with electric utilities, and we feel for
23 Mr. Sanger's clients. There is not much more that we
24 can add. I do feel strongly that it's very important
25 that the schedules accommodate the burden that this

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1 places on Intervenors.

2 All of these efforts, Staff, Public Counsel,
3 the private intervenor groups, are challenged when the
4 state is in a situation like it is where there are so
5 many utilities asking for rate increases, and at the
6 same time, obviously, I understand that no one utility
7 controls what the other utilities do, but when
8 something like this happens, and it's my understanding
9 that the state's rate-payers are facing up to about 380
10 million dollars of rate requests this year, that every
11 one of the companies, whether they can control their
12 colleagues or not, have to recognize that kind of like
13 planes stacked up at an airport, you've got to take a
14 number. Thank you, Your Honor.

15 JUDGE CLARK: Thank you, Mr. Finklea.
16 Anything further? I am going to do something unusual.
17 I don't typically do this in prehearing conferences,
18 but I'm going to take both of the schedules under
19 advisement rather than adopting one proposal or another
20 from the Bench this morning. I think that the argument
21 presented by everyone in favor of the schedule they
22 proposed are worthy of additional consideration and
23 merit, so for that reason, I'm not going to adopt a
24 schedule this morning.

25 I am, however, interested in a couple of

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1 things in conjunction with that schedule. One is
2 whether or not there are any parties who have any
3 concern or comment they would like to make regarding
4 the public hearings that are proposed by Public
5 Counsel, either with respect to date or location of
6 those hearings or whether we have them at all. If
7 anyone wants to be heard on that, this would be an
8 excellent time to speak up. Mr. Meyer?

9 MR. MEYER: I think Mr. ffitch accurately
10 noted that he had discussed with the Company the
11 September time frame. I don't believe there were any
12 specific dates in September for those, but that would
13 be acceptable to the Company. In terms of the
14 location, presumably Spokane and whether the Commission
15 decides to hold a second public hearing or not in
16 another community, that's entirely up to the
17 Commission, and we don't take a position on that.

18 We understand what's been suggested, and I
19 think in due course, matters of the form of the notice
20 that would go out will be worked through with Public
21 Counsel and Company representatives, and so that's the
22 Company's position.

23 JUDGE CLARK: Mr. Trautman, anything on
24 public hearings? I know that Mr. ffitch indicated he
25 conferred both with the Company and the Staff.

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1 MR. TRAUTMAN: Yes, and I've conferred with
2 Mr. ffitch, and those are acceptable to Staff.

3 JUDGE CLARK: We do have a very full plate
4 right now, as everyone has noted, and one of the
5 comments that was made by Staff was respect to Staff
6 participation in all three of these. Mr. Roseman has
7 indicated that The Energy Project is involved in each
8 of the cases that were previously mentioned, and I'm
9 curious to hear from Staff whether the same attorneys
10 and staff members are assigned to UE-080220, UE-072300,
11 and these proceedings.

12 MR. TRAUTMAN: The attorneys are different.
13 I'm not in the PacifiCorp proceedings. I believe
14 that's Mr. Trotter, and PSE may be Mr. Cedarbaum. I do
15 believe there will be substantial staff overlap. I
16 don't know the exact extent of it because our staff
17 lead has been away on a family emergency for the last
18 two weeks, but my understanding from talking with
19 Mr. Parvinen is there will be substantial staff
20 overlap, but I can't say precisely all the witnesses.
21 Do you have particular witnesses that you know will be
22 in both cases? At least four or five.

23 JUDGE CLARK: Thank you. That's helpful, and
24 I'm aware of the conflict already presented by the
25 Industrial Customers so I'm not going to ask you to

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1 reiterate that at this juncture. I'm just trying to
2 get a feel for the overlap we have.

3 MR. FFITCH: Just for the record, Public
4 Counsel is also involved in the PacifiCorp matter. I'm
5 the attorney in the PacifiCorp matter also as well as
6 this case.

7 JUDGE CLARK: My recollection was that we did
8 have Public Counsel in both of those, and I believe
9 present counsel in both of those according to my notes.

10 MR. FFITCH: Thank you, Your Honor.

11 JUDGE CLARK: I do appreciate your further
12 clarification, and that is indeed accurate.

13 MR. SANGER: In addition to the attorney
14 conflicts that we have, our witnesses are involved in
15 multiple proceedings as well, so there are witness
16 conflicts as well.

17 JUDGE CLARK: That's what I was anticipating
18 you would say. There are proceedings in Washington but
19 probably the ones you mentioned in Oregon as well.

20 MR. FINKLEA: Your Honor, in our case, it's
21 the Avista case and the Puget Sound Energy rate case
22 and merger, because Puget, like Avista, is a combined
23 electric and gas utility.

24 JUDGE CLARK: So your conflict is in respect
25 to UE-072300 rather than the 080220 case?

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1 MR. FINKLEA: I believe that's correct, Your
2 Honor. I don't always memorize the docket numbers.
3 It's the Puget matters, not the PacifiCorp matters that
4 the Industrial Gas Users are intervenors.

5 It's also my understanding that as we sit
6 here today, Northwest Natural will be filing a case for
7 their service territory in Washington; that's Clark
8 County, Washington, so that's coming soon, but it's not
9 ahead of Avista. So in my airport analogy, it gets a
10 low number in the...

11 JUDGE CLARK: In the flight circle. Well,
12 having already concluded that, I will not be rendering
13 a procedural schedule this afternoon. However, that
14 will be shortly following this prehearing. I do have a
15 couple of other procedural matters I need to address.
16 These are probably pretty rote, but I need to run
17 through the drill anyway.

18 The first is that the procedural schedule
19 that the parties have indicated does not have all the
20 deadlines, and of course I need to establish, the most
21 notable exception is always that prehearing conference
22 we all love and adore in which we mark exhibits prior
23 to hearing. I will be establishing a date in whatever
24 procedural schedule is adopted for that particular
25 task. That is something I attempt to do electronically

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1 in advance of the hearing, and hopefully will not
2 require people to actually be physically present, but
3 it is a deadline I will work in.

4 I need to increase the number of copies that
5 the parties file in either of these proceedings because
6 we have an inadequate number to distribute to everyone
7 who needs a copy right now, so the number will be
8 increased to an original plus 15 for any filings after
9 today's date.

10 I'm assuming that the parties want the
11 Commission's discovery rules invoked and that -- I
12 guess I'm asking if there is any need for a protective
13 in order this proceeding.

14 MR. MEYER: Yes. I was going to bring that
15 up and would ask that the standard form be issued.

16 JUDGE CLARK: Does anyone else want to be
17 heard on the issue of the protective order? Everyone
18 is shaking their heads negatively, which doesn't pick
19 up quite as well on the microphone, but I got it. Are
20 there any other matters that the Commission should
21 consider in this morning's prehearing conference?

22 MR. MEYER: There is one last matter, but I
23 want to save this for the end if there is no other
24 business to attend to.

25 MR. FFITCH: I do have two other requests,

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1 Your Honor. First of all, if we could provide the
2 Bench with request that would inclusion of people for
3 the electronic service list. Typically, that might
4 include support staff, paralegals, so that we have
5 multiple people in our offices receiving electronic
6 service, and we would offer to do that at any deadline
7 you would request. Actually, we could do that the
8 early part of next week from our office.

9 JUDGE CLARK: That request is granted, and it
10 is granted for all parties. Ordinarily, I accumulate
11 what I call an interested person list, and if there are
12 experts outside, witnesses within house, whoever, that
13 you wish to receive courtesy copies of electronic
14 rulings, if you will provide me with the same
15 information that you provided for appearances, that
16 would expedite the preparation of that list, and I
17 would suggest that probably you have a pretty good idea
18 who those individuals are today, and so setting an
19 abbreviated time for you to come up with that sometime
20 next week would probably not be unreasonable unless you
21 tell me otherwise. So I'm going to establish
22 Wednesday, April 2nd, as the deadline for you to give
23 me that information to compile the interested person's
24 list.

25 MR. FFITCH: Just to be clear about my

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1 request, we are asking that they be included in the
2 Commission's electronic service list for the case so
3 that every item that is issued by the Bench goes to
4 counsel, but also in our case, to an analyst and our
5 legal assistant, and then what typically happens is all
6 parties begin using that list, and so that our
7 exchanges as well, so once we have the official
8 Commission list, our exchanges then electronically
9 include those additional staff people.

10 JUDGE CLARK: I think I understand the
11 request. The way we formulate that request is to come
12 up with an interested person's list, and then there is
13 the meld of the two lists so they include both counsel
14 and those other individuals. I would ask you to be
15 mindful of the number of people that you request be
16 included on that list.

17 MR. FFITCH: I had one other request, Your
18 Honor, which is that parties be allowed to use
19 electronic filing for the deadline dates. So for
20 example, if a brief is due on December 23rd, we would
21 be permitted to file it electronically with the hard
22 copies to follow by either first class or overnight
23 mail.

24 JUDGE CLARK: That request is granted. I'll
25 invoke WAC 480-071-456 for all filings in this

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1 proceeding. You may electronically file any documents
2 provided that the sufficient number of paper copies
3 follows the next business day, and that would be the
4 original and 15. There is no need for request for each
5 filing. It's granted for the entire proceeding.

6 MR. MEYER: I understand that ruling to mean
7 next day a service in hand of hard copies, and that's
8 particularly important when we get around to the
9 testimony dates, because it's awfully hard to copy,
10 print out the electronic stuff. As long as we have in
11 hand all of the hard-copy testimony and exhibits the
12 next day, that works.

13 JUDGE CLARK: That is the intent. It will be
14 the following day for paper copy, and then I'm sure
15 you're accustomed to some relatively new language
16 that's been included in all the Commission's procedural
17 orders, and that is the administrative law judge
18 assigned to the case receives an electronic courtesy
19 copy of those filings, so do not be surprised to find
20 those boilerplate words.

21 I know that Mr. Meyer has one matter he would
22 like to address at the conclusion. Are there any other
23 matters that anyone else would like to have addressed
24 before we turn to that? Everybody is shaking their
25 head negatively, so Mr. Meyer.

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1 MR. MEYER: Yes. May we have just a few
2 moments for an incamera discussion with you off the
3 record and off the bridge line with counsel? It does
4 not relate to scheduling or matters that have been
5 discussed, but I think it's important to have this be
6 incamera, and I'll explain why.

7 JUDGE CLARK: I need a general topic because
8 the Commission is subject to the Washington state open
9 meetings law and the public records law, and I'm loathe
10 to exclude the public without even having a clue what
11 that discussion might entail.

12 MR. MEYER: It relates to some comments made
13 earlier in connection with the scheduling discussion,
14 and if I were to go beyond that, then I would be
15 perhaps compounding the problem.

16 JUDGE CLARK: I'm entirely aware of to which
17 you refer, and I will take a few moments off record to
18 discuss these, and I am willing to discuss those
19 matters incamera. I will, however, ask that the
20 parties concur regarding the individuals who are
21 allowed to be fully present regarding that discussion
22 since I'm not going to exclude anyone, so you need to
23 concur among yourselves regarding that, and we are at
24 recess until further call.

25 (Recess.)

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1 JUDGE CLARK: We are back on the record.
2 During the incamera session, we had a brief discussion
3 off record regarding some comments that were made
4 during the course of the prehearing conference which
5 are not necessary to reflect in the public record. Are
6 there any further matters that we should address at
7 this morning's prehearing conference? Hearing nothing,
8 we are adjourned.

9 (Prehearing conference adjourned at noon.)

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