Docket Nos. UE-200900 and UG-2900901 (Consolidated) - Vol. I

WUTC v. Avista Corporation d/b/a Avista Utilities

December 14, 2020



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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)DOCKETS UE-200900 and TRANSPORTATION COMMISSION,)UG-200901 (Consolidated) Complainant,) vs. AVISTA CORPORATION, d/b/a) AVISTA UTILITIES,)) Respondent.)

TELEPHONIC PREHEARING CONFERENCE, VOLUME I

Pages 1-24

ADMINISTRATIVE LAW JUDGE ANDREW J. O'CONNELL

December 14, 2020

1:35 p.m.

Washington Utilities and Transportation Commission 621 Woodland Square Loop Southeast Lacey, Washington 98503

REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358

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Page 2 A P P E A R A N C E S 1 2 ADMINISTRATIVE LAW JUDGE: 3 ANDREW J. O'CONNELL 4 5 FOR COMMISSION STAFF: 6 JENNIFER CAMERON-RULKOWSKI 7 JEFF ROBERSON Assistant Attorneys General 8 PO Box 47250 Olympia, Washington 98504 (360) 664-1186 9 jennifer.cameron-rulkowski@utc.wa.gov 10 jeff.roberson@utc.wa.gov 11 FOR PUBLIC COUNSEL: 12 NINA SUETAKE 13 Attorney General's Office 800 - 5th Avenue, Suite 2000 14 Seattle, Washington 98104 (206) 389-2055 15 nina.suetake@atg.wa.gov 16 FOR AVISTA: 17 DAVID MEYER, ESQ. Avista Corporation 18 PO Box 3727 Spokane, Washington 99220 19 (509) 495-4316 david.meyer@avistacorp.com 20 21 FOR THE ENERGY PROJECT: 22 SIMON FFITCH Attorney at Law 23 321 High School Road NE, Suite D3, #383 Bainbridge Island, Washington 98110 (206) 669-8197 24 simon@ffitchlaw.com 25

Page 3 A P P E A R A N C E S (Cont.) 1 2 FOR AWEC: 3 CORINNE MILINOVICH 4 Davison Van Cleve, PC 1750 SW Harbor Way, Suite 450 5 Portland, Oregon 97201 (503) 241-7242 com@dvclaw.com 6 7 8 FOR INLAND EMPIRE PAPER COMPANY: 9 TYLER PEPPLE Davison Van Cleve, PC 10 1750 SW Harbor Way, Suite 450 11 Portland, Oregon 97201 (503) 241-7242 12 tcp@dvclaw.com 13 FOR THE SIERRA CLUB: 14 JESSICA YARNALL-LOARIE 15 2101 Webster Street, Suite 1300 Oakland, California 94612 16 jessica.yarnall@sierraclub.org 17 * * * 18 19 20 21 22 23 24 25

1 LACEY, WASHINGTON; DECEMBER 14, 2020 2 1:35 P.M. 3 --000--PROCEEDINGS 4 5 6 JUDGE O'CONNELL: Let's go on the record. 7 Good afternoon. The time is approximately 1:35 p.m. 8 My name is Andrew O'Connell. I am an administrative law judge with the Washington Utilities 9 and Transportation Commission, and I will be presiding 10 in these consolidated matters along with the 11 12 Commissioners. We're here today for a virtual prehearing 13 conference in consolidated Dockets UE-200900 and 14 UG-200901, which is Avista's 2020 general rate case 15 16 filing. Staff has also filed a motion to consolidate 17 Docket UE-200894 concerning the deferred accounting 18 19 petition filed by Avista. We will address the timeline 20 for any responses to that motion later in this prehearing conference. 21 22 We are conducting this prehearing conference 23 virtually with audio and video through computer software 24 and via telephone. The benefits of this, that allows me 25 and the parties and intervenors the ability to see and

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Page 5 hear each other even though we are not physically in the 1 2 Commission's hearing room. 3 Okay. Let's move forward with short appearances. Let's begin with Avista. 4 5 MR. MEYER: Thank you, Your Honor. This is David Meyer on behalf of Avista. 6 7 JUDGE O'CONNELL: Thank you, Mr. Meyer. 8 And for Staff? 9 MS. CAMERON-RULKOWSKI: Good afternoon. This is Jennifer Cameron-Rulkowski, Assistant Attorney 10 11 General, appearing on behalf of Commission Staff. And 12 with me also appearing in this proceeding are other AAGs from our office and they are all -- they have all filed 13 14 a notice of appearance. JUDGE O'CONNELL: Yes, thank you. 15 16 And for Public Counsel? 17 MS. SUETAKE: Thank you. This is Nina Suetake on behalf of Public Counsel. 18 19 JUDGE O'CONNELL: Thank you. 20 For The Energy Project? MR. FFITCH: Good afternoon, Your Honor. 21 22 This is Simon ffitch on behalf of The Energy Project. 23 JUDGE O'CONNELL: Thank you. 24 And for the Alliance of Western Energy 25 Consumers?

Page 6 MS. MILINOVICH: Good afternoon. 1 This is Corinne Milinovich on behalf of the Alliance of Western 2 3 Energy Consumers. 4 JUDGE O'CONNELL: Thank you. 5 And for the Inland Empire Paper Company? MR. PEPPLE: Good afternoon. This is Tyler 6 7 Pepple representing the Inland Empire Paper Company. 8 JUDGE O'CONNELL: And for the Sierra Club, please? 9 10 MS. YARNALL-LOARIE: Good afternoon, Your My name is Jessica Yarnall-Loarie and I'm 11 Honor. 12 representing the Sierra Club. Thank you. Good afternoon 13 JUDGE O'CONNELL: 14 to you all. That brings us to the petitions to -- for intervention. Are there any petitions for intervention 15 16 other than the ones that have been filed in writing with the Commission? So if you are on the line right now on 17 18 telephone or on Teams and you wish to petition to 19 intervene, now would be your time to speak up unless you have already filed a petition to intervene. 20 Okay. 21 Hearing none, let's proceed. I have 22 read the petitions to intervene on behalf of The Energy 23 Project, the Alliance of Western Energy Consumers, the 24 Inland Empire Paper Company, and Sierra Club. I am 25 unaware of any written objections to these petitions.

1 Are there any objections to any of these petitions to 2 intervene?

3 MR. MEYER: Your Honor, this is David Meyer 4 with Avista. And while we don't object to any of the interventions, I just wanted to -- to stress that with 5 respect to the Sierra Club intervention, that it's our 6 understanding that their intervention will relate 7 8 primarily to the expenditures surrounding Colstrip. And if that is the extent of their participation, we have 9 no -- no objection. 10

JUDGE O'CONNELL: Let me turn to Ms. Yarnall-Loarie. Would you please like to clarify if that is an accurate understanding?

MS. YARNALL-LOARIE: Yes, that's an accurate understanding. I'm not sure if there's another issue with which Avista was concerned about our participation. I mean, certainly a case can take different turns, but primarily speaking, as we've done in the past, Sierra Club's interest primarily pertains to Colstrip.

20 MR. MEYER: All right. With that, I have no 21 objection.

JUDGE O'CONNELL: Okay. So then hearing no objections, the petitions to intervene are granted, and that decision will be memorialized in the prehearing conference order.

1 So I want to move forward to briefly 2 discussing some other items. The Company requested a 3 protective order when it filed its general rate case, 4 and a protective order has already been issued in these 5 dockets.

Additionally, the Commission requires all 6 filing of service to be done electronically now 7 according to the Commission rule and the Commission will 8 serve the parties electronically as well. However, in 9 this case, the Commission will also require a filing of 10 an original and three paper copies for internal 11 12 distributions at the Commission. If the parties are filing anything that includes information designated as 13 confidential, please file the original and three copies 14 of the fully unredacted version. No paper copy is 15 16 necessary for any partly redacted or fully redacted 17 version. Please file those versions only in the electronic format. 18

19 Also, if any party has not yet designated a 20 lead representative for service, please do so via an 21 email to me as soon as possible. In addition, if anyone 22 would like to add names or email addresses of other 23 representatives or support staff who should be included 24 on any electronic courtesy copies of all documents filed 25 in this proceeding, please email that to me as well. My

1 email address is Andrew.j.oconnell, O-c-o-n-n-e-l-l, 2 @utc.wa.gov.

3 So with that, I want to move on to the 4 procedural schedule. I've been provided a proposed 5 procedural schedule by the parties, and my understanding 6 is that there is consensus on that proposal. And before we -- we get into that discussion, I want to repeat my 7 8 communication with the parties shortly before the hearing, this prehearing conference, began that in 9 review of the parties' proposed schedule, there is too 10 short of a time between the final date for filing 11 written testimony, that's cross-answering testimony and 12 rebuttal testimony, and the evidentiary hearing. 13 The proposed schedule has the evidentiary hearing beginning 14 on June 29th and currently the proposed cross-answering 15 16 and rebuttal deadline is, I believe it's June 9th.

17 The Commission needs more time to prepare 18 for the hearing. And so the Commission is 19 not -- with that proposed evidentiary hearing date, the 20 Commission will not set a cross-answering or rebuttal 21 deadline later than the week of May 17th through 21st. 22 I know it was pretty short notice, only

23 about an hour before the prehearing conference, but I
24 would like to hear if the parties have had a chance to
25 discuss the proposed schedule in light of that feedback

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1 from the Commission.

2	Since, Ms. Cameron-Rulkowski, you were the
3	one who sent me the proposed schedule, I would like to
4	ask if you could give me an update on whether the
5	parties have had a chance to speak and whether the
6	parties would like a chance to speak now and I could
7	step off of the Teams meeting for a brief time. Go
8	ahead.
9	MS. CAMERON-RULKOWSKI: Your Honor, we have
10	not had a chance to speak, and I know that I received
11	your email over the lunch hour and I'm sure we've all
12	been staring at the schedule trying to figure out where
13	to where to push which dates. So I think it would be
14	helpful certainly to be able to have some opportunity to
15	discuss it.
16	But before we do that, it would be very
17	helpful to hear from you if you have any conflicts
18	around that hearing date. So if we're talking about
19	pushing the hearing date, that would be very helpful to
20	hear.
21	Another thing that could be helpful is I
22	think we I think there is currently seven weeks
23	between the briefing deadline and the order. If if
24	six weeks would work, that would be helpful to know too.
25	So any any dates that affect you and the bench, that

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would be -- that would be helpful so that we're not 1 2 speculating. 3 JUDGE O'CONNELL: I understand. MR. MEYER: And, Your Honor, this is --4 5 that's helpful, thank you. This is David Meyer, and just one other request for information from you, is --6 7 is the period July 7th through the 9th available on Commission calendars for a hearing date in the event 8 that that becomes an option the parties want to 9 consider? We haven't discussed that recently or as of 10 11 today, but are those dates available? 12 JUDGE O'CONNELL: And I'm pausing a moment 13 to take a quick look at the Commission calendars. MR. MEYER: Would be Wednesday through 14 15 Friday, July 7th through the 9th. 16 JUDGE O'CONNELL: So the week of July 6th 17 through 9, there is some availability, particularly more on the 6th. There are several tentative items on the 18 Commission and the Commissioner's schedules that 19 I'm unsure as to how likely they are to conflict with 20 setting a hearing on July 7th through 9. The following 21 22 week, July 12th through 16, is more open for an evidentiary hearing. 23 24 So the feedback I'd like to give is that 25 it's not a no for July 7, 8, or 9, but it is -- in my

head it's a question mark. I would have to follow up more specifically on those dates. And if that is -- if that's going to be the dates that are going to work for the parties, then I will follow up on that, and if after the fact I have to change the date, I would reach out to the parties before doing so. MR. MEYER: Well, thank you, Your Honor.

That's -- that's good guidance. I just wanted to test 9 this -- the flexibility on that end of the schedule as 10 well. It's the thirty -- roughly a 38-, 39-day interval 11 that you're after between the rebuttal, slash, 12 cross-answering testimony and the hearing, and so that's 13 what any schedule we would want to come up with would 14 try and accomplish, correct?

JUDGE O'CONNELL: Yes, some amount of time around six weeks. I realize that if we have a hearing at the beginning of a week and the testimony deadline is at the end of the -- you know, week previous, it might be a little bit less than six weeks, but about that time, yes.

21 MR. MEYER: Okay. Good. Now, I know that 22 Staff just prior to the start of this session today 23 circulated an email to all parties on an alternative 24 schedule, and we appreciate that. Just moments ago, we 25 circulated a -- a different version to all parties, but

might I suggest that -- that if -- I moved out that the 1 2 parties can agree on that -- on a schedule that 3 accomplishes these objectives. So one option would be 4 for us to simply report back to you with a new proposed 5 schedule perhaps tomorrow, no later than tomorrow, that accomplishes what you're after, and rather than try and 6 do this, it's kind of cumbersome, break free on this and 7 8 restart this prehearing. Would that be a possibility that we circulate that revised schedule and then you 9 just hold the prehearing open until you receive that 10 tomorrow by email? 11 12 MS. CAMERON-RULKOWSKI: Your Honor, may I --13 JUDGE O'CONNELL: Go ahead, 14 Ms. Cameron-Rulkowski, please. 15 MS. CAMERON-RULKOWSKI: I -- I have a 16 tendency not to want to agree -- to agree to that unless we want to hold the prehearing conference over and 17 18 reconvene it with you. If it comes to the point that we 19 can't agree on something, then we -- we would -- we would need to submit opposing schedules to you in 20 writing. We could do that, but I -- I think I would 21 22 favor doing the usual thing, which is talking among the 23 parties today, and if we can't agree, then we tell you 24 what we can't agree on and you come up with a decision. 25 That's -- that's my feedback.

1	JUDGE O'CONNELL: Well, I happen to agree
2	with both of you. It it's certainly more complicated
3	having a virtual prehearing conference for the parties
4	to collaborate and speak about resolving issues of a
5	procedural schedule, but I do think if there are going
6	to be differences of opinion on what the dates should
7	be, I'd like to know sooner rather than later.
8	So what I'd like to do is first hear from
9	any other party that wants to give their opinion on
10	whether they would be opposed to taking a brief amount
11	of time that I would step we would go off the record,
12	I would step off this Teams meeting, and the parties
13	could converse here. Okay.
14	MR. PEPPLE: Your Honor, Tyler Pepple for
15	Inland Empire. We don't oppose that. I just wanted to
16	say I think it would be helpful to hear an answer to
17	Ms. Cameron-Rulkowski's question about whether or not we
18	could push the briefing due date out another week or so,
19	which, you know, pushes up more time against your final
20	order deadline, but I think that would help to resolve
21	some of these questions.
22	JUDGE O'CONNELL: Yes, I I have two
23	thoughts on that. First, yes, that date does not need
0.4	

25 weeks between the hearing and the briefing deadline. So

to be firm, but also I was a bit surprised to see six

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Page 15 perhaps there's some way that you can meet in the middle 1 2 and take some time from the Commission, but also take 3 some time from the parties for their briefing. MR. PEPPLE: That sounds reasonable. 4 5 MS. CAMERON-RULKOWSKI: That's helpful. And 6 just to let you know, Your Honor, the extra week there 7 was to accommodate the 4th of July week. 8 JUDGE O'CONNELL: I understand. If we're pushing the schedule back so that the hearing is after 9 the 4th of July weekend, then maybe that concern can be 10 resolved. 11 12 Let me step off. I will -- I see the time now is almost 1:55. I will plan to come back onto the 13 Teams meeting at 2:25, that's a half hour from now. 14 However, if the parties don't need that long to 15 16 determine whether there can be an agreement or whether 17 there can't be an agreement, Ms. Cameron-Rulkowski or 18 Mr. Roberson, if you could please send me a message, 19 I'll get back on sooner. So with that, let's be off the record for 20 now, and I will be back on at 2:25 unless the parties 21 22 let me know that I should come back sooner. (A break was taken from 23 24 1:54 p.m. to 2:26 p.m.) 25 JUDGE O'CONNELL: Let's go back on the

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After a short break, we are back at the 1 record. 2 prehearing conference in Dockets UE-200900 and 3 UG-200901. The time is just shortly after 2:25 p.m. Before coming on the record, I was informed that the 4 5 parties have a new proposal for a procedural schedule. We will put that into the record now, and I will turn it 6 over to Ms. Cameron-Rulkowski. 7

8 MS. CAMERON-RULKOWSKI: Thank you, Your 9 Honor. I'll go ahead and read through the dates in the 10 procedural schedule, and then we'll be following up with 11 sending you a copy of it in writing.

12 So the first date that will change is the response testimony and we propose Wednesday, April 21. 13 And then the next date is circulating the joint issues 14 matrix, that would move a week ahead to April 30th. 15 And 16 we propose a settlement conference on May 6th; rebuttal 17 testimony would be Friday, May 28th; our discovery deadline would be Friday, June 18; filing the joint 18 19 issues matrix would be June 30th. Also on June 30th would be filing the exhibit list and cross-examination 20 exhibits and time estimates. The evidentiary hearing 21 22 would be July 7th through 9, and we've retained the briefing date of August 13th. 23

24JUDGE O'CONNELL: Okay. Thank you.25MR. MEYER: And would Staff also like to add

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1	the discovery intervals that were agreed on?
2	MS. CAMERON-RULKOWSKI: Certainly,
3	Mr. Meyer. I have actually already changed that in the
4	document. We had initially had the the discovery
5	that would be after that would be occurring after the
6	cutoff, the response time will be five days. My
7	apologies, five I think we have five business days.
8	JUDGE O'CONNELL: Okay. Thank you.
9	Preliminarily, I think this proposed schedule will work
10	for the Commission, but I'm going to confirm that it
11	does, and when I confirm it does, I will incorporate it
12	into the prehearing conference order.
13	I notice that there were two other additions
14	in the proposed schedule that I had been sent
15	previously. The parties had included an agreement to
16	include every party on each data request and response to
17	the data request as well as certain organizational or
18	presentation elements for the data requests and data
19	responses. Are those two elements still agreed by the
20	parties and is there any objection to me including that
21	in the prehearing conference order?
22	MS. CAMERON-RULKOWSKI: Your Honor, that was
23	the intention would that is that that they would
24	be included in the prehearing conference order. And if
25	you'd like me to go through that second element, the

discovery tracking, I would be happy to answer any 1 2 questions. 3 JUDGE O'CONNELL: Yes, please, go ahead and 4 explain that second one because that is relatively new to me and I'd like to understand. 5 6 MS. CAMERON-RULKOWSKI: Certainly, Your Honor. 7 So this was piloted in the Cascade general rate 8 case, which is currently pending, and Staff has had a very good experience with it. And the -- the purpose of 9 10 it is so that the parties can easily identify the 11 subject matter of data requests. 12 And so the first thing that we've been working on is to come up with a list of the usual 13 suspects of discovery topics. Those are not absolutely 14 set in stone, but we're trying to come up with a uniform 15 16 list so we have a common understanding of what the subject matter is. And then for when the discovery --17 18 when a data request gets issued, the idea is to identify 19 each data request with that particular subject, what the subject matter is, and then also in the -- the -- in the 20 email that serves the data request and in the cover 21 22 letter that accompanies the data request that the topics 23 of those -- of the data requests would be listed and all 24 the data requests would be grouped by that topic so that 25 when we receive -- we -- we process literally hundreds

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of these and the Company can speak to that, but we're 1 2 also tracking of course all of the parties' discovery. And so it makes it a lot easier to be able to click open 3 one email and see ah, that is what the subject matter of 4 5 the discovery is, this is who -- okay, we know who needs 6 to get it. And that should -- or it has been helping 7 facilitate the whole discovery -- processing discovery 8 and archiving discovery.

9 JUDGE O'CONNELL: Okav. That makes sense to 10 me and since the parties are all agreed, I will include that in the prehearing conference order. I assume that 11 12 that as well as the -- the first agreement about sharing all data requests and responses will also be included 13 with the procedural schedule you'll send me 14 electronically later; is that correct? 15 16 MS. CAMERON-RULKOWSKI: Those portions are 17 unchanged, so yes, they will be included. 18 JUDGE O'CONNELL: Okay. Thank you.

One more thing before we -MR. MEYER: Your Honor?
JUDGE O'CONNELL: Mr. Meyer, go ahead.
MR. MEYER: Oh, yeah. Excuse me for
interrupting. In the past, we have also agreed to
furnish to the bench a list of names of -- of those
other -- in addition to just the attorney and one other

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representative, in addition to those two, names of 1 2 people that should be provided copies of discovery. And 3 that -- it seemed to work well in the past. And -- and 4 in cases past, we've provided that to the -- to the 5 bench within a few days after the -- the prehearing was held, and then it's compiled and distributed to the 6 7 parties. It seems otherwise we're in a quandary about 8 who should get copies. It's easier if we just send it 9 out directly.

JUDGE O'CONNELL: Yes. My -- my question is, are you referring to the parties collectively sending that out or do you mean from each of the parties sending to me? Because I would like to have that information also for me to include in the prehearing conference order.

MR. MEYER: No, the thought being that we would -- each of the parties would send to you that information then you, if -- if you're willing to do that, would compile it into a list to be attached to the prehearing order.

JUDGE O'CONNELL: Yes. Please send me a list via email for everyone from Avista, and every other party, please send me the same sort of list with everyone who should be receiving courtesy copies. I will include the names and email address of each person

that the parties identify. I will include that in the 1 2 prehearing conference order, the list in Appendix --3 it's usually I think Appendix A and Appendix B to the procedural order would be the prehearing conference --4 or the procedural schedule, sorry. So yes, please send 5 that information to me, Mr. Meyer. 6 MR. MEYER: And the thought being, and this 7 8 is -- there's no strict limitation of the number, but just all parties should use good judgments so we don't 9 turn in dozens of names when, you know, three, four, 10 five additional names will do it. 11 JUDGE O'CONNELL: Yes, that's my expectation 12 and my experience with the parties in the past, but it's 13 always good to remind us all that we should all be 14 reasonable. 15 16 Is there any other discussion from the parties on that topic or on the procedural schedule? 17 Because I do plan to switch topics. So let me hear from 18 19 any other parties. Okay. Hearing none, I want to move forward 20 and address Staff's motion to consolidate. I want to 21 22 address a timeframe for responses to that motion to consolidate. Staff's motion would consolidate the GRC 23 with Avista's deferred accounting petition in Docket 24 25 UE-200894. The parties are entitled to file responses

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opposing such a motion, and I intend to set a deadline 1 2 of this Friday, December 18, 2020, for responses opposing Staff's motion to consolidate. 3 4 I'd like to now give the parties the 5 opportunity to offer any other perspective on a timeline for responses to Staff's motion. 6 This is Avista, and I won't give 7 MR. MEYER: 8 the reasons why, but we will be opposing that motion and Friday works just fine. We were anticipating that 9 timeframe. 10 11 JUDGE O'CONNELL: Okay. Thank you. 12 Is there any other party that wants to be heard on that timeline? 13 14 Okay. Hearing nothing, responses opposing Staff's motion to consolidate will be due by 5:00 p.m. 15 16 this Friday, December 18, 2020. 17 Is there anything else that we need to address today at this prehearing conference? 18 19 MR. MEYER: Not from Avista. 20 JUDGE O'CONNELL: Okay. Hearing nothing, thank you all and thank you for your fruitful 21 22 discussions and the proposed schedule that you've agreed I will issue the prehearing conference order 23 to. shortly. It will contain the procedural schedule and 24 25 the other guidelines for the disposition of this case.

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Page 23 I would ex- -- I want to say that the parties can expect that order by the end of this week or the very beginning of next. And with that, if there is nothing else, okay. We will be adjourned. Thank you. And we're off the record. (Adjourned at 2:40 p.m.)

	Page 24
1	CERTIFICATE
2	
3	STATE OF WASHINGTON
4	COUNTY OF THURSTON
5	
6	I, Tayler Garlinghouse, a Certified Shorthand
7	Reporter in and for the State of Washington, do hereby
8	certify that the foregoing transcript is true and
9	accurate to the best of my knowledge, skill and ability.
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14	Tayler Garlinghouse, CCR 3358
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