

**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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1 LACEY, WASHINGTON; DECEMBER 14, 2020 2 1:35 P.M.

3 --o0o--

4 PROCEEDINGS

5 JUDGE O'CONNELL: Let's go on the record. 6 Good afternoon. The time is approximately 1:35 p.m. 7 My name is Andrew O'Connell. I am an 8 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 Commissioners. 12

13 We're here today for a virtual prehearing 14 conference in consolidated Dockets UE-200900 and 15 UG-200901, which is Avista's 2020 general rate case 16 filing.

17 Staff has also filed a motion to consolidate 18 Docket UE-200894 concerning the deferred accounting 19 petition filed by Avista. We will address the timeline 20 for any responses to that motion later in this 21 prehearing conference.

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

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1 MS. MILINOVICH: Good afternoon. This is
2 Corinne Milinovich on behalf of the Alliance of Western
3 Energy Consumers.
4 JUDGE O'CONNELL: Thank you.
5 And for the Inland Empire Paper Company?
6 MR. PEPPLER: Good afternoon. This is Tyler
7 Peppler representing the Inland Empire Paper Company.
8 JUDGE O'CONNELL: And for the Sierra Club,
9 please?
10 MS. YARNALL-LOARIE: Good afternoon, Your
11 Honor. My name is Jessica Yarnall-Loarie and I'm
12 representing the Sierra Club.
13 JUDGE O'CONNELL: Thank you. Good afternoon
14 to you all. That brings us to the petitions to -- for
15 intervention. Are there any petitions for intervention
16 other than the ones that have been filed in writing with
17 the Commission? So if you are on the line right now on
18 telephone or on Teams and you wish to petition to
19 intervene, now would be your time to speak up unless you
20 have already filed a petition to intervene.
21 Okay. 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.

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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
5 interventions, I just wanted to -- to stress that with
6 respect to the Sierra Club intervention, that it's our
7 understanding that their intervention will relate
8 primarily to the expenditures surrounding Colstrip. And
9 if that is the extent of their participation, we have
10 no -- no objection.
11 JUDGE O'CONNELL: Let me turn to
12 Ms. Yarnall-Loarie. Would you please like to clarify if
13 that is an accurate understanding?
14 MS. YARNALL-LOARIE: Yes, that's an accurate
15 understanding. I'm not sure if there's another issue
16 with which Avista was concerned about our participation.
17 I mean, certainly a case can take different turns, but
18 primarily speaking, as we've done in the past, Sierra
19 Club's interest primarily pertains to Colstrip.
20 MR. MEYER: All right. With that, I have no
21 objection.
22 JUDGE O'CONNELL: Okay. So then hearing no
23 objections, the petitions to intervene are granted, and
24 that decision will be memorialized in the prehearing
25 conference order.

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

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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
7 we -- we get into that discussion, I want to repeat my
8 communication with the parties shortly before the
9 hearing, this prehearing conference, began that in
10 review of the parties' proposed schedule, there is too
11 short of a time between the final date for filing
12 written testimony, that's cross-answering testimony and
13 rebuttal testimony, and the evidentiary hearing. The
14 proposed schedule has the evidentiary hearing beginning
15 on June 29th and currently the proposed cross-answering
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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1 would be -- that would be helpful so that we're not
2 speculating.
3 JUDGE O'CONNELL: I understand.
4 MR. MEYER: And, Your Honor, this is --
5 that's helpful, thank you. This is David Meyer, and
6 just one other request for information from you, is --
7 is the period July 7th through the 9th available on
8 Commission calendars for a hearing date in the event
9 that that becomes an option the parties want to
10 consider? We haven't discussed that recently or as of
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.
14 MR. MEYER: Would be Wednesday through
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
18 on the 6th. There are several tentative items on the
19 Commission and the Commissioner's schedules that
20 I'm unsure as to how likely they are to conflict with
21 setting a hearing on July 7th through 9. The following
22 week, July 12th through 16, is more open for an
23 evidentiary hearing.
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

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1 head it's a question mark. I would have to follow up
2 more specifically on those dates. And if that is -- if
3 that's going to be the dates that are going to work for
4 the parties, then I will follow up on that, and if after
5 the fact I have to change the date, I would reach out to
6 the parties before doing so.
7 MR. MEYER: Well, thank you, Your Honor.
8 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?
15 JUDGE O'CONNELL: Yes, some amount of time
16 around six weeks. I realize that if we have a hearing
17 at the beginning of a week and the testimony deadline is
18 at the end of the -- you know, week previous, it might
19 be a little bit less than six weeks, but about that
20 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

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1 might I suggest that -- that if -- I moved out that the
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
6 accomplishes what you're after, and rather than try and
7 do this, it's kind of cumbersome, break free on this and
8 restart this prehearing. Would that be a possibility
9 that we circulate that revised schedule and then you
10 just hold the prehearing open until you receive that
11 tomorrow by email?
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
17 we want to hold the prehearing conference over and
18 reconvene it with you. If it comes to the point that we
19 can't agree on something, then we -- we would -- we
20 would need to submit opposing schedules to you in
21 writing. We could do that, but I -- I think I would
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.

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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. PEPPLER: 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
24 to be firm, but also I was a bit surprised to see six
25 weeks between the hearing and the briefing deadline. So

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1 perhaps there's some way that you can meet in the middle
2 and take some time from the Commission, but also take
3 some time from the parties for their briefing.
4 MR. PEPPLER: That sounds reasonable.
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
9 pushing the schedule back so that the hearing is after
10 the 4th of July weekend, then maybe that concern can be
11 resolved.
12 Let me step off. I will -- I see the time
13 now is almost 1:55. I will plan to come back onto the
14 Teams meeting at 2:25, that's a half hour from now.
15 However, if the parties don't need that long to
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.
20 So with that, let's be off the record for
21 now, and I will be back on at 2:25 unless the parties
22 let me know that I should come back sooner.
23 (A break was taken from
24 1:54 p.m. to 2:26 p.m.)
25 JUDGE O'CONNELL: Let's go back on the

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1 record. After a short break, we are back at the
2 prehearing conference in Dockets UE-200900 and
3 UG-200901. The time is just shortly after 2:25 p.m.
4 Before coming on the record, I was informed that the
5 parties have a new proposal for a procedural schedule.
6 We will put that into the record now, and I will turn it
7 over to Ms. Cameron-Rulkowski.
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
13 response testimony and we propose Wednesday, April 21.
14 And then the next date is circulating the joint issues
15 matrix, that would move a week ahead to April 30th. And
16 we propose a settlement conference on May 6th; rebuttal
17 testimony would be Friday, May 28th; our discovery
18 deadline would be Friday, June 18; filing the joint
19 issues matrix would be June 30th. Also on June 30th
20 would be filing the exhibit list and cross-examination
21 exhibits and time estimates. The evidentiary hearing
22 would be July 7th through 9, and we've retained the
23 briefing date of August 13th.
24 JUDGE O'CONNELL: Okay. Thank you.
25 MR. 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

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1 discovery tracking, I would be happy to answer any
2 questions.
3 JUDGE O'CONNELL: Yes, please, go ahead and
4 explain that second one because that is relatively new
5 to me and I'd like to understand.
6 MS. CAMERON-RULKOWSKI: Certainly, Your
7 Honor. So this was piloted in the Cascade general rate
8 case, which is currently pending, and Staff has had a
9 very good experience with it. And the -- the purpose of
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
13 working on is to come up with a list of the usual
14 suspects of discovery topics. Those are not absolutely
15 set in stone, but we're trying to come up with a uniform
16 list so we have a common understanding of what the
17 subject matter is. And then for when the discovery --
18 when a data request gets issued, the idea is to identify
19 each data request with that particular subject, what the
20 subject matter is, and then also in the -- the -- in the
21 email that serves the data request and in the cover
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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1 of these and the Company can speak to that, but we're
2 also tracking of course all of the parties' discovery.
3 And so it makes it a lot easier to be able to click open
4 one email and see ah, that is what the subject matter of
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: Okay. That makes sense to
10 me and since the parties are all agreed, I will include
11 that in the prehearing conference order. I assume that
12 that as well as the -- the first agreement about sharing
13 all data requests and responses will also be included
14 with the procedural schedule you'll send me
15 electronically later; is that correct?
16 MS. CAMERON-RULKOWSKI: Those portions are
17 unchanged, so yes, they will be included.
18 JUDGE O'CONNELL: Okay. Thank you.
19 One more thing before we --
20 MR. MEYER: Your Honor?
21 JUDGE O'CONNELL: Mr. Meyer, go ahead.
22 MR. MEYER: Oh, yeah. Excuse me for
23 interrupting. In the past, we have also agreed to
24 furnish to the bench a list of names of -- of those
25 other -- in addition to just the attorney and one other

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1 representative, in addition to those two, names of
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
6 held, and then it's compiled and distributed to the
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.
10 JUDGE O'CONNELL: Yes. My -- my question
11 is, are you referring to the parties collectively
12 sending that out or do you mean from each of the parties
13 sending to me? Because I would like to have that
14 information also for me to include in the prehearing
15 conference order.
16 MR. MEYER: No, the thought being that we
17 would -- each of the parties would send to you that
18 information then you, if -- if you're willing to do
19 that, would compile it into a list to be attached to the
20 prehearing order.
21 JUDGE O'CONNELL: Yes. Please send me a
22 list via email for everyone from Avista, and every other
23 party, please send me the same sort of list with
24 everyone who should be receiving courtesy copies. I
25 will include the names and email address of each person

1 that the parties identify. I will include that in the
2 prehearing conference order, the list in Appendix --
3 it's usually I think Appendix A and Appendix B to the
4 procedural order would be the prehearing conference --
5 or the procedural schedule, sorry. So yes, please send
6 that information to me, Mr. Meyer.

7 MR. MEYER: And the thought being, and this
8 is -- there's no strict limitation of the number, but
9 just all parties should use good judgments so we don't
10 turn in dozens of names when, you know, three, four,
11 five additional names will do it.

12 JUDGE O'CONNELL: Yes, that's my expectation
13 and my experience with the parties in the past, but it's
14 always good to remind us all that we should all be
15 reasonable.

16 Is there any other discussion from the
17 parties on that topic or on the procedural schedule?
18 Because I do plan to switch topics. So let me hear from
19 any other parties.

20 Okay. Hearing none, I want to move forward
21 and address Staff's motion to consolidate. I want to
22 address a timeframe for responses to that motion to
23 consolidate. Staff's motion would consolidate the GRC
24 with Avista's deferred accounting petition in Docket
25 UE-200894. The parties are entitled to file responses

1 I would ex- -- I want to say that the parties can expect
2 that order by the end of this week or the very beginning
3 of next.

4 And with that, if there is nothing else,
5 okay. We will be adjourned. Thank you. And we're off
6 the record.

7 (Adjourned at 2:40 p.m.)
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1 opposing such a motion, and I intend to set a deadline
2 of this Friday, December 18, 2020, for responses
3 opposing Staff's motion to consolidate.

4 I'd like to now give the parties the
5 opportunity to offer any other perspective on a timeline
6 for responses to Staff's motion.

7 MR. MEYER: This is Avista, and I won't give
8 the reasons why, but we will be opposing that motion and
9 Friday works just fine. We were anticipating that
10 timeframe.

11 JUDGE O'CONNELL: Okay. Thank you.

12 Is there any other party that wants to be
13 heard on that timeline?

14 Okay. Hearing nothing, responses opposing
15 Staff's motion to consolidate will be due by 5:00 p.m.
16 this Friday, December 18, 2020.

17 Is there anything else that we need to
18 address today at this prehearing conference?

19 MR. MEYER: Not from Avista.

20 JUDGE O'CONNELL: Okay. Hearing nothing,
21 thank you all and thank you for your fruitful
22 discussions and the proposed schedule that you've agreed
23 to. I will issue the prehearing conference order
24 shortly. It will contain the procedural schedule and
25 the other guidelines for the disposition of this case.

C E R T I F I C A T E

STATE OF WASHINGTON
COUNTY OF THURSTON

I, Tayler Garlinghouse, a Certified Shorthand
Reporter in and for the State of Washington, do hereby
certify that the foregoing transcript is true and
accurate to the best of my knowledge, skill and ability.



Tayler Garlinghouse
Tayler Garlinghouse, CCR 3358

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