

**Docket Nos. UE-150204 and UG-150205 (Consolidated) -
Vol. VI**

**Washington Utilities and Transportation Commission v.
Avista Corporation d/b/a Avista Utilities**

May 24, 2019



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
))
Complainant,)
))
v.) DOCKETS UE-150204
) and UG-150205
AVISTA CORPORATION, d/b/a) (Consolidated)
AVISTA UTILITIES,)
))
Respondent.)

PREHEARING CONFERENCE, VOLUME VI
Pages 624 through 645

1:32 p.m.
May 24, 2019

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1 OLYMPIA, WASHINGTON; MAY 24, 2019

2 1:32 p.m.

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5 JUDGE DOROSHKIN: Good afternoon, everyone.

6 Let's be on the record, please.

7 My name is Nelli Doroshkin and with me is

8 Rayne Pearson. We are administrative law judges with

9 the commission, and we will be co-presiding in this

10 matter along with commissioners.

11 This is a prehearing conference to address

12 the Division II Court of Appeals remand of final order

13 05 in the general rate proceeding of Avista Corporation

14 doing business as Avista Utilities in consolidated

15 dockets UE-150204 and UG-150205.

16 So we will begin by taking appearances,

17 starting with Avista.

18 MR. MEYER: Thank you, your Honor.

19 Appearing for Avista, David Meyer.

20 JUDGE DOROSHKIN: Staff.

21 MS. CAMERON-RULKOWSKI: Appearing on behalf

22 of staff, Jennifer Cameron-Rulkowski, Assistant Attorney

23 General.

24 JUDGE DOROSHKIN: And then on the bridge

25 line, do we have Public Counsel still with us?

1 MS. GAFKEN: Yes. This is Lisa Gafken,
2 Assistant Attorney General, appearing on behalf of
3 Public Counsel. Nina Suetake will be in the hearing
4 room shortly.

5 JUDGE DOROSHKIN: AWEC.

6 MR. PEPPLER: Tyler Pepple for the Alliance
7 of Western Energy Consumers.

8 JUDGE DOROSHKIN: Is there anyone else who
9 wishes to make an appearance? Hearing nothing, then
10 we'll just give a brief overview of the matter
11 (unintelligible) and then --

12 THE REPORTER: I'm sorry? Could you slow
13 down a little, and "a brief overview of the matters"?

14 JUDGE DOROSHKIN: "... of the matter,"
15 that's it, period.

16 And then we'll discuss discovery in the
17 procedural schedule and other issues that we need to
18 address here.

19 Does that help?

20 So the Commission entered Order 05, the
21 final order in this proceeding, on January 6th, 2016.
22 Order 05 accepted a multiparty partial settlement and
23 rules on the contested issues in the case.

24 One of the contested issues was whether to
25 allow for attrition adjustments to Avista's electronic

1 and natural gas rates. And in Order 05 the commission
2 (unintelligible) both.

3 The Public Counsel filed a petition for
4 judicial review in the superior court --

5 THE REPORTER: Could you slow down, please.

6 JUDGE DOROSHKIN: Okay.

7 ... on March 18th, 2016. On April 29th,
8 2016, the Thurston County Superior Court certified the
9 case for direct review by the Court of Appeals of
10 Washington, Division II.

11 On August 7th, 2018, the Court of Appeals
12 reversed in part the Commission's Order 05. The court
13 remanded the proceeding to the Commission to recalculate
14 Avista's rates without relying on rate base that is not
15 used and useful. That is, removing the addition
16 adjustment applied to property that was not used and
17 useful as of the date the Commission entered Order 05.

18 And on April 16th, 2019, the Thurston County
19 Superior Court remanded the matter to the Commission to
20 effectuate the decision of the Court of Appeals, and now
21 we are here.

22 As a preliminary matter, one thing I want to
23 address is the fact that the Commission's current
24 accounting policy advisor, Melissa Cheesman,
25 participated in the proceeding before the Commission

1 prior to judicial review as a member of staff. However,
2 her participation in the proceeding was limited to
3 calculating labor expenses, which are not the subject of
4 this proceeding.

5 Are there any objections to Ms. Cheesman's
6 participation in the proceeding at hand as an advisor to
7 the Commission?

8 MR. MEYER: No objection.

9 MS. CAMERON-RULKOWSKI: None from staff.

10 MR. PEPPLER: No objection.

11 MS. GAFKEN: No objection from Public
12 Counsel.

13 JUDGE DOROSHKIN: Good.

14 Then regarding discovery, discovery will
15 continue pursuant to the Commission's discovery rules.

16 And then regarding the procedural schedule,
17 testimony filed should address the scope of refundable
18 dollars under the remand, that is the parts of the rates
19 that incorporate or rely on rate base. This may or may
20 not include, for example, components of pep cost as
21 applicable. So that's just something to keep in mind as
22 we address the procedural schedule.

23 JUDGE PEARSON: Okay. So prior to going on
24 the record, both staff and AWEC provided us with
25 proposed procedural schedules and indicated that there's

1 not consensus among the parties at this point in time
2 about which of these procedural schedules should be
3 adopted.

4 I wanted to hear from Public Counsel before
5 I ask staff and AWEC to speak to the schedules if public
6 counsel has a preference for either of the two proposed
7 schedules.

8 MR. PEPPLER: I guess if I might say one
9 thing prior to that.

10 JUDGE PEARSON: Sure.

11 MR. PEPPLER: Just that so the schedule that
12 AWEC handed you is the same schedule that I circulated
13 to the parties via email I believe two days ago. AWEC
14 understands that these particular dates don't work for
15 the parties, but the idea is to get a conceptual
16 schedule with a faster procedure in place, and then at
17 least get guidance from you about whether you want a
18 schedule that's consolidated procedurally with the rate
19 case timeframe or if you want something faster.

20 If you want something faster, then I believe
21 the parties will have to go off the record and find
22 dates that are agreeable to everybody. So that's just
23 some background on that.

24 JUDGE PEARSON: Okay. So Ms. Gafken, where
25 does Public Counsel fall on this between these two

1 schedules? Which proposal is -- does Public Counsel --

2 MS. GAFKEN: Conceptually I don't think that
3 Public Counsel has an objection to having the remand
4 proceeding go faster, and I believe that's what's being
5 proposed by AWEC.

6 I know that we've -- we have confirmed that
7 the dates that are in the staff proposal do work for us
8 as well with the acknowledgment that we can always deal
9 with the remand issues quicker under that -- that
10 schedule.

11 JUDGE PEARSON: Okay. And
12 Ms. Cameron-Rulkowski, this proposed schedule, the
13 company agrees with staff on staff's proposal; is that
14 correct?

15 MS. CAMERON-RULKOWSKI: That's correct, your
16 Honor. Can I walk you through it?

17 JUDGE PEARSON: Sure.

18 MS. CAMERON-RULKOWSKI: So what -- what this
19 schedule does is combines the procedural schedules for
20 the remand proceeding and the general rate case
21 proceeding. We are not proposing to substantively
22 consolidate the cases, but we're proposing to keep them
23 on the same timeline for purposes of efficiencies of
24 coming -- to having everyone come to one hearing,
25 having -- and having the deadlines be the same.

1 The other issue here for staff is: We
2 haven't seen testimony yet from the -- from the company
3 on the remand, and we're -- we're hesitant to commit to
4 a fast -- a fast-track schedule for the remand
5 proceeding without knowing exactly what we're facing.
6 And if we have the two schedules together, we can also
7 potentially come up with an omnibus settlement that --
8 that includes both.

9 However, if we're able to process the remand
10 faster, then staff is happy to do that, and we have a
11 date in here for a much earlier third settlement
12 conference, if you will, which is just for the remand.
13 And that's already in August.

14 So we are -- we're open to resolving the
15 remand faster if we can, but we have this schedule set
16 knowing that we'll be able to make these other deadlines
17 in both cases.

18 JUDGE PEARSON: Okay. And does staff have
19 particular resource, staffing reasons like that for
20 wanting to keep them on the same track?

21 MS. CAMERON-RULKOWSKI: It's mostly for
22 efficiencies. We're processing a number of rate cases
23 at this point and the dates are getting very close
24 together, and it is a little more efficient for us to
25 keep these together.

1 And I'll just point out too that the -- the
2 particular dates on the AWEC proposal don't work for
3 staff, and when we sat down and tried to look at pushing
4 it out just a little bit, we run very quickly into other
5 dates. And so it just becomes very complicated very
6 quickly. And we feel that we have the dates in this
7 schedule that do work for everyone, and that is already
8 a big accomplishment.

9 JUDGE PEARSON: Okay. So you're saying the
10 dates in your proposed schedule work for everyone.

11 MS. CAMERON-RULKOWSKI: That's my
12 understanding.

13 JUDGE PEARSON: That's your understanding;
14 okay.

15 So Mr. Pepple, I'd like to hear from you
16 about the benefits of your proposed schedule.

17 MR. PEPPLE: Sure. So thank you, your
18 Honor. So there are sort of two driving factors for us.
19 The first is sort of the limited scope of the remand.
20 We had a call between the parties and, you know, sort of
21 discussed preliminary positions about where we think the
22 parties are based on that call.

23 My understanding is that the -- the issues
24 are, while there are likely to be disputed issues, the
25 disputes are likely to be over a narrow issue and fairly

1 straightforward. So I don't think that it's going to be
2 an undue burden to -- you know, a huge amount of
3 discovery that's going to be required. I don't think
4 there's going to be very long testimony that will need
5 to be prepared. So from that perspective, you know, a
6 shorter schedule seems appropriate.

7 The other issue is that, you know, if --
8 assuming that a refund is provided, we're talking about
9 money that the company has held that has belonged to
10 customers since 2015. We think that it's appropriate to
11 have that money refunded sooner rather than later.

12 Under this schedule, as
13 Ms. Cameron-Rulkowski said, there's certainly a
14 possibility of an early settlement, but if we don't
15 settle, we're potentially looking at April of next year
16 before customers are able to see this refund money. And
17 so those are sort of the primary issues.

18 We also, frankly, we don't -- we don't
19 really see the benefits of efficiencies from
20 consolidating the procedural schedules with the rate
21 case. In some circumstances I actually think that it
22 could be more burdensome if we have testimony due on the
23 same day for the remand and the rate case, and now as I
24 understand it, also for the ERM. That ends up being a
25 lot of testimony all due on the same day, and it's going

1 to create some problems I think.

2 So we would prefer -- I understand that
3 these particular dates don't work for everybody, but I
4 do think that if we get guidance from you that you would
5 prefer a faster schedule, that we will be able to come
6 up with something that works for everybody.

7 And in terms of workflow, definitely
8 sensitive to that. We want to make sure -- AWEC is
9 certainly busy as well. There's lots of cases going on.
10 My understanding is that there is another major rate
11 case that's going to be filed, you know, in a little
12 while here. So I don't see pushing the schedule out as
13 necessarily lessening the burden, so thank you.

14 JUDGE PEARSON: Okay. Mr. Meyer, did you
15 have anything you wanted to add?

16 MR. MEYER: Ever so briefly. I think the
17 positions have been very well explained, and we are
18 where staff is at on this. We do have as, at least a
19 partial accommodation to the interests of AWEC, that
20 August 6th remand settlement conference date just set
21 aside for that purpose in the hopes, and I think
22 everyone shares the hope, that we can rather quickly
23 resolve the remand case. But there may be significant
24 issues that separate the parties, and we may or may not
25 be in this for the long haul through litigation.

1 MS. CAMERON-RULKOWSKI: Can I make one other
2 additional point?

3 JUDGE PEARSON: Yes.

4 MS. CAMERON-RULKOWSKI: One of the
5 complexities of having the remand go faster is the fact
6 that it's summer and we're working around a lot of
7 summer vacation schedules as well. And I will say
8 that -- that we tried.

9 JUDGE PEARSON: Okay. Hi.

10 MS. SUETAKE: Hello, your Honor. I
11 apologize for being late.

12 JUDGE PEARSON: No worries.

13 MS. SUETAKE: The traffic was a nightmare.

14 JUDGE PEARSON: Welcome.

15 I had another question. I'm trying -- oh,
16 so it looks like the parties have agreed there's going
17 to be a public comment hearing in this case? Was there
18 a particular reason for that?

19 MS. CAMERON-RULKOWSKI: For the general rate
20 case?

21 JUDGE PEARSON: Sorry. It looked like there
22 was one in the -- related to the remand as well.

23 MS. CAMERON-RULKOWSKI: No.

24 JUDGE PEARSON: Did I read that incorrectly?
25 Or is it just because they're combined?

1 MS. CAMERON-RULKOWSKI: Correct.

2 JUDGE PEARSON: Okay. Okay. Never mind.

3 So just listening to what the parties have
4 just said, my preference, I'm just going to tell you
5 right now, would be that there would not be any sort of
6 omnibus settlement. I want to keep these issues
7 separate.

8 We have a lot of potential conflicts on our
9 side of the wall because so many people who work on our
10 side of the wall now worked on staff side of the wall in
11 2015, and so I want to avoid overlap as much as possible
12 with both our policy staff and with our judges. So --
13 so I don't support that idea of there being one
14 settlement that encompasses both the rate case and the
15 remand. We would like to see that handled separately.

16 I think that the commissioners also would
17 prefer for this to move a little bit faster. They're
18 not opposed to the simultaneous procedural schedules,
19 but they're also not opposed to it resolving sooner
20 rather than later. So I don't know if that's helpful to
21 you all, if you want to take a few moments to try to
22 work something out with those things in mind or if you
23 need more clarification.

24 MS. CAMERON-RULKOWSKI: So I think some
25 hearing dates would be helpful, and then we can work

1 backward from there if -- okay.

2 JUDGE PEARSON: So Ms. Suetake, do you want
3 to enter an appearance now that you're here?

4 MS. SUETAKE: Yes, thank you, your Honor.
5 This is Nina Suetake on behalf of Public Counsel.

6 JUDGE PEARSON: Okay, thank you.

7 So I guess my next question is -- because I
8 am sensitive to staff's needs as far as scheduling and
9 resources and availability, things like that. I want to
10 know what is realistic for staff. I don't want it to be
11 too big of a burden in light of other workloads. But if
12 you need a minute to talk about that, that's okay too.

13 MR. MEYER: So your Honor, are you
14 suggesting that it might be wise for the parties to
15 caucus and see if there is a separate, more accelerated
16 remand schedule that would work? Is that what you're
17 suggesting?

18 JUDGE PEARSON: And maybe not as accelerated
19 as AWEC has proposed, but maybe a hearing date sooner
20 than the one that's proposed in the general rate case
21 even for December. But that again I want to understand
22 from staff if that's even feasible given the workload.

23 MS. CAMERON-RULKOWSKI: I think if we could
24 find out what possible hearing dates there were in
25 October, in October, that could be helpful.

1 JUDGE PEARSON: Is that -- is that workable
2 for staff though?

3 MS. CAMERON-RULKOWSKI: Possibly.

4 JUDGE PEARSON: Okay.

5 MS. CAMERON-RULKOWSKI: Then I have to go
6 back and look at all the calendars.

7 JUDGE PEARSON: Right. I just mean that
8 general timeframe, is that easier than September?

9 MS. CAMERON-RULKOWSKI: It's not so much the
10 timeframe; it's working around all of the conflicts.

11 JUDGE PEARSON: Oh, I understand.

12 MS. CAMERON-RULKOWSKI: Yeah.

13 JUDGE PEARSON: Okay.

14 I'm just going over the commissioners'
15 calendars right now. So it appears that the only
16 possible hearing dates in October are the week of the
17 28th. We literally have one of the three of them gone
18 every other day in October.

19 MS. CAMERON-RULKOWSKI: The week of the
20 28th.

21 JUDGE PEARSON: Uh-huh.

22 MR. PEPPLER: So that's any day that week?

23 JUDGE PEARSON: Any day that week it looks
24 like. Yep.

25 We can go ahead and go off the record just

1 for a moment.

2 (A break was taken
3 from 1:52 p.m. to 2:15 p.m.)

4 JUDGE PEARSON: We will be back on the
5 record following a brief recess.

6 And Ms. Cameron-Rulkowski, would you like to
7 present the agreed procedural schedule.

8 MS. CAMERON-RULKOWSKI: I would be happy to,
9 your Honor.

10 So the first date that we have is Avista
11 files initial testimony and exhibits on June 21. Then
12 we have a first settlement conference August 6th. Then
13 we have response testimony from staff and intervenors
14 August 20th. Then we have a second settlement
15 conference, it will be a telephonic settlement
16 conference, September 10th. Then we have rebuttal and
17 cross-answering testimony October 4th. Then we have a
18 discovery cutoff October 9th. We will file
19 cross-exhibits, exhibit lists and whatever else you need
20 October 25th.

21 JUDGE PEARSON: Uh-huh.

22 MS. CAMERON-RULKOWSKI: The hearing will be
23 Wednesday, October 30th. And briefing, to the extent
24 it's needed, will be November 21st.

25 And I say that because we had some

1 discussion about the scope of the briefing needed and we
2 would -- we would want to discuss that at the hearing
3 and seek some guidance on topics, if any, that the
4 Commission would like to hear us brief.

5 JUDGE PEARSON: Okay. And you're
6 envisioning simultaneous, one round of simultaneous
7 post-hearing briefs?

8 MS. CAMERON-RULKOWSKI: Yes, your Honor.

9 JUDGE PEARSON: Okay. And how about any
10 shortening of response time to data requests? And if
11 so, which dates do they correlate with?

12 MS. CAMERON-RULKOWSKI: Yes, your Honor.
13 They would follow what we have on the -- on the
14 schedules that you have in front of you. So shortened
15 to the same extent, aligned with the testimony
16 deadlines. So in other words, after response testimony,
17 the response time goes to seven days. After rebuttal
18 testimony, it goes to five business days.

19 JUDGE PEARSON: Okay. So the shortened time
20 begins with response testimony?

21 MS. CAMERON-RULKOWSKI: Correct. Sorry,
22 that was seven business days.

23 JUDGE PEARSON: Right.

24 MS. CAMERON-RULKOWSKI: Yeah.

25 JUDGE PEARSON: And then following rebuttal

1 testimony will be five business days?

2 MS. CAMERON-RULKOWSKI: Correct.

3 JUDGE PEARSON: Okay.

4 MS. CAMERON-RULKOWSKI: And it will stay at
5 five business days.

6 JUDGE PEARSON: Okay. And there's complete
7 agreement on the schedule; is that correct?

8 MS. CAMERON-RULKOWSKI: That's correct.

9 JUDGE PEARSON: Okay. All right. Well, is
10 there anything else that we need to address while we're
11 here today?

12 MS. CAMERON-RULKOWSKI: Nothing from staff,
13 your Honor.

14 JUDGE PEARSON: Okay. All right. Well
15 then, we will issue an order reflecting the agreed
16 procedural schedule and other matters that we discussed
17 here within the next couple of days.

18 MS. CAMERON-RULKOWSKI: Your Honor, now that
19 I said that, now I do have a question.

20 JUDGE PEARSON: Okay.

21 MS. CAMERON-RULKOWSKI: Will the procedural
22 order cover the description of the scope that
23 Judge Doroshkin gave to us orally today?

24 JUDGE PEARSON: It will.

25 MS. CAMERON-RULKOWSKI: Thank you, your

1 Honor.

2 JUDGE PEARSON: Yes. Okay.

3 MR. PEPPLER: Thank you, your Honor.

4 JUDGE PEARSON: Anything else? Okay. Thank
5 you. All right. Then we are adjourned and
6 Judge O'Connell will be here shortly to convene the next
7 prehearing conference. Thank you.

8 (Proceedings concluded at 2:19 p.m.)

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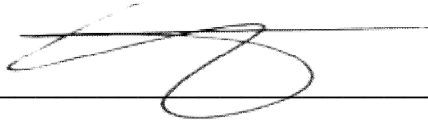
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C E R T I F I C A T E

STATE OF WASHINGTON
COUNTY OF KING

I, Kathleen Hamilton, a Certified Shorthand Reporter and Notary Public in and for the State of Washington, do hereby certify that the foregoing transcript of the proceedings on MAY 24, 2019, is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 30TH day of MAY, 2019.



KATHLEEN HAMILTON, RPR, CRR, CCR