

**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
Richard Hemstad Building
1300 S. Evergreen Park Drive SW, Room 206
Olympia, Washington

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OLYMPIA, WASHINGTON; MAY 24, 2019

1:32 p.m.

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JUDGE DOROSHKIN: Good afternoon, everyone.
Let's be on the record, please.

My name is Nelli Doroshkin and with me is
Rayne Pearson. We are administrative law judges with
the commission, and we will be co-presiding in this
matter along with commissioners.

This is a prehearing conference to address
the Division II Court of Appeals remand of final order
05 in the general rate proceeding of Avista Corporation
doing business as Avista Utilities in consolidated
dockets UE-150204 and UG-150205.

So we will begin by taking appearances,
starting with Avista.

MR. MEYER: Thank you, your Honor.
Appearing for Avista, David Meyer.

JUDGE DOROSHKIN: Staff.

MS. CAMERON-RULKOWSKI: Appearing on behalf
of staff, Jennifer Cameron-Rulkowski, Assistant Attorney
General.

JUDGE DOROSHKIN: And then on the bridge
line, do we have Public Counsel still with us?

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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. PEPPL: 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

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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

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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. PEPPL: 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

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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. PEPPL: I guess if I might say one  
 9 thing prior to that.  
 10 JUDGE PEARSON: Sure.  
 11 MR. PEPPL: 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

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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.

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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.

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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

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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

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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.

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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?

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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

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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.

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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

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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

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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

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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. PEPPLE: 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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1 CERTIFICATE  
2

3 STATE OF WASHINGTON  
4 COUNTY OF KING  
5

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

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

14  
15  
16   
17 KATHLEEN HAMILTON, RPR, CRR, CCR



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