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1           The parties were present as follows: (continued)

2           THE ENERGY PROJECT, by RONALD L. ROSEMAN, Attorney at  
3           Law, 2011 14th Avenue East, Seattle, Washington 98112;  
4           Telephone 206-324-8792

5           NORTHWEST INDUSTRIAL GAS USERS, by CHAD M. STOKES,  
6           Attorney at Law, Cable Huston Law Firm, 1001 Southwest Fifth  
7           Avenue, Suite 2000, Portland, Oregon 97204; Telephone  
8           503-224-3092

9           INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES, by IRION  
10          A. SANGER, Attorney at Law, Davison Van Cleve, PC, 333  
11          Southwest Taylor, Suite 400, Portland, Oregon 97204;  
12          Telephone 503-241-7242

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1 P R O C E E D I N G S

2 (On the record at 1:32 p.m.)

3 JUDGE FRIEDLANDER: Good afternoon. It is  
4 June 16, 2011, and this is the time and place set for the  
5 prehearing conference in Dockets UE-110876 and UG-110877,  
6 consolidated, also known as the Washington Utilities and  
7 Transportation Commission, complainant, versus Avista  
8 Corporation d/b/a Avista Utilities, respondent.

9 Avista has requested an 8.7 percent increase in  
10 billed electric rates and 4.0 percent increase in billed  
11 natural gas rates. The filings were received on May 16,  
12 2011, and suspended by the Commission shortly thereafter on  
13 May 26th.

14 At this juncture I would like to go ahead and take  
15 appearances of the parties. Please provide your name,  
16 address, telephone number, fax number and email address.

17 And we'll begin with Mr. Meyer.

18 MR. MEYER: Thank you, Your Honor. David Meyer on  
19 behalf of Avista. And my address is 1411 East Mission, P.O.  
20 Box 3727, Spokane, Washington 99220-3727. My phone number  
21 is 509-495-4316. And something that gets rarely used, but  
22 my fax number now is 509-495-8058. That's actually a fax in  
23 the rates department.

24 JUDGE FRIEDLANDER: What a coincidence.

25 MR. MEYER: Yes. I suppose that's the way it

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1 should be. My email address is david.meyer@avistacorp.com.

2 JUDGE FRIEDLANDER: Thank you. And actually I  
3 just wanted to clarify for the address part. I have an  
4 address that includes some extraneous information that we  
5 may have --

6 MR. MEYER: MSC-29?

7 JUDGE FRIEDLANDER: Exactly. Is that not used  
8 anymore?

9 MR. MEYER: I don't know. We can tack it on right  
10 after the street address of 1411 East Mission, then there's  
11 an MSC-29, whatever that means.

12 JUDGE FRIEDLANDER: Okay. Thank you. In case it  
13 has importance we'll just include it.

14 MR. MEYER: There you go.

15 JUDGE FRIEDLANDER: Thank you.

16 Mr. Trotter.

17 MR. TROTTER: Thank you, Your Honor. All that  
18 information, other than my fax number, is in the prehearing  
19 conference. Do you want me to nonetheless repeat it on the  
20 record?

21 JUDGE FRIEDLANDER: I think it might be good just  
22 for clarification and to make sure I have the correct  
23 address. Thank you.

24 MR. TROTTER: My name is Donald T. Trotter,  
25 Assistant Attorney General. 1400 South Evergreen Park Drive

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1 Southwest, P.O. Box 40128, Olympia, Washington 98504-0128;  
2 360-664-1189. Fax is 360-586-5522. And my email is  
3 dtrotter@utc.wa.gov. I represent Commission Staff.

4 JUDGE FRIEDLANDER: Thank you.

5 And, Ms. Shifley.

6 MS. SHIFLEY: My name is Sarah Shifley, for Public  
7 Counsel. My mailing address is 800 Fifth Avenue, Suite  
8 2000, Seattle, Washington 98104-3188. My direct phone  
9 number is 206-464-6595. My email address is  
10 sarah.shifley@atg.wa.gov. And I don't actually have our  
11 current fax number with me at this time. And I can provide  
12 it to the Bench following this conference if that's  
13 necessary.

14 JUDGE FRIEDLANDER: Thank you. That's fine.  
15 Eventually I'm sure we're going to get to the point where we  
16 don't even ask for that anymore. But for now it would be  
17 beneficial if I had that on the record. If you could just  
18 send it to me, and I'll include it in the prehearing  
19 conference order as well as--and we'll discuss this  
20 later--any interested parties that you wish to have served  
21 as well.

22 MS. SHIFLEY: Thank you, Your Honor.

23 JUDGE FRIEDLANDER: Thank you. And I believe we  
24 have several written petitions for intervention. And at  
25 this time I would like to have the petitioners enter their

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1 appearances on the record as well, beginning with  
2 Mr. Roseman.

3 MR. ROSEMAN: Thank you, Your Honor. My name is  
4 Ronald Roseman. My mailing address is 2011 14th Avenue  
5 East, Seattle, Washington 98112. I am appearing on behalf  
6 of The Energy Project. My email address is  
7 ronaldroseman@comcast.net. My telephone number is  
8 206-324-8792. My fax number is 206-568-0138.

9 JUDGE FRIEDLANDER: Thank you. And I assume we  
10 have a Mr. Johnson on behalf of the Northwest Energy  
11 Coalition?

12 MR. JOHNSON: That's me.

13 JUDGE FRIEDLANDER: Thank you.

14 MR. JOHNSON: Good afternoon, Your Honor. My name  
15 is David S. Johnson. I represent the Northwest Energy  
16 Coalition in this matter, that's NW Energy Coalition. The  
17 address is 811 First Avenue, Suite 305, Seattle, Washington  
18 98104. The Coalition's phone number is 206-621-0094. My  
19 direct line is 206-788-7991. Fax number for the Coalition  
20 is 206-621-0097. And my email address is  
21 david@nwenergy.org. Danielle Dickson, senior policy  
22 associate, who is not here today, will also be representing  
23 the Coalition. And she is at the same address and main  
24 phone number that I indicated. Her email address is  
25 danielle@nwenergy.org. Thank you.

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1           JUDGE FRIEDLANDER: Thank you. And if you could  
2 give me your direct line again. Is that 206-621-7991?

3           MR. JOHNSON: No. The direct line for the  
4 Coalition is 206-621-0094. My phone contact, my direct line  
5 is 206-788-7991.

6           JUDGE FRIEDLANDER: Thank you.  
7 And, Mr. Sanger.

8           MR. SANGER: My name is Irion Sanger. And I  
9 represent the Industrial Customers of Northwest Utilities,  
10 ICNU. My name is spelled I-r-i-o-n, S-a-n-g-e-r, and I'm  
11 with the law firm of the Davison Van Cleve. We're located  
12 at 333 Southwest Taylor, Suite 400, Portland, Oregon, ZIP  
13 code 97204. Phone number 503-241-7242. Fax 503-241-8160.  
14 My email address is ias@dvclaw.com.

15           JUDGE FRIEDLANDER: Great, thank you. And I have  
16 Mr. Van Cleve's information as well. Will he be associated  
17 with this case?

18           MR. SANGER: Yes. Both Mr. Van Cleve and myself  
19 will be associated with the case, and we would like to have  
20 him on the service list. His information is the same as  
21 mine except for his email address is bvc@dvclaw.com.

22           JUDGE FRIEDLANDER: Okay. Thank you.

23           And I believe we have representation for Northwest  
24 Industrial Gas Users?

25           MR. STOKES: Yes, Your Honor. My name is Chad

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1 Stokes from the Cable Huston Law Firm. My address is 1001  
2 Southwest Fifth Avenue, Suite 2000, in Portland, Oregon  
3 97204. My phone number is 503-224-3092. My fax number is  
4 503-224-3176. My email is cstokes@cablehuston.com. Also  
5 appearing in this proceeding with me will be Tommy Brooks,  
6 and his information is the same except for his email which  
7 is tbrooks@cablehuston.com.

8 JUDGE FRIEDLANDER: Great. Thank you. Okay. I  
9 think that's everybody.

10 Is there anyone else who wishes to put in an  
11 appearance either in person or on the bridge line?

12 Okay. Hearing nothing we'll proceed with the  
13 petitions for leave to intervene.

14 Are there any objections to The Energy Project's  
15 petition?

16 MR. MEYER: No objection.

17 JUDGE FRIEDLANDER: Okay. Thank you.

18 Okay. Hearing nothing. The petition does  
19 indicate that The Energy Project has a substantial interest  
20 in the outcome, and so I will grant the petition. And I  
21 will indicate that in the prehearing conference order.

22 Are there any objections to the petition of the  
23 Northwest Energy Coalition?

24 MR. MEYER: No objection.

25 JUDGE FRIEDLANDER: Okay. Thank you. Maybe what



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1 I should do is say are there any objections to any of the  
2 petitions for leave to intervene?

3 Okay. Hearing nothing. Before this I did read  
4 all the petitions, and I have ascertained that there is a  
5 substantial interest for each of the petitioners, so I will  
6 grant all of those.

7 So we'll move on to discovery. Pursuant to WAC  
8 480-07-400, the Commission's discovery rules, based on the  
9 content of this proceeding, will be made available to the  
10 parties. I understand from Mr. Meyer that we will most  
11 likely need a protective order in this case.

12 MR. MEYER: Yes. I would ask that one be issued  
13 in standard form.

14 JUDGE FRIEDLANDER: Great. I will do that along  
15 with the prehearing conference order.

16 MR. MEYER: Thank you.

17 JUDGE FRIEDLANDER: So let's go ahead and move on  
18 to the schedule. The prehearing conference notice informed  
19 the parties that the Commission has a preference for a  
20 hearing date, which would be the week of December 12th.

21 Have the parties had an adequate opportunity to  
22 confer and reach an agreed upon schedule?

23 MR. MEYER: Yes. I say that in quotes. We have  
24 had back and forth conversations via email, and we have what  
25 I'm going to call an agreed upon schedule insofar as a

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1 schedule will be presented to you. I understand that Public  
2 Counsel may have -- they are not joining in this schedule  
3 but are not proposing their own. And I will let Public  
4 Counsel speak for itself. But it is my understanding that  
5 what I will circulate now is otherwise agreed to as a  
6 schedule.

7 JUDGE FRIEDLANDER: Okay. Thank you. If you  
8 would just bring that to the Bench.

9 (Documents handed out.)

10 JUDGE FRIEDLANDER: And, Ms. Shifley, if you could  
11 let me know what Public Counsel's feelings are on this.

12 MS. SHIFLEY: Thank you, Your Honor. Public  
13 Counsel just wanted to state for the record that we don't  
14 support this proposed schedule for a few particular reasons.  
15 We have concerns regarding the very early date for the  
16 evidentiary hearing. We understand the Commission intends  
17 to hold the hearings in this case, as you said, the week of  
18 December 12th. But we note this is a full four months  
19 before the suspension deadline.

20 This shortened schedule places a greater burden on  
21 Staff, Intervenors, Public Counsel and the public and may  
22 reduce the ability of these parties to meaningfully  
23 participate in this case.

24 We would also note that this case in particular  
25 presents numerous complex issues that may warrant a very

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1 careful review, including Avista's proposal for an electric  
2 efficiency load adjustment mechanism, which is something  
3 that we haven't seen before from this Company.

4 And we're also anticipating review and response to  
5 numerous accounting LIRAP and DSM audit and process reports  
6 that were required in the previous case and are to be looked  
7 at in this case.

8 With that said we recognize that the Company may  
9 thus have a heightened obligation to be expeditious and  
10 forthright in the discovery process since the period for  
11 discovery is shorter than it has been in previous cases.

12 And we'd also just reserve the ability at some  
13 point in this case as necessary to request an amendment to  
14 the schedule if for some reason the period of review and for  
15 issue development in this case is shorter than what's  
16 required.

17 JUDGE FRIEDLANDER: Thank you.

18 Mr. Meyer, did you have any response?

19 MR. MEYER: No. I think that the Commission has  
20 appropriately, given its schedule of cases that have or will  
21 be filed, made essentially a determination that there needs  
22 to be a hearing date in December. We've crafted a schedule  
23 around that and we're appreciative of the guidance. Thank  
24 you.

25 JUDGE FRIEDLANDER: Thank you. Any other party

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1 that wishes to comment on the proposed schedule or  
2 Ms. Shifley's objection thereto?

3 Okay. Thank you.

4 I will take these under advisement, but I have to  
5 tell you that the -- having discussed the matter with the  
6 Commissioners that they have a very, very tight schedule, as  
7 Mr. Meyer indicated, given the three rate cases that are  
8 going to be going on almost simultaneously. So with that we  
9 will need to most likely hold to the December hearing date.  
10 But I will take it under advisement, Ms. Shifley.

11 There are a couple of issues that I need to  
12 discuss with the parties, and Public Counsel may have  
13 some -- I would assume would definitely have some input on  
14 this, the public comment hearing. Does Public Counsel have  
15 a recommendation as far as the numbers, locations, times,  
16 etc.?

17 MS. SHIFLEY: Your Honor, we would just request  
18 that a public hearing be held in October just to allow  
19 sufficient time in between the various deadlines in this  
20 case. And as we've requested in previous cases, we would  
21 hope that the hearing could be held on a Monday through a  
22 Thursday and not on a Friday. And that it begin no earlier  
23 than 6 p.m. to allow members of the public to get to the  
24 hearing site.

25 Spokane is certainly a central location, and in

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1 past cases there have been up to three public comment  
2 hearings. I believe in Avista's last rate case there was  
3 only one, and I don't know what the Commission's preference  
4 is going to be as far as number of hearings in this case.  
5 But of course we would hope that the public would be given  
6 adequate opportunity to participate.

7 JUDGE FRIEDLANDER: Great, thank you. Do any of  
8 the other parties have a position on public comment hearing  
9 dates, times?

10 Okay. Well we will definitely take that into  
11 consideration as well.

12 I have a couple of additions to our traditional  
13 schedule. And anybody who attended the Bench Bar will most  
14 likely be able to anticipate what those involve. As the  
15 parties have presented a schedule that includes a joint  
16 issues matrix it should come as no surprise that we want an  
17 issues list from the parties. We would like it to be joint.

18 I have some guidelines that I'm going to go over.  
19 And they -- there will actually be two opportunities for  
20 parties to comment on, or I should say bring issues to the  
21 attention of the Commission. And we look at this as a fluid  
22 document, a living document such that it is changing  
23 hopefully as the case goes along and progresses such that  
24 the issues we hope should narrow as the time passes during  
25 the extent of the case.

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1           That being said, what we anticipate is that the  
2 company, Avista, will initiate the issues list given its  
3 direct case. And that somewhere around the time of a month  
4 prior to responsive testimony they will circulate it amongst  
5 the parties. And then the parties will have an opportunity  
6 to add their own issues to the list if they are not covered  
7 by Public Counsel -- I'm sorry, not covered by Avista as  
8 well as the dollar amounts.

9           And as discussed at the Bench Bar Conference we do  
10 not want this to be an advocacy document. It is for issues  
11 only as well as the dollar amounts.

12           So then the parties based on the addition of their  
13 own issues and the numbers associated with those issues, the  
14 numbers that you propose, the adjustments, should be based  
15 on Avista's per books numbers so that we all have the same  
16 starting point. I think that was well iterated at the Bench  
17 Bar Conference. We need to have consistency.

18           And the final, hopefully, joint issues list, if it  
19 can be agreed upon by all the parties, should be to us one  
20 week after responsive testimony. And we will leave it in  
21 the hands of Avista to get that to us unless the parties  
22 cannot agree on the list as such as joint. If you cannot  
23 agree then you're certainly welcome to have individual  
24 issues lists. They will also be due one week after  
25 responsive testimony.

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1           And as I said, this is a living document. So  
2 responsive testimony gets filed. We get the issue list,  
3 issues list. And then we get rebuttal testimony and  
4 cross-answering testimony. Following that we have the  
5 hearing. Then we will have a round of posthearing briefs,  
6 simultaneous posthearing briefs. When you file your  
7 posthearing briefs we want an updated issues list so that we  
8 have narrowed the issues at that point, and the Commission  
9 will know which issues have been settled and which issues  
10 are still open for decision.

11           MR. TROTTER: Your Honor, could you just tell us  
12 how many lists you want, and using the schedule that you  
13 have before you, what those dates would be? Assuming the  
14 Commission accepts the schedule.

15           JUDGE FRIEDLANDER: I definitely will. If the  
16 Commission were to accept the schedule as proposed by the  
17 parties the date for the joint issues list, assuming that  
18 you all can agree, would be October 21st, because that is  
19 one week after the parties, absent Public Counsel, have  
20 proposed responsive testimony is due.

21           And I would expect that Avista will have  
22 circulated to the parties a draft, I guess I should say,  
23 issues list or matrix one month prior to October 14th. So  
24 that would be around September 14th you should be getting  
25 something from Avista. That would be the joint issues list.

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1           When you all file your briefs, assuming you choose  
2 to do so, you would also be expected to file an updated  
3 issues list, again, with corresponding dollar amounts. And  
4 that would be, assuming that the Commission adopts this  
5 proposal, January 25th.

6           MR. MEYER: Your Honor --

7           MR. TROTTER: Pardon me. So there's no list  
8 immediately after the Company's rebuttal?

9           JUDGE FRIEDLANDER: No.

10          MR. TROTTER: Thank you.

11          JUDGE FRIEDLANDER: Sure.

12          Mr. Meyer?

13          MR. MEYER: Thank you. At the Bench Bar  
14 Conference there was a fair amount of discussion about what  
15 such an issues list ought to look like. And I think that  
16 the Commissioners were anxious to see some other examples,  
17 for instance, from Utah. It might be helpful if the Bench  
18 had in mind a particular format or level of detail by way of  
19 a template so we get it right the first time, if that could  
20 be circulated. And I don't know where your thinking is on  
21 that just yet.

22          JUDGE FRIEDLANDER: I think, and because this is  
23 going to be the same, relatively speaking, amongst the rate  
24 cases, we are going to have issues lists perpetrated amongst  
25 the cases. I would have to say I don't have a format per se



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1 in mind. I would hope that it includes -- the matrix would  
2 include the issues that the parties have with the Company's  
3 case and a dollar amount adjustment absent any kind of  
4 advocacy and based on the per books numbers, and other than  
5 that the format is up to you.

6 If there are disagreements I would expect that the  
7 parties can work that out amongst themselves. Or then they  
8 can file separate issues lists. But as long as we have the  
9 same starting point I think that is what's going to be most  
10 helpful to the Commission. The formatting is pretty much  
11 stylistic.

12 MR. MEYER: And the level of detail a fairly high  
13 summary level, I assume?

14 JUDGE FRIEDLANDER: Yes. We're talking 10,000  
15 feet.

16 MR. MEYER: Okay.

17 MS. SHIFLEY: Your Honor?

18 JUDGE FRIEDLANDER: Yes, Ms. Shifley.

19 MS. SHIFLEY: Just one other point that I want to  
20 make on the record, just a quick statement on behalf of  
21 Public Counsel. And I think this was also discussed at the  
22 Bench Bar Conference to some degree. Public Counsel may  
23 decide, and we would reserve the right to present an issue  
24 or issues during the case by means other than through the  
25 testimony of witnesses. This could include presentation of

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1 issues or supporting recommendations through exhibits,  
2 witness cross-examination or taking positions in the  
3 posthearing briefs or other means as permitted by the  
4 Commission's procedural rules. And we would understand that  
5 the filing of a joint issues matrix would hopefully be  
6 helpful to all parties in listing those types of issues and  
7 making it very clear if issues were to be presented by means  
8 other than through direct witness testimony.

9           And one other point, very quickly, that I didn't  
10 make earlier when we were discussing the procedural schedule  
11 directly. Another deadline that's listed on here is a  
12 cutoff for discovery. And Public Counsel would just want to  
13 be on the record as saying we don't support setting a  
14 discovery cutoff deadline in the procedural schedule.

15           JUDGE FRIEDLANDER: Thank you.

16           MR. TROTTER: Your Honor?

17           JUDGE FRIEDLANDER: Certainly.

18           MR. TROTTER: I didn't understand Public Counsel's  
19 first point. Is it your concept that the issues list  
20 contain the issues that parties -- excuse me, the issue list  
21 that's filed October 21st, which is the Company's list with  
22 the parties' additions or responses thereto, that if parties  
23 intend to raise an issue at hearing it needs to be on the  
24 list as of October 21st?

25           JUDGE FRIEDLANDER: Yes. Whether or not they have

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1 witnesses sponsoring testimony regarding that issue it  
2 should be on the joint issues list.

3 MR. TROTTER: Thank you.

4 JUDGE FRIEDLANDER: And the parties who will be  
5 advocating or taking a position in an issue that they are  
6 not sponsoring a witness -- for which they are not  
7 sponsoring a witness, they will need to let the parties and  
8 the Commission know at the time of the joint issues list.  
9 So by then I would think that it would be fairly clear. And  
10 as we go along I realize that this is a new procedure, if  
11 you have questions feel free, procedural questions I should  
12 say.

13 So are there any?

14 MR. ROSEMAN: Yes.

15 JUDGE FRIEDLANDER: Mr. Roseman.

16 MR. ROSEMAN: And I do have... So on October 21st  
17 there will presumably be a joint issues list filed. When  
18 you say it's a joint issues list does that mean all the  
19 parties will submit the issue or all the parties agree to  
20 the issues? That's where my confusion is. Does Avista have  
21 to agree to the issue that I identify? If not -- I don't  
22 know. Let's take that question first.

23 JUDGE FRIEDLANDER: Right. I understand what  
24 you're saying. And I think that's why I built in the  
25 possibility of there being individual matrices. If for some

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1 reason the parties don't support anything about the issues  
2 list then I would say if you can't come to an agreement on  
3 the issues list then that's an alternative. However, I  
4 would like there to be a joint issues list. And saying that  
5 I realize you're not going to necessarily agree on the  
6 numbers, and there's going to be a lot of disagreement about  
7 that, hence the evidentiary hearing. So I don't expect  
8 there to be full agreement. But if for some reason the  
9 deadline is approaching and you all cannot come to an  
10 agreement, you don't feel that you can sign on to this,  
11 submit your own issues list with your own numbers. But,  
12 again, this should not be an advocacy document. This is the  
13 issues you are taking during the case. These are  
14 adjustments you are proposing and the dollar amount.

15 MR. ROSEMAN: I'm not trying to make life  
16 difficult here, but I am trying to understand this a little  
17 bit.

18 So we have an opportunity for this joint issues  
19 list. We don't have to all agree to the other parties'  
20 issues; right?

21 JUDGE FRIEDLANDER: Uh-huh.

22 MR. ROSEMAN: So what I don't understand is why  
23 the need? If the assumption is these are the issues as the  
24 parties see them, not necessarily that Mr. Meyer will agree  
25 to The Energy Project's issues, then why can't we just have

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1 each party submit to Mr. Meyer our issues and let -- as long  
2 as it doesn't commit him--I'm picking on Dave, I'm picking  
3 on Avista now--but as long as it doesn't require him to  
4 agree to the issues or to the dollar amount, but it's just a  
5 statement of our issues included in one document; is that  
6 acceptable or that's not?

7 JUDGE FRIEDLANDER: It is. And that's ideal.  
8 However, I realize this is an adversarial process, and for  
9 one reason or another parties may not feel comfortable  
10 submitting a list with the rest of the other parties, I  
11 don't know. I'm hoping in theory that I can get one list, a  
12 joint matrix that will encompass all of the parties' issues  
13 that will have all the various parties' proposed  
14 adjustments. That would be ideal.

15 MR. MEYER: And, Your Honor, we understand the  
16 spirit behind this. And we'll surely work hard to  
17 facilitate this. And we understand that there are going to  
18 be issues that the parties -- many issues that the parties  
19 put on this list that we're not going to agree with, but  
20 they're issues nonetheless and so they make the list so we  
21 have a roadmap.

22 JUDGE FRIEDLANDER: Right.

23 MR. ROSEMAN: Mr. Meyer answered my question.

24 JUDGE FRIEDLANDER: Thank you. I appreciate that.

25 MR. STOKES: Your Honor?

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1 JUDGE FRIEDLANDER: Yes.

2 MR. STOKES: Is a list suppose to contain a  
3 notation about whether or not we have an expert witness on  
4 the issue? So if we have an issue, and it says, I mean  
5 whatever it is, rate spread, rate design, are we suppose to  
6 list whether or not we have an expert to testify about that  
7 issue?

8 JUDGE FRIEDLANDER: Not necessarily. What I'm  
9 anticipating is actually the opposite. If you are raising  
10 issues -- I want all issues, let's put that out first, all  
11 issues that you plan on raising.

12 What I'm anticipating is there shouldn't -- I  
13 don't necessarily need which witness, I can kind of figure  
14 that out on my own. What I'm saying is if you're not going  
15 to present a witness on direct, that's what I want to know.  
16 If you don't have a witness that you're actually going to be  
17 proposing this issue, proposing -- advocating this issue on  
18 your behalf that's what I want to know. And hopefully  
19 that's helpful.

20 Are there any other questions regarding the issues  
21 list?

22 Okay. So let's move on to the cross-examination  
23 exhibits and predistribution, because that has also been  
24 modified from the way that it has been at least for the last  
25 couple of years.

1           Parties will be required now to predistribute not  
2 to file cross-examination exhibits, hard copies, as well as  
3 I'm requiring an electronic copy as a courtesy copy to the  
4 Bench. Hard copies will be provided to our records center.  
5 We'll need eight for this case, and it will be different in  
6 every case.

7           I would note, Mr. Trotter, that typically I ask  
8 for an original and an ungodly number of copies. Since I'm  
9 only having -- since this is getting predistributed and not  
10 filed these exhibits -- I'm not asking for copies for Staff.  
11 So these are just for policy that goes straight to the  
12 judges, they're not going to be in RMS and you will be  
13 responsible for serving each other as usual.

14           Cross-exam exhibits must have a cover letter so  
15 that our records center knows what they are and what to do  
16 with them. That's typical, but it's not typical that we  
17 always get them. You will need to provide an exhibit list  
18 and you will have to provide them in sets that are tabbed  
19 and organized and labeled in order by the witness the party  
20 actually intends to cross-examine. And if that isn't  
21 followed I have been told I have the power to reject the  
22 exhibits or have you come down personally and sort them and  
23 collate them for me.

24           At the same time, of course, you have to serve  
25 them on each other and you will provide me with an

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1 electronic copy. You don't have to file, again, the hard  
2 copy or provide the records center with an electronic copy,  
3 but I will need one.

4 Then one week after the hearing the parties will  
5 file the cross-examination exhibits that were offered,  
6 admitted, withdrawn, rejected, anything that was offered  
7 into evidence.

8 MR. SANGER: Is all of this going to be in the  
9 prehearing conference order?

10 JUDGE FRIEDLANDER: It will. I will provide a  
11 rather lengthy prehearing conference order.

12 MR. SANGER: My one question is sometimes the  
13 order of witnesses is not determined until the time that  
14 you're predistributing the exhibits. So I would assume at  
15 that point we just try to put it in the best order that we  
16 can see fit at that time if that's the case.

17 JUDGE FRIEDLANDER: I guess I don't understand. I  
18 want you to organize them by witness, and then you don't  
19 need to put them in order, in witness order, as far as which  
20 one you plan to cross-examine first or the order of the  
21 witnesses.

22 I just want to make sure that as soon as I get  
23 them I don't have eight of one copy and then -- eight of one  
24 copy of Exhibit B and then eight of one copy of Exhibit C  
25 where I have to go and collate them. That's a good



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1 question, but I think there's no need to do that. So thank  
2 you.

3 And that's kind of the basics of what the  
4 predistribution of the cross-exam exhibits are going to be  
5 entailing at this point. So are there any questions?

6 Okay. I have one other procedural issue to  
7 address, and then I will take any other matters that we need  
8 to discuss before adjourning.

9 So the procedural matter I have involves the  
10 Policy Statement that the Commission issued in November of  
11 2010 regarding decoupling and lost margin recovery. At this  
12 time the Commission would like to entertain multiple options  
13 in addressing lost margin in the case. And as a result and  
14 with the guidance of our Policy Statement the Commission is  
15 contemplating a request to Staff, and to any other party who  
16 wishes to provide us with information, to provide the  
17 Commission with various mechanisms to address the decoupling  
18 and lost margin issues, and that would be both for electric  
19 and natural gas.

20 We're looking for specifics because generalities  
21 have already been discussed. That was the intent of the  
22 Policy Statement. So it would be specifics dealing with  
23 Avista's rate case. And the options would be filed at the  
24 same time as responsive testimony and would be subject to  
25 rebuttal and cross-answering as any other responsive

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1 testimony.

2 But I would like to hear from Staff and the other  
3 parties with regard to this proposal starting with  
4 Mr. Trotter.

5 MR. TROTTER: As I understand it you're asking --  
6 you're suggesting that the Commission is interested in  
7 providing Staff and other parties, other than the Company at  
8 this point since they've already filed their direct case, to  
9 provide various proposals to address decoupling issues  
10 specific to Avista in the context of electric and gas  
11 operations? I assume they could be different for electric  
12 or gas. Do I understand that correctly?

13 JUDGE FRIEDLANDER: Yes.

14 MR. TROTTER: And what are you asking from me?

15 JUDGE FRIEDLANDER: Sorry.

16 MR. TROTTER: I need to understand the request.

17 JUDGE FRIEDLANDER: Maybe it wasn't clear from my  
18 question. What I'm asking is what is your sense of timing  
19 constraints? Or what I really want to know is, and what I'm  
20 mainly concerned about, is Staff's reaction. Because this  
21 is something that's different. And I'm sort of putting you  
22 on the spot here, I realize, but I really at this point  
23 would like to know what your thoughts are.

24 MR. TROTTER: Well, I don't have too many. The  
25 Commission has established a hearing date and we have a

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1 schedule designed to meet it. If you want to offer me an  
2 opportunity off the record I can talk to Staff and see what  
3 their thoughts are. We're going to certainly respond to the  
4 Company's proposal in this case, which I don't want to start  
5 arguing the case right now, but could be characterized as a  
6 decoupling proposal on the electric side. So we will be  
7 addressing that, but we certainly take the request into  
8 consideration. I do have Staff available, I can discuss  
9 with them. I don't know right now what the plans are to  
10 offer proposals or what those might be. But we're certainly  
11 intending to respond to the Company's case. If you need  
12 more than that I'd have to have time off the record to  
13 figure out what it is that you want and try to get it.

14 JUDGE FRIEDLANDER: Sure. And that's understood.  
15 Why don't -- so that I can give the other parties also a  
16 chance to respond to this request, since you have heard it  
17 for the first time right now, why don't we have a deadline  
18 of Tuesday. And that will give you all a chance to provide  
19 the Commission with some incite as to your thoughts on the  
20 possibility of exploring this further. We're looking at  
21 obviously the option that is placed before us with Avista's  
22 direct case. Now what we need to do is see if you all are  
23 amenable to providing the Commission with as many options  
24 and putting before it as many options as we can.

25 Obviously this is a big broad topic, and I

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1 understand there are time constraints, but right now what I  
2 need to know is your amenability to this. And so if you  
3 need additional time I certainly understand that. I would  
4 suggest that maybe we could hear from -- and the Company as  
5 well, I would like to hear from the Company. I kind of  
6 anticipate what the Company will say, but I certainly want  
7 to hear from you as well. Maybe this would be something  
8 that we can hear from the Company and the parties and  
9 certainly Staff by Tuesday.

10 MR. MEYER: Your Honor, just -- I will be happy to  
11 respond additionally on Tuesday but if -- first of all, it  
12 is our hope that no matter which direction this goes that it  
13 does not serve to upset the basic confines of the procedural  
14 schedule and suddenly we're back to square one because the  
15 case has become a different case. So we would have problems  
16 with that. But within these confines if the Commission is  
17 interested in exploring some other alternatives to what we  
18 filed the Company would want a chance too to provide some  
19 other options to what it has included in its case so we make  
20 sure we too participate meaningfully in that discussion.

21 JUDGE FRIEDLANDER: Certainly. And that's why I  
22 mentioned that. Whatever proposal Staff would provide, as  
23 well as the other parties, if this were to come in in  
24 responsive testimony then you would certainly have a chance  
25 on rebuttal to address that.

1           And what you're telling me right now is exactly  
2 what I want to hear, the feasibility, the time constraints  
3 on the schedule, this is what I want to know. I realize  
4 there are three cases that are going to be going on at the  
5 same time. However, I also am looking at this Policy  
6 Statement where we talk about doing this in a general rate  
7 case. And here we are.

8           MR. TROTTER: Your Honor, I don't have the Policy  
9 Statement language in front of me, but Staff normally does  
10 not undertake a role to provide as many options as it can to  
11 the Commission in a case but rather focuses in on what it  
12 believes to be the most appropriate result and advocates  
13 that. It sounds to me like the -- if you're asking for a  
14 context for the parties to provide as many options as they  
15 can that might be more amenable to a generic proceeding or a  
16 proceeding under a Policy Statement rather than a rate case.  
17 But, you know, that's just my immediate reaction based on  
18 the description.

19           JUDGE FRIEDLANDER: I appreciate that. Thank you,  
20 Mr. Trotter.

21           MR. JOHNSON: Your Honor, David Johnson for the  
22 Coalition. Going back to something you said right at the  
23 beginning, I think you referred to both decoupling and lost  
24 margin recovery mechanisms, and a line can be and typically  
25 is drawn, you know, between those two. Mr. Trotter was

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1 summarizing your conversation as referring to decoupling  
2 issues.

3           So I'm clear as far as the marching orders that  
4 the parties have before Tuesday, and also the Bench's  
5 intent, are we looking at the whole gamete of options  
6 potentially, including but not limited to lost margin  
7 recovery mechanisms as well as partial and full decoupling  
8 or are we just referring to lost margin recovery?

9           I don't want to prejudge the intent here, but I  
10 would appreciate some clarification so we have some idea  
11 going forward to our Tuesday conversation as well as we have  
12 a better idea what the Bench requests.

13           JUDGE FRIEDLANDER: I understand. And this is  
14 something that the Commissioners would like to look at. And  
15 it is my understanding, I will certainly doublecheck with  
16 them, that this involves lost margin recovery. The Policy  
17 Statement did discuss decoupling, and I realize that they're  
18 separate but they are interrelated.

19           So I believe it discusses -- I believe that this  
20 would entail both, that this is the full discussion. That's  
21 why I need to know what your thoughts are. And as I said  
22 before, you have experts that you're going to need to  
23 consult with. Mr. Trotter's already indicated he needs to  
24 talk with Staff. I get that. That's why I would prefer a  
25 response by Tuesday.

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1           Mr. Sanger?

2           MR. SANGER: I would like to ask a clarification  
3 question. As I understand it, if we didn't go down this  
4 route the way this issue would be addressed is parties if  
5 they wanted to present an alternative proposal or respond to  
6 Avista's proposal would do that in their testimony that they  
7 file. And then in their legal briefs they would present a  
8 brief with all the issues, the legal issues and a synopsis  
9 of the testimony and everything. So I'm trying to  
10 understand how exactly this would differ from that process.

11           Is what you're asking for is in addition to  
12 testimony? Or in the testimony the parties address the  
13 decoupling issue and what other options they would propose?  
14 And then in their legal briefs later on in the proceeding,  
15 whenever that is set, right now it's proposed as  
16 January 25th, that we would then present our final position  
17 after reviewing everyone else's position in the legal  
18 briefs? Or would this be moving up the discussion and legal  
19 briefs of lost margin issues earlier in the proceeding? I'm  
20 a little unclear about what exactly we would be doing with  
21 our responsive testimony on this issue that's different than  
22 what we would ordinarily do if we wanted to address this  
23 issue in our testimony.

24           JUDGE FRIEDLANDER: Well, first of all, there is  
25 always the option of not addressing it at all in your

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1 testimony. And that would certainly not offer the  
2 Commission much in the way of guidance as to how to go with  
3 this issue. So what we want are the most -- the fullest of  
4 arrows in the quiver and what they would look like and how  
5 they would be executed if we were to utilize them. And what  
6 we were looking at was responsive testimony that these would  
7 be filed. What happens after that at least you've given the  
8 Commission a sense of what the options are.

9 MR. STOKES: This is Chad Stokes. I was part of  
10 that rule-making proceeding, and those issues are  
11 exceedingly complex, and I think the parties in this room --  
12 if you're asking the parties to lay out all their ideas for  
13 a lost margin adjustment you're going to get a lot of issues  
14 out there, and the parties are not going to agree. It seems  
15 like you're -- this proposal is kind of opening up a huge  
16 can of worms and making this proceeding a lot -- I mean we  
17 have the Company's proposal, and it's one thing to respond  
18 to that, but now if we're responding to every other  
19 potential proposal, and then you have the gas and electric  
20 issue because the gas industry is not the same as the  
21 electric industry with these type of margin adjustments. It  
22 seems like this is creating a big complexity in this case.

23 JUDGE FRIEDLANDER: Then you should put that in  
24 writing for Tuesday. That's what I need to know.

25 MR. STOKES: Okay.



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1 MR. MEYER: May I clarify one other thing?

2 JUDGE FRIEDLANDER: Sure.

3 MR. MEYER: And I just want to make sure that if  
4 given the schedule that if parties during their testimony  
5 raise the gamete of decoupling proposals, as you're  
6 suggesting that, when we get around to filing our rebuttal  
7 that we have a chance at that time not only to talk about  
8 what they may have put on the table as alternatives, but  
9 what other alternatives there are out there. Otherwise our  
10 hands are tied because we just came in with a fairly  
11 well-defined proposal now. And I want to make sure that we  
12 have our say. So in the process of making our pitch on some  
13 other alternatives at the rebuttal stage I don't want to  
14 have an objection now that I'm opening up new issues and  
15 suddenly the procedural schedule is off track.

16 JUDGE FRIEDLANDER: And, again, I would say that  
17 is the perfect statement to put in Tuesday's filing, because  
18 if you feel that this is going to expand the timeframe that  
19 you have all come -- well, almost all have come to agree to,  
20 then that is definitely something we need to know. Thank  
21 you.

22 MR. MEYER: Excuse me. There are ways to --

23 JUDGE FRIEDLANDER: Go for it.

24 MR. MEYER: -- anticipate that problem earlier on  
25 toward the front end of the schedule to build in an

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1 opportunity to have supplemental testimony filed by the  
2 Company and others on decoupling type issues. But I would  
3 want to make sure that if we do head towards that dual path  
4 that it doesn't throw us off the main path in terms of the  
5 schedule.

6 JUDGE FRIEDLANDER: Right. No, I definitely  
7 understand. And if we were to have supplemental testimony  
8 that pushes back posthearing briefs which pushes back the  
9 decision. It will impact the entire schedule. So I  
10 understand that.

11 And as I said, I'm taking the temperature in the  
12 room and getting an indication of what's going on, and  
13 that's what I need to know. Tuesday please provide me, by  
14 3:00 p.m., the feelings that you've clearly expressed today.  
15 And we need to know. We need to know. So we will let you  
16 know very shortly thereafter what we've decided.

17 Mr. Sanger?

18 MR. SANGER: I haven't expressed anything on our  
19 position, I just want to do one last time to clarify what  
20 you're asking for us to give our position on Tuesday. And  
21 that is essentially that when we file our testimony on  
22 October 14th, or maybe another time, but when we file our  
23 testimony that we -- are we willing at that point to put our  
24 position on decoupling and all the different options related  
25 to decoupling, but it's not proposing a different schedule

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1 to address that issue? We would still address decoupling  
2 and address those issues in the evidentiary hearing and in  
3 the posthearing briefs, you're just asking for people to  
4 provide more information in their testimony that they might  
5 not otherwise provide?

6 JUDGE FRIEDLANDER: Right. That's the idea.  
7 However, Tuesday is just to tell us, you know, what you're  
8 thinking about this. Is it a good idea? Is it going to be  
9 problematic? What are your suggestions for handling this in  
10 the future? You know, I have a pretty good sense, based on  
11 the various comments, what people's feelings are, but we  
12 need to know. And you need to talk to your experts and then  
13 let us know how feasible this would be.

14 MR. ROSEMAN: Don, did you want to go first or do  
15 you want me to go? I mean I'm happy to take my two cents.

16 MR. TROTTER: I'm getting kind of warm over here,  
17 so I'll just --

18 MR. ROSEMAN: I was getting ready to say, if you  
19 want to know the temperature, I can tell you the  
20 temperature.

21 MR. TROTTER: Go ahead.

22 MR. ROSEMAN: What I find difficult about this,  
23 and I know you want to hear this on Tuesday, but you wanted  
24 to know the temperature in the room now.

25 JUDGE FRIEDLANDER: That's fine.

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1           MR. ROSEMAN:  What I find most difficult is we  
2 will -- we haven't retained a witness on this issue, and I  
3 think we're going to do that or share with someone on this  
4 subject.  But my concern is what we normally do is respond  
5 to Mr. Meyer's proposal, and then we suggest--if you're  
6 going to do this--what would be the best mechanism, and it  
7 ends there.  It seems like what you're asking us to do is to  
8 do that plus survey the industry and the field and come up  
9 with five or six others that we might not endorse at all but  
10 some states have adopted them.  So we're putting something  
11 in testimony that seems like is against our interest and not  
12 where we want to go.  That's one thing.

13           And actually I agree with Don, Mr. Trotter, excuse  
14 me, that it's appearing to me that this is more of a generic  
15 proceeding.  And to do this in a rate case -- and if the  
16 Commissioners were here I would be saying the same thing I'm  
17 saying right now to you.  I'm sorry.  I mean you're saying  
18 that they put it in the order, and they want it this way.  
19 They ought to hear what the hell is going on out here in the  
20 hearing room now.

21           But it is troubling to me.  I don't have a  
22 witness, now I'm going to have to do that and respond to you  
23 by Tuesday without -- because we don't -- we have to look at  
24 our budget and other issues.  We don't know our witnesses at  
25 this stage.

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1 JUDGE FRIEDLANDER: That's exactly --

2 MR. ROSEMAN: So what you're going to get from me  
3 is the fire that you're getting right now in this little  
4 note to you.

5 JUDGE FRIEDLANDER: That's fine. That's fine.  
6 And actually I think -- maybe I haven't been clear. We  
7 want, Tuesday, your thoughts on this. That's all we're  
8 asking. Okay. If you have -- obviously you have strong  
9 opinions. And you know what? That's perfect, that's what  
10 we want to hear. So if this is not the time to do it,  
11 according to you, then you need to tell me that. And it  
12 will be read and heard.

13 MR. ROSEMAN: Okay.

14 JUDGE FRIEDLANDER: And the Commission certainly  
15 understands time constraints. Believe me, the Commission  
16 has time constraints of its own. So if this is going to  
17 affect the schedule, if it's going to broaden the issues  
18 excessively we take that into account and we're certainly  
19 not trying to add horrendous amounts of work for everyone.

20 But this was addressed in the Policy Statement.  
21 It is something that we need to look at now or in the  
22 future. And so it is something that has to be addressed.  
23 Whether it's addressed here or there, you know, will be up  
24 to the Commissioners to decide. So Tuesday, 3:00 p.m.  
25 Thank you.

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1           And I would also add--because I spoke of this  
2 earlier as far as the contacts list--please get to me by  
3 tomorrow at noon--if you would email--your contacts, the  
4 ones you would like to receive documents. Get those to me  
5 tomorrow by noon. And I should let you know that I will  
6 need an original and 16 copies of filings. As I said  
7 before, the predistribution is eight copies, no originals.

8           MS. SHIFLEY: Your Honor, I believe there's one  
9 other substantive issue that we would like to discuss. And  
10 Mr. Meyer and I were talking about this previously, a little  
11 bit also with Staff and Mr. Trotter. We were hoping to take  
12 a very brief recess off the record so that we could discuss  
13 it a little bit more with some members of Staff and then  
14 come back on the record and potentially address it if we  
15 cannot resolve it.

16           JUDGE FRIEDLANDER: You said a substantive matter,  
17 I'm not sure that's appropriate.

18           MS. SHIFLEY: Excuse me, not a substantive matter  
19 but not about the schedule specifically.

20           MR. TROTTER: There's a question about whether a  
21 particular issue is within the scope of the proceeding or  
22 not within the scope of the proceeding. And we may be able  
23 to come to a mutual understanding if we are given a chance  
24 to talk for about 10 or 15 minutes.

25           JUDGE FRIEDLANDER: Okay.

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1           MR. TROTTER:  Otherwise we would need to raise it  
2  to you.

3           JUDGE FRIEDLANDER:  That's fine.  Then why don't  
4  we go off the record for 15 minutes.  I will leave the room  
5  and be back at about 2:40.

6           Thank you.  We are off the record.

7                                 (Off the record from 2:26 to 2:54 p.m.)

8           JUDGE FRIEDLANDER:  Okay.  We'll go back on the  
9  record.

10           Before we recessed there was some discussion  
11  amongst the parties regarding an issue of some -- of a  
12  nature that may need to be addressed by the judge.  I'm  
13  wondering if that has gotten resolved now?

14           MR. TROTTER:  Your Honor, just quickly.  We did  
15  have a good discussion off the record.  There is going to be  
16  a meeting amongst the parties in a couple of weeks that may  
17  moot the issue or it may not.  But we've all agreed to work  
18  in good faith to resolve it without bringing it to the  
19  Commission at this point.  But if it needs to be brought to  
20  the Commission no one is going to object on procedural  
21  grounds, or they'll agree that this issue can be brought to  
22  you for resolution.  So I think for now we're going to push  
23  it off the table for a couple weeks, but it may come back,  
24  if necessary.

25           JUDGE FRIEDLANDER:  Okay.  Then I appreciate that

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1 clarification. And should it need to I will address it at  
2 that time.

3           In the meantime while we were away at recess I did  
4 have a discussion with the Commissioners to make sure that  
5 we're all on the same page. And after clarification from  
6 them I can let you know that what we're looking for here is  
7 whatever proposal you are supporting, whether you are  
8 bringing something before us that addresses lost margin  
9 recovery or the load recovery we need to know whether or  
10 not -- we need to have this in the context of the Policy  
11 Statement and the recommendation, the decision that was --  
12 the recommendation that was in the Policy Statement. So  
13 this is in the context of the Commission's Policy Statement.  
14 I can give you that docket number as well, it's Docket  
15 U-100522.

16           And so if you are going to make a recommendation,  
17 and at this point, you know, maybe you haven't looked at the  
18 case, you have looked at the case, you have an adjustment to  
19 make, you don't have an adjustment, whatever it happens to  
20 be, that recommendation needs to be in the context of the  
21 Commission's Policy Statement and the guidance from the  
22 Policy Statement.

23           I am not looking here for what is done in a small  
24 state, you know, somewhere in the Midwest or, you know, I'm  
25 not looking for a reopening of the generalized proceedings



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1 that we had in the Policy Statement. What I'm saying -- and  
2 I guess maybe the confusion, I apologize for my  
3 inartfulness, if it was understood that when I say we want  
4 the most arrows in our quiver as we can get, if you're going  
5 to make a recommendation based on this we would like it done  
6 in that Policy Statement, you know, the confines of that  
7 Policy Statement, which I think was fairly clear about what  
8 the Commission's expectations were.

9           And I would like to address, Mr. Meyer, the  
10 possibility that you may want -- you may feel the need to  
11 file some kind of supplemental testimony if your current  
12 testimony dealing with the load adjustment didn't  
13 necessarily address the Policy Statement itself, and you may  
14 want to bring us up to speed on that. If you do then please  
15 let me know if you need the opportunity to address that in  
16 supplemental testimony, because I will definitely consider  
17 that.

18           MR. MEYER: Okay. Thank you. That's helpful.

19           JUDGE FRIEDLANDER: And are there any additional  
20 questions or have I confused you all completely again?

21           MR. TROTTER: Your Honor, can I just maybe sum it  
22 up concisely? Your most recent elucidation of the request  
23 is quite a bit narrower maybe than what it was earlier?

24           JUDGE FRIEDLANDER: Yes, it is.

25           MR. TROTTER: Okay. I think I understand it then.

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1 Thank you.

2 JUDGE FRIEDLANDER: Yes, it is. And I hope that  
3 that is helpful.

4 Does anyone else have any further comments,  
5 concerns, questions?

6 MR. ROSEMAN: It is helpful.

7 JUDGE FRIEDLANDER: Thank you. I appreciate that.

8 And Tuesday, again, if you have issues that you  
9 would like to address about the feasibility of this or what  
10 have you I would still look forward to hearing from you on  
11 that at that time. And we'll make a decision. Sometime  
12 after that we will look it over.

13 Thank you. And we are adjourned.

14 \* \* \* \* \*

15 (Off the record at 2:59 p.m.)

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C E R T I F I C A T E

I, TAMI LYNN VONDRAN, a Certified Court Reporter,  
do hereby certify that I reported in machine shorthand the  
foregoing proceedings in the above-entitled cause; that the  
foregoing transcript was prepared under my personal  
supervision and constitutes a true record of the testimony  
of the said witness.

I further certify that I am not an attorney or  
counsel of any parties, nor a relative or employee of any  
attorney or counsel connected with the action, nor  
financially interested in the action.

DATED at Edgewood, Washington this 24th day of  
June, 2011.

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Tami Lynn Vondran, CCR  
Certified Court Reporter  
License No. 2157