

**Docket Nos. UE-220053 and UG-220054 (Consolidated) -
Vol. I**

WUTC v. Avista Corporation

February 14, 2022



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	DOCKETS UE-220053
TRANSPORTATION COMMISSION,)	and UG-220054
)	(Consolidated)
Complainant,)	
)	
vs.)	
)	
AVISTA CORPORATION, d/b/a AVISTA)	
UTILITIES,)	
)	
Respondent.)	

VIRTUAL PREHEARING CONFERENCE
ADMINISTRATIVE LAW JUDGE ANDREW J. O'CONNELL
VOLUME I
Pages 1-41

(All participants appeared remotely via Videoconference.)

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

DATE TAKEN: February 14, 2022

REPORTED BY: Sarah K. Webb, RSR, CCR #5567

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1 LACEY, WASHINGTON

2 10:41 a.m.

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

5

6 JUDGE O'CONNELL: Good morning, the time is
7 approximately 10:40 a.m. My name is Andrew O'Connell,
8 I'm an administrative law judge with the Washington
9 Utilities and Transportation Commission and I'll be
10 presiding in this matter along with the Commissioners.

11 We're here today for a virtual prehearing
12 conference and consolidated Dockets UE-220053 and
13 UG-220054, which is Avista's 2022 General Rate Case.

14 Let's move forward with short appearances from
15 the Company and the other parties and those who have
16 petitioned to intervene. We'll address those petitions
17 later.

18 Let's begin with Staff and public counsel,
19 Mr. Meyer.

20 MR. MEYER: Thank you, Your Honor.
21 David Meyer on behalf of Avista.

22 JUDGE O'CONNELL: Thank you.
23 For Staff.

24 CAMERON-RULKOWSKI: Good morning, Your
25 Honor. On behalf of Commission's Staff, Jennifer

1 Cameron-Rulkowski, assistant attorney general. And I am
2 joined in this case by Jeff Roberson, Nash Callaghan,
3 Harry Fukano, Joe Dallas and Daniel Teimouri, and they
4 are all listed on the notice of appearance that we filed
5 earlier in the case.

6 JUDGE O'CONNELL: Thank you.

7 And for public counsel.

8 MS. SUETAKE: Good morning. I'm
9 Nina Suetake for public counsel and I am joined by
10 assistant attorney general, Ann Paisner.

11 JUDGE O'CONNELL: Okay. For the Alliance of
12 Western Energy Consumers.

13 MR. COLEMAN: Good morning, Brent Coleman,
14 with the law firm Davison Van Cleve on behalf of the
15 Alliance of Western Energy Consumers.

16 JUDGE O'CONNELL: Thank you.

17 For Northwest Energy Coalition.

18 MR. SANGER: Irion Sanger here for the
19 Northwest Energy Coalition. Also going to be
20 representing Northwest Energy Coalition in this case are
21 Ellie Hardwick and Joni Sliger. All of us are with the
22 law firm Sanger Law. And they filed notices of
23 appearance -- we all filed notice of appearance.

24 JUDGE O'CONNELL: Yes, I saw that. Thank
25 you, Mr. Sanger.

1 Okay. For The Energy Project.

2 MR. ZAKAI: Good morning, Your Honor,
3 Yochi Zakai with the law firm of Shute, Mihaly &
4 Weinberger, representing The Energy Project today. With
5 me on this case will be my colleague, Stacy Lee, who was
6 on our petition to intervene, thank you.

7 JUDGE O'CONNELL: Thank you.

8 For Sierra Club.

9 MS. SMITH: Good morning, Gloria Smith on
10 behalf of Sierra Club.

11 JUDGE O'CONNELL: Thank you. And as I
12 mentioned before we came on the record, I noticed that
13 there's a notice of appearance in the docket from Small
14 Business Utility Advocates.

15 MR. WINMILL: Good morning, Your Honor.
16 Jeff Winmill on behalf of Small Business Utility
17 Advocates and I'll be joined on this case by
18 James Birkelund, who was listed on the notice of
19 appearance filed last week.

20 JUDGE O'CONNELL: Okay, thank you.

21 So I did not notice in the docket a petition to
22 intervene on behalf of Small Business Utility Advocates,
23 but we can get to that in a moment. I plan to address
24 that.

25 MR. WINMILL: Thank you.

1 JUDGE O'CONNELL: First, let's address
2 petition to intervene and briefly intervene the funding.
3 There is a new addition to statute RCW 80.28.430, which
4 authorizes energy utilities to provide financial
5 assistance to certain organizations representing broad
6 customer interests and participating in regulatory
7 proceedings here at the Commission.

8 The Commission will determine the amount of
9 financial assistance provided to such organizations and
10 will prioritize those who represent vulnerable
11 populations or highly impacted communities. This is the
12 first case, that I know of, where such funding could be
13 provided. We will not be addressing this funding at
14 this conference.

15 This Commission has set a second prehearing
16 conference in this case to address or receive requests
17 for funding. This might not always be the process for
18 every case going forward, but for this case, we will
19 proceed with having a second prehearing conference and
20 that is scheduled for February 28, 2022 at 1:30 p.m.
21 The Commission has issued a notice in these dockets
22 containing the details for participating via Zoom.

23 Okay. Let me now turn to the petitions for
24 intervention.

25 MR. MEYER: Your Honor.

1 JUDGE O'CONNELL: Yes.

2 MR. MEYER: Your Honor, just a point of
3 order here. I don't know if you received -- or I should
4 say, the Commission has received, the filing which
5 consists of the petition to approve a form of intervener
6 funding that was -- it was signed last week by most
7 parties, and it should be in the hands of the Commission
8 this week if it hasn't already been filed with the
9 Commission. I just wanted to make you aware of that.

10 JUDGE O'CONNELL: Thank you, Mr. Meyer. I
11 was -- I had some awareness that there was a filing like
12 that. And I don't know if or when it's going to be
13 addressed at an open meeting. I believe it's, perhaps,
14 on the docket for the Commission's next open meeting.

15 Depending on what decision might be made during
16 that open meeting, that will help guide the second
17 prehearing conference and what we discussed there. I'm
18 making no assumptions about what is going to happen with
19 that signed agreement, but I'm aware of it and the
20 Commissioners are going to be the ones to make the
21 decision on that.

22 MR. MEYER: Very good, thank you.

23 JUDGE O'CONNELL: Thanks.

24 Let me turn now to the petitions for
25 intervention -- or before I do, are there any questions

1 from anyone about the limited knowledge that I have at
2 this moment about intervener funding?

3 One moment. Thank you. I had to just step
4 away for one moment.

5 Okay, hearing nothing. Let's turn to petitions
6 for intervention. The Commission strongly prefers
7 written petitions filed at least three business days
8 prior to the initial prehearing conference. This
9 prehearing conference, however, I can and intend to at
10 that prehearing conference, entertain oral petitions to
11 intervene in this proceeding. We'll get to any of those
12 in a moment.

13 First, let's address those that the Commission
14 has received in writing. I have reviewed and read the
15 four positions to intervene from the Alliance of Western
16 Energy Consumers, Northwest Energy Coalition, The Energy
17 Project and Sierra Club. I am unaware of any written
18 objections to these petitions. Would any party like to
19 voice an objection?

20 MR. MEYER: No, Your Honor.

21 JUDGE O'CONNELL: Hearing no objections,
22 those petitions to intervene are granted and that
23 decision will be memorialized in the prehearing
24 conference order.

25 Now, for any oral petitions to intervene, I'll

1 explain what the Commission considers when an
2 organization wants to be a party to a GRC.

3 Okay. Let me ask if there are any
4 organizations that wish to petition to intervene orally
5 here at this prehearing conference.

6 MR. WINMILL: Your Honor, Jeff Winmill from
7 Small Business Utility Advocates would like to orally
8 intervene.

9 JUDGE O'CONNELL: Okay, thank you. Are
10 there going to be any others? Okay, hearing none.

11 The Commission evaluates petitions to intervene
12 on the standard of whether you have a substantial
13 interest in the proceeding or whether your participation
14 would be in the public interest.

15 Mr. Winmill, what is your interest in this GRC
16 and how is your interest different from others
17 interests?

18 MR. WINMILL: Thank you, Your Honor. So I
19 represent the Small Business Utility Advocates, which is
20 a nonprofit organization that represents small business
21 utility interests as a customer class with a particular
22 focus on the concerns of small businesses within
23 disadvantaged communities. And our interest in this
24 proceeding is that small businesses in Avista services
25 territory are an important class of customer that will

1 be directly impacted by the utilities proposed rating
2 increases. And because the interest of small businesses
3 are distinct from that residential ratepayer's and
4 larger commercial customers on a variety of matters.
5 SBUA believes it has a direct and substantial interest
6 in this proceeding that can't be addressed by any other
7 party.

8 JUDGE O'CONNELL: Okay. And what is the
9 extent which you intend to participate? Are there any
10 limits on the issues you wish to address or do you plan
11 to bring in new issues or expand the issues beyond
12 what's already in the case?

13 MR. WINMILL: No, Your Honor. SBUA doesn't
14 intend to broaden the issues in this proceeding and it
15 intends to work with all of the other intervening
16 parties to ensure that its participation is focused and
17 not duplicative of their efforts.

18 JUDGE O'CONNELL: Okay, thank you. I want
19 to open to the rest of the parties for any response to
20 Mr. Winmill. I would -- as a preview, I would like to
21 hear from public counsel, if public counsel has a
22 position. But first, let me open it up to all parties
23 and, Mr. Meyer, Avista, the Company, if you have a
24 position.

25 MR. MEYER: Well, I don't believe that we

1 will oppose it. I do have some questions, though, that
2 will help Avista better understand their interest in
3 this proceeding since they're new, at least, to Avista's
4 cases in this just jurisdiction. I know they've been
5 active in Oregon and California. So if Mr. Winmill
6 could provide some additional information concerning
7 which --

8 JUDGE O'CONNELL: Mr. Meyer, let me stop
9 you. Mr. Meyer, if you could address me with the
10 questions that you're interested in and the information
11 that you're interested in that hasn't been provided, I
12 can then direct the necessary questions to Mr. Winmill.

13 MR. MEYER: Surely. So Avista would be
14 interested in knowing the constituents of the Small
15 Business Association that are customers of Avista. And
16 I don't expect you to name them all, but right now we
17 don't have a sense for whether they're Schedule 11 or
18 Schedule 25 customers, how many there are. So we would
19 like some more background.

20 JUDGE O'CONNELL: Okay. Before you begin,
21 Mr. Winmill, let me -- I want to provide some context.
22 So for example, we have parties who typically appear in
23 general rate cases and they represent specific
24 interests, specialized or distinct interests.

25 For example, you already mentioned large energy

1 consumers or industrial customers, but AWEC typically
2 represents. In addition, The Energy Project has an
3 interest and great impact to low income customers and
4 works with community action agencies and the utilities.
5 And I do think that there's some value in hearing, if
6 not specifically, in general, in the way that The Energy
7 Project works with community action agencies.

8 If you could provide us with some information
9 around not only the interest you represent, but the
10 interest of what entities.

11 MR. WINMILL: Sure. I usually, I believe --
12 and I can provide more specific information to all
13 parties at a later date. But I believe the scope of our
14 representation is businesses with fewer than 100
15 employees. And that we -- and in response to
16 Mr. Meyer's query related to yours, there are members of
17 the SBUA that are rate paying members, both gas and, I
18 believe, electric in Avista service territory.

19 And as you said, Your Honor, we tend to think
20 that these, you know, small interests, these small
21 commercial interests are distinct from the
22 residential -- low income residential customers as well
23 as the large commercial customers you just mentioned.

24 JUDGE O'CONNELL: Okay, thank you. Public
25 counsel usually represents Avista's residential and

1 commercial customers, generally. Is there some
2 specialized interest or knowledge that your organization
3 brings to its reputation of small businesses that you
4 believe is -- you represent? In a, I guess, in a way
5 that would benefit the public interest if you were
6 involved.

7 MR. WINMILL: That's a good question, Your
8 Honor. Small Business Utility Advocates, as was
9 previously mentioned, has been involved in general rate
10 cases for I think approximately a decade, multiple ones,
11 primarily in California and in Oregon, and has advocated
12 successfully for the distinct interests of small
13 business customers alongside and -- but distinct from
14 the equivalent public advocates in California in
15 particular.

16 And so while I think the public advocate has
17 obviously -- is representing the public interest, SBUA
18 believes it has expertise as well as experience to
19 particularly focus on the interests on small businesses.

20 JUDGE O'CONNELL: Okay, thank you. I want
21 to turn to public counsel briefly. Ms. Suetake, I'm
22 familiar with you from time before I was an
23 administrative law judge with the Commission and had the
24 pleasure of working with you on a number of cases, and
25 I'm familiar that you also did some work in California.

1 Maybe we can benefit from that experience in addition to
2 you representing public counsel on this instance. Do
3 you or public counsel have any thoughts?

4 MS. SUETAKE: Thank you, Your Honor. I
5 think the first thought, as you said, we do represent
6 both residential and small business customers in the
7 state of Washington. My experience in California,
8 however, shows that the more interveners with
9 specialized interest, the better focused and better
10 outcomes we can get for everybody and for all
11 ratepayers.

12 We don't have any objection to the Small
13 Business Utility Advocates intervening in this case.
14 You know, we would coordinate as much as possible
15 knowing that we probably have different takes on
16 different issues. But to the extent possible, we could
17 probably coordinate to make sure that we're not, you
18 know, repeating each other's work, to the best of our
19 ability.

20 We are a broader -- we have broader interests
21 than the Small Business Utility Advocates. So I do
22 think it would be helpful to have their specific voice
23 in this proceeding.

24 JUDGE O'CONNELL: Thank you. Before I turn
25 back to you, Mr. Meyer, is there any other party who

1 wants to voice a position or an objection to the
2 petition to intervene from the Small Business Utility
3 Advocates?

4 MS. CAMERON-RULKOWSKI: Yes, Your Honor.
5 This is Jennifer Cameron-Rulkowski from Commission
6 Staff. And until this moment, I did not know the
7 identity or the purpose of the intervener, and so I
8 would ask for a short break to consult with my client
9 before I take a position on the intervention.

10 And I would ask that in future -- that
11 especially when there's an ability to file a written
12 petition for intervention, such as there was here, that
13 that be filed. So that we're not put in this situation
14 where we don't know who the intervener is and we have
15 to, you know, try to figure it out on the spot. So I
16 just strongly encourage all interveners to file written
17 petitions for an intervention.

18 And I believe it's important also for the
19 Commission's record to have that information. So again,
20 I would ask for a short break so that I can consult with
21 my client before we take a position.

22 JUDGE O'CONNELL: Thank you. I think that's
23 a good idea and I will offer a short recess in a moment.
24 But before we have that recess, I want to give the
25 opportunity the Mr. Meyer and any other party if you'd

1 like to voice your position now or thoughts now knowing
2 that I am going to allow us to take a recess in just a
3 couple minutes.

4 Mr. Meyer, would you like to speak now or would
5 you like to wait?

6 MR. MEYER: I'll speak now.

7 JUDGE O'CONNELL: Okay.

8 MR. MEYER: I'll speak now. Avista has no
9 objection.

10 JUDGE O'CONNELL: Okay. Thank you,
11 Mr. Meyer.

12 MR. WINMILL: Your Honor, may I address
13 Counsel or public advocates counsel briefly?

14 JUDGE O'CONNELL: Mr. Winmill, are you
15 wishing to address another party?

16 MR. WINMILL: Oh, yeah, I'm sorry.
17 Ms. Rulkowski -- I'm sorry. Cameron-Rulkowski.

18 JUDGE O'CONNELL: Let -- I think I would
19 like to wait to hear that. Why don't we take a short
20 recess. I'm going to allow Ms. Cameron-Rulkowski to
21 speak with her client that she represents and also give,
22 maybe, you some time to speak with her off the record if
23 there's something that you need to address, okay?

24 MR. WINMILL: Thank you, your Honor.

25 MS. CAMERON-RULKOWSKI: Thank you, Your

1 Honor.

2 JUDGE O'CONNELL: When we come back, I'll
3 hear from Mr. Winmill and Ms. Cameron-Rulkowski and any
4 other party that would like to be heard.

5 Let's take a short recess, we'll be off the
6 record for -- Ms. Cameron-Rulkowski, is ten minutes
7 efficient?

8 MS. CAMERON-RULKOWSKI: That should be fine.
9 Thank you, Your Honor.

10 JUDGE O'CONNELL: Okay. We will return --
11 it's currently 11:03 a.m., we'll return at approximately
12 11:15 a.m. And we are off the record, thank you.

13 (Recess taken 11:03 a.m. to 11:15 a.m.)

14 JUDGE O'CONNELL: So we are back from a
15 short recess, the time is 11:15 a.m.

16 I'd like to return to Ms. Cameron-Rulkowski and
17 also hear from Mr. Winmill.

18 Go ahead, Ms. Cameron-Rulkowski.

19 MS. CAMERON-RULKOWSKI: Thank you, Your
20 Honor, we appreciate the time that we had to discuss the
21 intervention petition. I would note at the outset that
22 all of the other interveners in this case have filed
23 written petitions to intervene and that that is a
24 standard procedure at the Commission. The Commission
25 operates at a fairly high professional level. And the

1 written petitions to intervene make a robust -- make for
2 a robust record in the case. And Staff strongly
3 supports having written petitions to intervene.

4 We know that there are upcoming rate
5 proceedings at the Commission. And the Small Business
6 Utility Advocates may elect to petition to intervene in
7 some of the other cases, and we would hope to see
8 written petitions to intervene in the future.

9 We don't have an objection to the intervention
10 of the Small Business Utility Advocates, but really on
11 the condition that they file written petitions to
12 intervene in future cases. Thank you, Your Honor.

13 JUDGE O'CONNELL: Okay, thank you. I'd like
14 to turn back to Mr. Winmill briefly and then I'll open
15 it up for any other party that would like to be heard.
16 Mr. Winmill.

17 MR. WINMILL: Thank you, Your Honor and we
18 appreciate the importance of written interventions, and
19 I personally apologize and commit to those in the
20 future. This is the only time in my experience that
21 this has occurred and so that's not standard practice
22 from SBUA, nor will it be in the future and we thank
23 you.

24 JUDGE O'CONNELL: Okay, thank you. Is there
25 any other party who would like to be heard?

1 MR. SANGER: The Northwest Energy Coalition
2 does not object to the intervention of the Small
3 Business Utility Advocates.

4 JUDGE O'CONNELL: Thank you, Mr. Sanger.

5 Okay, I'm hearing nothing else from the
6 parties.

7 So I would like to emphasize one note that
8 Ms. Cameron-Rulkowski pointed out. And it is a part of
9 the Commission's rules, and it's very clear the
10 Commission strongly prefers having written petitions to
11 intervene in advance of these prehearing conferences.

12 However, the reason why we allow oral petitions
13 to intervene is so that parties who are unfamiliar with
14 our process and, typically, parties who are unused to
15 the formality of rate proceedings, can still have access
16 to these rate proceedings and request to be a party. I
17 expected that we might have more oral petitions to
18 intervene, given the new statute or the addition to the
19 statute about intervene or funding. That has not
20 occurred.

21 Mr. Winmill, having heard from you and the
22 other parties, I am -- I intend to grant your petition
23 to intervene and memorialize that in a prehearing
24 conference order. You will likely see language
25 reiterating that the Commission prefers, strongly

1 prefers, to see written petitions to intervene. But in
2 this instance, I think it is appropriate to grant your
3 petition. And I would request that as you become more
4 familiar with the Commission's processes, that you do
5 file in the future written petitions to intervene.

6 MR. WINMILL: Thank you, Your Honor. That's
7 duly noted and much appreciated.

8 JUDGE O'CONNELL: Okay, thank you. Let's --
9 is there any other matter pertaining to petitions --
10 sorry -- petitions to intervene that we should address?

11 Okay, hearing nothing. Let's move on. The
12 Company requested a protective order when it filed it's
13 General Rate Case and a protective order has already
14 been issued. I have already seen a number of signed
15 confidentiality agreements in the docket. Further, for
16 filing and service of the Commission, we require all
17 filing and service to be done electronically now,
18 according to Commission rule and the Commission will
19 serve parties electronically as well.

20 However, in this case, as is somewhat the
21 practice still currently, the Commission is also going
22 to require the filing of an original -- no, I'm sorry.
23 The Commission will also require the filing of three
24 paper copies for internal distributions in addition to
25 the electronic filing. If filings include information

1 designated as confidential, please file the three copies
2 of the fully unredacted version, no paper copy is
3 necessary for any partly or fully redacted version. And
4 please file those versions that are partly or fully
5 redacted, please file those in electronic format.

6 As far as designated persons for service, if
7 any party has not yet designated a lead representative
8 for service, please do so via an email to me as soon as
9 possible, so that I can include that information in
10 prehearing conference order.

11 And if anyone would like to add names and email
12 addresses of other representatives or support staff who
13 should receive electronic courtesy copies of all
14 documents, please email that to me as well. My email is
15 andrew.j.oconnell@utc.wa.gov.

16 We'll move forward to the procedural
17 schedule --

18 MR. COLEMAN: Your Honor, I'm sorry, if I
19 may. This is Brent Coleman for AWEC, and I apologize
20 for interrupting. I had some sort of glitchy internet
21 connection there when you were discussing the written
22 paper copies. Can you -- the scope of that is just if
23 confidential materials or everything? Are you on -- I'm
24 sorry. I just -- there was some -- your sentences
25 skipped as my internet connection was trying to catch

1 up.

2 JUDGE O'CONNELL: That's fine, I can
3 reiterate it.

4 MR. COLEMAN: Thank you.

5 JUDGE O'CONNELL: We want three paper copies
6 of fully unredacted testimony and exhibits. So if
7 there's anything that needs to be -- all the versions
8 that are redacted completely or partly, those can be
9 filed only in electronic copies, you don't need to send
10 in a paper copy of something that has redactions in it.
11 The fully unredacted paper copies will be used for
12 internal distribution within the Commission to the
13 Commissioners and the Commissioner's support staff.

14 MR. ZAKAI: Your Honor, if I may ask a
15 question.

16 JUDGE O'CONNELL: Yes, Mr. Zakai.

17 MR. ZAKAI: Thank you. This applies only to
18 testimony and exhibits and not other types of filings?

19 JUDGE O'CONNELL: No, let me correct that.
20 Thank you, Mr. Zakai.

21 If there are any motions that are to be filed,
22 those also need to be filed in paper copies.

23 MR. ZAKAI: As well as briefs?

24 JUDGE O'CONNELL: Yes, as well as briefs.

25 MR. ZAKAI: And I have one additional

1 question about a different issue and that is, if we have
2 designated additional persons and support staff in our
3 petitions to intervene or notice of appearance, would
4 you like us to email you with that information anyway or
5 is our previous filings sufficient?

6 JUDGE O'CONNELL: If you have already
7 included it, there's no reason to send it to me again.
8 Because I'm going to be using the information in the
9 notices of appearance first. So if there's anyone in
10 addition to those, please email me.

11 Are there any other questions for filing and
12 service?

13 MR. SANGER: Yes, Judge. You mentioned in
14 addition to people listed --

15 MS. SMITH: Yes.

16 JUDGE O'CONNELL: Go ahead, Mr. Sanger.

17 MR. SANGER: You mentioned anyone in
18 addition to those listed in the notice of appearance,
19 did you mean anyone in addition to those listed in the
20 petition to intervene?

21 JUDGE O'CONNELL: Petitions to intervene can
22 also contain a notice of appearance for attorneys, I'm
23 aware of that. And that information being in the
24 position to intervene, I will accept that as being part
25 of the notice of appearance. So if it's in the petition

1 to intervene, yes, I will have that information and you
2 need not submit it again.

3 MR. SANGER: And including non-attorneys
4 that are listed in the petition to intervene?

5 JUDGE O'CONNELL: Correct. And that's
6 specifically what I am referring to as to support staff
7 or other representatives. I did notice that there were
8 two representatives identified in yours who are not
9 attorneys, and I am aware that those people need to be
10 included for courtesy copies.

11 MR. SANGER: Thank you, Your Honor.

12 JUDGE O'CONNELL: Okay. And there was
13 another party who wished to be heard.

14 MS. SMITH: Yes, it's Gloria Smith from
15 Sierra Club. I should know the answer to this, just to
16 be clear, my assumption is the three copies are for the
17 Commissioners themselves? Is the filing deadline met
18 when the electronic copies go out for the service list
19 and then perhaps the hard copies don't hit until the
20 following day or must the hard copies hit the day that
21 we send out the electronic versions?

22 JUDGE O'CONNELL: Thank you, Ms. Smith, I
23 understand the question. The deadline is satisfied by
24 the filing of the electronic copy because the parties
25 will submit electronic copies of the unredacted version

1 and any redacted or fully redacted version. However,
2 the Commission rule does take note that the hard copy
3 should be received by the Commission the following day.

4 MS. SMITH: Thank you.

5 JUDGE O'CONNELL: Okay. Is there any other
6 questions from the parties regarding filing and service?

7 Okay, hearing nothing. Let me move on to the
8 procedural schedule. The -- well, Mr. Meyer has
9 provided a proposed procedural schedule to me and I was
10 informed that there might still be some wrinkles to be
11 ironed out regarding the dates for settlement
12 conferences.

13 Mr. Meyer, can you give an update on the status
14 of the proposal?

15 MR. MEYER: Yes, Your Honor, thank you. And
16 I just want to inquire, Your Honor, did you also receive
17 an updated version of that schedule just prior to the
18 start of this prehearing?

19 JUDGE O'CONNELL: I have not seen that
20 version, but I can pull it up presently.

21 MR. MEYER: It might be useful. It was sent
22 from -- or by Paul Kimball on behalf of Avista.

23 JUDGE O'CONNELL: Yes, I see it. I have it
24 in front of me. Go ahead, Mr. Meyer.

25 MR. MEYER: Okay, very good. And there

1 aren't very many changes from what you saw before.

2 Now, the parties worked pretty hard over the
3 last week or so to iron this out. And I think we're
4 mostly there, maybe entirely there. There are a couple
5 of open questions though, where we will need to confirm
6 at least two dates. But before we fine-tune those two
7 dates, I know that the Sierra Club wanted to be careful
8 not to commit to anything by way of a schedule until
9 they gave it sufficient thought. So I don't want to
10 represent that all parties are okay with this, but for
11 one or two dates. So I think you'll have to -- or you
12 may need to canvas the room on that.

13 JUDGE O'CONNELL: Okay. For the record, can
14 you please note for me the two -- or the very few
15 changes that there are in this updated proposed
16 procedural schedule?

17 MR. MEYER: Yes, happy to do so. The
18 initial settlement conference, I think what you may have
19 seen before was May 31st, that is now May 26th. I'm not
20 sure all parties have weighed in on that, but I think at
21 least Staff and public counsel and Avista are okay with
22 that date.

23 And I had inquired, just before the start of
24 this conference, whether we couldn't add an additional
25 day, May 25th, so it becomes a two-day opportunity to

1 settle. So it would be May 25th and 26th, I don't know,
2 frankly, where the other parties stand on that. But I
3 think there is momentum at least for that one day of the
4 26th. So that's the first thing and we can return to
5 that in a minute.

6 The only other date that I think we've nailed
7 down is the date for Staff, public counsel, interveners
8 response testimony instead of July 11th that is July
9 6th, July 6th and I think we put that to bed. So to the
10 best of my knowledge, those are the only two areas in
11 which further discussion should be had, but that's all I
12 know at this point.

13 JUDGE O'CONNELL: Okay, thank you. Let me
14 hear briefly from the other parties. In a moment, if
15 there needs to be a break and the parties need time to
16 discuss amongst themselves, we can take that, but we
17 might not need to. So let me ask the other parties
18 regarding the settlement conferences and then from
19 Sierra Club, Ms. Smith, I would like to ask about your
20 position -- actually, let's start with that.

21 Ms. Smith, does Sierra Club have a position on
22 the proposed schedule?

23 MS. SMITH: Thank you, Your Honor. I think
24 the Small Business Association kind of alluded to this a
25 tiny bit. Anybody who practices in other utility

1 commission jurisdictions is kind of surprised at how
2 fast things sort of get started with the UTC.

3 So, you know, I'm aware of the application, but
4 I haven't had an opportunity to even reach out for
5 expert help yet. So I can't oppose or confirm any dates
6 because of that. But I'm not arguing about any of the
7 dates because I -- it's a complete unknown to me. So
8 I'm not opposing any dates right now.

9 I did have a scheduling conference conflict in
10 June that I think we sorted out. So Sierra Club is
11 going to take the schedule as they find it and hope for
12 the best, thank you.

13 JUDGE O'CONNELL: Let me turn to the other
14 parties and ask for your positions on the proposed
15 procedural schedule. And if there are any concerns or
16 reasons that the Commission should consider modifying or
17 otherwise, changing this proposed schedule.

18 Let me ask if Staff -- Staff, have you had a
19 chance to review the schedule and is there any issue
20 from your point of view?

21 MS. CAMERON-RULKOWSKI: Yes, we have. Thank
22 you, Your Honor. The schedule is fine as to Mr. Meyer
23 has represented it. I do want to draw your attention to
24 one of the items on the procedural schedule, and this is
25 the compliance filing deadline. This is the conultimate

1 (sic) item on the procedural schedule, and we have
2 included this because it has been an issue for
3 regulatory staff to have sufficient time to review
4 compliance filing.

5 And under the rule, the Commission procedural
6 rule, provides five business days and so we have placed
7 that in the schedule, five business days in advance.
8 In -- sorry. In advance of the suspension date. And so
9 I just wanted to make that clear and I'm happy to answer
10 any questions that you may have.

11 JUDGE O'CONNELL: Well, I don't have a
12 question, but I do want to make -- I do want to make
13 clear how the Commission views these deadlines. The
14 statute requires that the Commission enter an order
15 prior to the suspension date. So the Commission always
16 intends to issue an order that -- because the date for
17 all of the tariff changes are set for the suspension
18 date, the Commission does consider that it would be more
19 efficient to keep those dates there without having to
20 change them. But the Commission is in compliance with
21 the statute if it enters an order by the suspension
22 date. And in the eventuality that it does issue an
23 order right before the suspension date, Staff still
24 needs to have time to review the compliance filing and
25 the rule provides four or five days.

1 MS. CAMERON-RULKOWSKI: Your Honor, we very
2 much appreciate that clarification. And certainly would
3 appreciate it if in the Commission's final order if
4 there is a date for compliance filing and reviews so
5 that's clear to everyone and then Staff will have enough
6 time and everyone knows, that would be very helpful.

7 JUDGE O'CONNELL: I can assure you that I
8 will bring this up with the Commissioners and we will
9 consider issuing guidance like that in whatever order
10 gets issued.

11 MS. CAMERON-RULKOWSKI: Thank you.

12 MR. MEYER: Your Honor.

13 JUDGE O'CONNELL: Yes, Mr. Meyer, I
14 understand the Company's going to have some concern with
15 this also. And I do want to emphasize that the
16 Commission does try to make sure that there's time for
17 the Company to review its order and submit a compliance
18 filing that can then be reviewed in advance of the
19 suspension date. But let me hear from you, Mr. Meyer.

20 MR. MEYER: And we all may be saying the
21 same thing, in which case, it's not a problem. I just
22 want to make clear, though, Avista, as you might expect,
23 takes that suspension date very seriously. And I don't
24 hear you saying that you would do something that would
25 extend that suspension date to somehow allow for

1 additional days for a compliance filing review. Am I
2 right in that understanding?

3 JUDGE O'CONNELL: Mr. Meyer, what I am
4 saying is that the statute requires the Commission to
5 issue an order before the suspension date. Given the
6 practicalities of having to review a potentially
7 voluminous order and filing -- making a compliance
8 filing, it might be impractical to expect that if the
9 order comes out right before the suspension date, that
10 Avista could somehow also make a compliance filing
11 before the suspension date.

12 And I understand that there is a tension there
13 in what has been filed and the dates that are already
14 set on the tariff changes. The Commission is going to
15 comply with statute, and the Commission is aware, also,
16 of the deadlines and the pressure that it puts on the
17 Commission Staff and on the Company and other parties
18 who review the Company's compliance filing when we get
19 closer and closer to that suspension date.

20 And so the Commission's aware that that gets
21 very tight at the end. And for me, personally, I can
22 tell you that I would like to see an order issued with
23 sufficient time where it isn't so stressful to make a
24 compliance filing, review it and have the tariff changes
25 go into effect on the suspension date. Does that help?

1 MR. MEYER: So that -- it does help and I
2 think everyone is thinking along the same lines. I just
3 don't want to be asked by my client to take issue with a
4 prehearing conference order that could be read to
5 somehow extend the suspension date beyond the statutory
6 deadline. Because then I'd have to file a motion, we'd
7 have to run it to ground and this may be a nonissue, but
8 I just -- we need to protect our interest in that
9 regard.

10 JUDGE O'CONNELL: I understand.

11 MR. MEYER: Okay, thank you.

12 JUDGE O'CONNELL: Would any other party like
13 to be heard on this topic?

14 Okay. Is there any other party that wants to
15 voice their position on the proposed procedural
16 schedule?

17 MR. MEYER: Your Honor, sorry to interrupt
18 yet again. But as we go through this party by party, I
19 made the suggestion that we set aside an additional day
20 that week of May 23rd through the 26th for that first
21 settlement conference. And I don't know if the parties
22 have had a chance to think through that yet, but if they
23 have, it would be great to try to nail that down at this
24 time. So can Staff find another day that week so we can
25 have two days?

1 JUDGE O'CONNELL: One moment, Mr. Meyer. I
2 am considering whether it might be at best to let the
3 parties have a conversation off the record.

4 Mr. Meyer, would you -- do you think the
5 parties would benefit, the Company and the other
6 parties, from discussing off the record whether there is
7 an additional day that you would like to include for the
8 settlement conference?

9 MR. MEYER: I think so. And I think it will
10 probably take five minutes or less. And the answer may
11 be we don't know yet, but at least we'll know that much.
12 So yes, I think five minutes off the record would help.

13 JUDGE O'CONNELL: Okay. In the event that
14 there isn't an agreement on another day, I do want to
15 emphasize for the parties that -- that you can add a day
16 after the procedural schedule comes out. In particular
17 for settlement conferences, you must have an initial
18 settlement conference, but you should just give some
19 notice to me and in the docket if the parties intend to
20 modify it somehow.

21 So with that clarification for the parties,
22 let's go ahead and be off the record for five minutes.
23 The time is, by my clock, 11:42 a.m. I will turn my
24 audio, microphone and video back on at 11:48 a.m. Thank
25 you, we are off the record.

1 (Recess taken 11:42 a.m. to 11:50 a.m.)

2 JUDGE O'CONNELL: The time is 11:50 a.m. We
3 are back on record from the short break.

4 Let me turn to Mr. Meyer, would you please go
5 ahead.

6 MR. MEYER: Yes, thank you, Your Honor. So
7 the date for the initial settlement conference should be
8 May 26th. The 25th may work for other parties, but we
9 would have to check and that may be known in a day or
10 two, but I would say go ahead and issue a prehearing
11 order just using the 26th. Maybe you'll hear before
12 that comes out that the 25th works as well, it's just
13 one party with one potential conflict. Otherwise, the
14 schedule is acceptable to all.

15 JUDGE O'CONNELL: Okay. If there does need
16 to be a change, that's fine. I want to ask that in all
17 of your communications to me, please cc the other party
18 representatives so that everyone can be informed of
19 what's discussed.

20 Okay. Let me open up and ask all the parties,
21 is there anything else we should discuss about the
22 procedural schedule, the proposed procedural schedule
23 before I take it and discuss with the Commissioners,
24 look at the Commission's calendar and issue a decision?
25 Okay, I'm hearing nothing.

1 There's one last thing I want to bring up about
2 the proposed procedural schedule. There is a -- there's
3 something included in the proposal regarding data
4 requests. It includes a certain agreement regarding the
5 sharing of all data requests and responses, as well as
6 an intent to group such requests for efficiency.

7 I usually include in my prehearing conference
8 orders such terms, but the party's agreement
9 memorialized with the proposed procedural schedule is, I
10 think, sufficient to bind the parties if the proposal's
11 accepted. Is there any party that objects to the terms
12 that would require the sharing of all data requests and
13 responses? Okay, I'm hearing nothing.

14 And so I will at least memorialize that
15 requirement in the prehearing conference order. Okay.

16 MS. SUETAKE: Your Honor, for the record and
17 also for -- just to make sure I have it somewhere. Will
18 the prehearing conference also state the due dates for
19 -- the different due dates for discovery as listed -- I
20 think at the bottom of this. Unfortunately, I lost
21 keyboard control, so I can't look at the rest of the
22 document.

23 JUDGE O'CONNELL: Yes, I saw that in the
24 footnote. The proposed procedural schedule identifies
25 the proposed modifications to the typical response

1 deadlines to data requests. And I guess it was my
2 thinking when I saw that, that it was included as part
3 of the party's proposal. If that's incorrect, and there
4 is an objection to changing that -- the deadline for
5 data request responses from 10 days to, I believe, it's
6 five days, I would like to hear from the parties if
7 there is an objection to changing that deadline.

8 MS. SUETAKE: Sorry. I didn't have an
9 objection, I just wanted to make sure that was somewhere
10 in the prehearing conference order as well as the
11 schedule.

12 JUDGE O'CONNELL: Yes, okay. Typically, I
13 would include that in the procedural schedule as a
14 footnote, similarly to how it's been presented in the
15 proposal.

16 MS. CAMERON-RULKOWSKI: Your Honor.

17 JUDGE O'CONNELL: Yes,
18 Ms. Cameron-Rulkowski.

19 MS. CAMERON-RULKOWSKI: I would like --
20 thank you. I would like to have the agreement among the
21 parties for discovery tracking in the order, if that's
22 possible. Our administrative staff used the order as
23 their guide to processing and sending out everything.
24 And it would be actually be very helpful to have that
25 agreement be memorialized in the prehearing conference

1 order.

2 So I would ask you to reconsider and place the
3 agreement in the order with the recognition, as you like
4 to state it, that it is agreed among the parties, that's
5 fine.

6 JUDGE O'CONNELL: Okay. Is there any
7 objection? I don't believe -- I would not assume there
8 would be, but I would like to offer the time and
9 opportunity for any party that wants to be heard.

10 Okay. Ms. Cameron-Rulkowski, I do intend to
11 memorialize that.

12 MS. CAMERON-RULKOWSKI: Thank you.

13 JUDGE O'CONNELL: Okay. I have nothing else
14 that I'd intended to address at the prehearing
15 conference. Is there anything else from the parties or
16 the representatives that we need to address today?
17 Okay, I'm hearing nothing, but I'm going to pause a
18 little bit longer just to make sure.

19 MR. MEYER: No, Your Honor, from Avista.

20 MS. CAMERON-RULKOWSKI: Nothing from Staff,
21 Your Honor.

22 JUDGE O'CONNELL: Okay, thank you. Hearing
23 nothing from any of the other parties.

24 Okay. I will issue an order shortly containing
25 the procedural schedule and the other guidelines for

1 this case. And with that, we are adjourned, we will be
2 off the record, thank you.

3 (Hearing adjourned at 11:56 a.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON

COUNTY OF KING

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

IN WITNESS WHEREOF, I have hereunto set my hand and seal this February 22nd, 2022.



Sarah K. Webb, RSR, CCR #5567