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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 THE WASHINGTON UTILITIES )  
AND TRANSPORTATION COMMISSION, )

4 )  
Complainant, )

5 )

vs. ) DOCKET NO. UE-991606

6 )

AVISTA CORPORATION ) VOLUME I

7 ) Pages 1 - 52

Respondent. )

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THE WASHINGTON UTILITIES )  
AND TRANSPORTATION COMMISSION, )

9 )  
Complainant, )

10 )

11 vs. ) DOCKET NO. UG-991607

12 )

AVISTA CORPORATION, ) VOLUME I

13 ) Pages 1 - 52

Respondent. )

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15 A prehearing conference in the above matter  
16 was held on December 16, 1999 at 9:40 a.m., at 1300  
17 South Evergreen Park Drive Southwest, Olympia,  
18 Washington, before Administrative Law Judge MARJORIE R.  
19 SCHAER.

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21 The parties were present as follows:

22 THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION, by ROBERT CEDARBAUM, Assistant Attorney  
23 General, 1400 South Evergreen Park Drive Southwest,  
Post Office Box 40128, Olympia, Washington 98504.

24

25 AVISTA CORPORATION, by DAVID MEYER, General  
Counsel, East 1411 Mission, Spokane, Washington 99202.

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1 NORTHWEST ENERGY COALITION, by DANIELLE  
2 DIXON, Policy Associate, 219 First Avenue South, Suite  
3 100, Seattle, Washington 98104.

4 THE PUBLIC, by SIMON J. FFITCH, Assistant  
5 Attorney General, 900 Fourth Avenue, Suite 2000,  
6 Seattle, Washington 98164-1012.

7 NORTHWEST INDUSTRIAL GAS USERS, by EDWARD A.  
8 FINKLEA, Attorney at Law, Energy Advocates, LLP, 526  
9 Northwest 18th Avenue, Portland, Oregon 97209-2220.

10 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,  
11 by MICHAEL T. BROOKS, Attorney at Law; Duncan,  
12 Weinberg, Genzer and Pembroke, 1300 Southwest Fifth  
13 Avenue, Suite 2915, Portland, Oregon 97201

14 WASHINGTON INDEPENDENT TELEPHONE ASSOCIATION,  
15 by RICHARD A. FINNIGAN, Attorney at Law, 2405 Evergreen  
16 Park Drive Southwest, Suite B-3, Olympia, Washington  
17 98502.

18 SPOKANE NEIGHBORHOOD ACTION PROGRAMS, by DON  
19 ANDRE (via bridge), 212 West Second Avenue, Suite 100,  
20 Spokane, Washington 99201-3501.

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24 Kathryn T. Wilson, CCR

25 Court Reporter

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

2 JUDGE SCHAER: Let's be on the record. We're  
3 here this morning for a prehearing conference in two  
4 dockets. The first is WUTC versus Avista Utilities,  
5 Docket No. UE-991606. This is a filing by the electric  
6 arm of this company for an annual increase in rates of  
7 26.3 million dollars or about a 10.4-percent increase  
8 in electric rates. The second proceeding is WUTC  
9 versus Avista Utilities in Docket No. UG-991607, which  
10 is a general rate filing by the gas arm of this company  
11 seeking an annual increase of approximately 4.9 million  
12 or a 6.5-percent increase.

13 We are appearing together in the Commission's  
14 hearing room 207 in the Commission headquarters'  
15 building in Olympia, Washington. I'm Marjorie Schaer.  
16 I'm the Administrative Law Judge assigned by the  
17 Commission to this proceeding, and I would like to  
18 start this morning by taking appearances from all  
19 parties starting with the Company, please, Mr. Meyer.

20 MR. MEYER: Thank you. Appearing on behalf  
21 of Avista in both dockets, David Meyer, Company General  
22 Counsel.

23 JUDGE SCHAER: With this first appearance,  
24 would you please give us your address and pertinent  
25 phone numbers, including fax and e-mail?

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1 MR. MEYER: I can do some of that. The  
2 address is East 1411 Mission Avenue, Spokane,  
3 Washington; 99202, I think is the zip code. The phone  
4 number is area code (509) 495-4316. You wanted a fax  
5 as well?

6 JUDGE SCHAER: I'd like a fax and e-mail.

7 MR. MEYER: Fax is (509) 495-4361, and I  
8 don't recall what my e-mail is but I'll furnish that.

9 JUDGE SCHAER: For the Commission,  
10 Mr. Cedarbaum?

11 MR. CEDARBAUM: I'm Robert Cedarbaum,  
12 Assistant Attorney General representing Commission  
13 staff. My business address is the Heritage Plaza  
14 Building, 1400 South Evergreen Park Drive Southwest,  
15 Olympia, Washington, 98504. Telephone number is (360)  
16 664-1188; fax is (360) 586-1122, and my e-mail is  
17 bobce@wutc.wa.gov.

18 JUDGE SCHAER: Public Counsel, Mr. ffitich?

19 MR. FFITCH: Simon ffitich, Assistant Attorney  
20 General for the Public Counsel section of the  
21 Washington Attorney General's office. My address is  
22 900 Fourth Avenue, Suite 2000, Seattle, Washington,  
23 98164. The fax number is (206) 389-2058; phone number  
24 is (206) 389-2055. E-mail is simonf@atg.wa.gov.

25 JUDGE SCHAER: For Intervenors, beginning

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1 with you.

2 MS. DIXON: Danielle Dixon with the Northwest  
3 Energy Coalition. The address is 219 First Avenue  
4 South, Suite 100 in Seattle. The zip code is 98104.  
5 Phone number is (206) 621-0094; fax number,  
6 (206) 621-0097, and my e-mail is danielle@nwenergy.org.

7 JUDGE SCHAER: Mr. Finklea?

8 MR. FINKLEA: I'm Edward Finklea on behalf of  
9 the Northwest Industrial Gas Users. My firm is Energy  
10 Advocates, LLP. Our business address is 526 Northwest  
11 18th Avenue, Portland, Oregon, 97209. My phone number  
12 is (503) 721-9118. Our fax is (503) 721-9121, and my  
13 e-mail is efinklea@energyadvocates.com.

14 JUDGE SCHAER: Mr. Brooks?

15 MR. BROOKS: Michael Brooks representing  
16 Industrial Customers of Northwest Utilities with the  
17 law firm of Duncan, Weinberg, Genzer and Pembroke.  
18 That address is 1300 Southwest Fifth Avenue, Suite  
19 2915, Portland, Oregon, 97201. Telephone number,  
20 (503) 241-7242; fax number, (503) 241-8160, and e-mail  
21 address is dunwei@ibm.net.

22 JUDGE SCHAER: Mr. Finnigan?

23 MR. FINNIGAN: Richard A. Finnigan on behalf  
24 of the Washington Independent Telephone Association.  
25 My address is 2405 Evergreen Park Drive Southwest,

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1 Suite B-3, Olympia, Washington, 98502. Phone number is  
2 (360) 956-7001, and the fax is (360) 753-6862. E-mail  
3 is rickfinn@yelmtel.com.

4 JUDGE SCHAER: And you, sir, on the  
5 telephone, please?

6 MR. ANDRE: Don Andre with Spokane  
7 Neighborhood Action Program. Address is 212 West  
8 Second Avenue, Suite 100, Spokane, Washington,  
9 99201-3501. Our phone is (509) 744-3370, extension  
10 208; fax, (509) 744-3374; e-mail, andre@snap.wa.org .

11 JUDGE SCHAER: And Mr. Andre, would you  
12 please spell your last name for me?

13 MR. ANDRE: A-n-d-r-e.

14 JUDGE SCHAER: The next matter I'd like to  
15 take up this morning is motions for intervention --

16 MR. MEYER: I can provide the e-mail after  
17 all: dmeyer@avistacorp.com.

18 JUDGE SCHAER: Thank you. We're going to  
19 start then with petitions for intervention, and I'd  
20 like to start with you again, Ms. Dixon, and work  
21 around the table. Do you have anything to add to your  
22 written petition?

23 MS. DIXON: Nothing to add to that. The  
24 basic reasons for us petitioning to intervene are on  
25 the one hand to provide support to Avista for its

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1 conservation tariff, part of which is included in the  
2 rate case, and also because we have some concerns  
3 regarding rate design and cost allocation issues.

4 JUDGE SCHAER: What is your job title with  
5 NWECC, please?

6 MS. DIXON: I'm the policy associate.

7 JUDGE SCHAER: Is there any objection by any  
8 party to intervention by Northwest Energy Coalition?  
9 Hearing none, I briefly reviewed your petition, and I  
10 believe that it meets the requirements of the  
11 Commission's intervention rule, and Northwest Energy  
12 Coalition will be allowed to intervene in this matter.  
13 Mr. Finklea?

14 MR. FINKLEA: I don't have anything much to  
15 add to our petition. The Northwest Industrial Gas  
16 Users are a coalition of over 30 industrial customers  
17 in Oregon and Washington and Idaho. We have several  
18 members who are natural gas customers of Avista, and we  
19 are intervening on behalf of the organization to  
20 protect their interests in this proceeding. We are  
21 interested in the gas proceeding UG-991607.

22 JUDGE SCHAER: Is there any objection to  
23 intervention by the Northwest Industrial Gas Users?  
24 Hearing none, that intervention will be granted. Next  
25 to you, Mr. Brooks.

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1           MR. BROOKS: This morning I filed a petition  
2 to intervene on behalf of the Industrial Customers of  
3 Northwest Utilities. That petition sets forth both the  
4 membership of ICNU and the reasons for intervention.

5           JUDGE SCHAER: Has everybody had an  
6 opportunity to review that petition? Is there any  
7 objection to intervention by Mr. Brooks' clients? I  
8 have reviewed your petition briefly and agree that you  
9 have set out appropriate grounds for intervention in  
10 this proceeding and that petition will be granted.  
11 Which brings us to you, Mr. Finnigan.

12          MR. FINNIGAN: I apologize for not having any  
13 written petition for intervention. My client only  
14 recently became aware of this case and had asked me to  
15 look into it and seek a petition to intervene, and by  
16 fortunate happenstance, I was attending a workshop here  
17 today and noted on the board that the prehearing  
18 conference was occurring.

19          My client is the Washington Independent  
20 Telephone Association. It's a nonprofit corporation  
21 whose members are telecommunications companies offering  
22 local telecommunications service throughout the state  
23 of Washington. The purpose for our seeking to  
24 intervene in this matter is to be assured that Avista  
25 Corporation is making a proper allocation of its



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1 expenses and overheads as is relates to its  
2 telecommunications operations and is not, thereby,  
3 improperly using revenues from electric and gas rates  
4 to subsidize those operations. It is our focused  
5 issue. It does relate to the appropriate level of  
6 rates and revenues as proposed by the Corporation in  
7 these two dockets. We would not underly broaden this  
8 matter or underly delay these proceedings.

9 JUDGE SCHAER: You made reference to Avista  
10 Utilities and its telecommunication company. Am I to  
11 understand from that that Avista owns a  
12 telecommunications company?

13 MR. FINNIGAN: It's my understanding that the  
14 parent company has a telecommunications subsidiary that  
15 offers telecommunications within the state of  
16 Washington.

17 JUDGE SCHAER: And the subsidiary, is it a  
18 part of Avista Utilities, or is it something under the  
19 parent of Avista Utilities?

20 MR. FINNIGAN: At this stage, I really don't  
21 know. As I said, my client just very recently became  
22 aware of this and asked that we take a look at it, and  
23 I have not had a chance to see the relationship.

24 JUDGE SCHAER: Is there any objection to  
25 intervention by WITA?

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1 MR. MEYER: There is, but before I provide  
2 that objection, may I ask a question or two just to  
3 clarify your position? Do any of the members of your  
4 association provide competitive local exchange service?

5 MR. FINNIGAN: I don't know what you mean by  
6 "competitive local exchange service."

7 MR. MEYER: Are they CLEC's?

8 MR. FINNIGAN: They are telecommunications  
9 companies. Avista does have operations in the  
10 telecommunications. It does have operations in areas  
11 served by members of WITA's members.

12 MR. MEYER: The point of the question is, is  
13 there, in fact, any overlap?

14 MR. FINNIGAN: Yes, there is.

15 MR. MEYER: Where is that overlap in terms of  
16 the services offered?

17 MR. FINNIGAN: Throughout the Eastern portion  
18 of the state, there are services being offered or  
19 planned to be -- facilities are being built, is our  
20 understanding, throughout Spokane County and south to  
21 the Clarkston area, east over into and around Cheney  
22 and those areas is our understanding of either services  
23 being offered or plans to be offered.

24 MR. MEYER: What is your understanding of the  
25 overlap of the services, not the facilities, but are

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1 they trying to reach the same market based on your  
2 understanding or not?

3 MR. FINNIGAN: That's my understanding.

4 MR. MEYER: We have a pretty strong objection  
5 to this kind of intervention. First of all, I don't  
6 think counsel for the Association has identified an  
7 interest for its client base in this proceeding.  
8 Essentially, what I understand the argument to be is  
9 that one of Avista Corporation's subsidiaries, Avista  
10 Communications, which is a CLEC provider, may be  
11 engaged, in its view, in providing services that  
12 members of Mr. Finnigan's association may be providing;  
13 although, it's not entirely clear from that exchange or  
14 what that overlap would be.

15 Be that as it may, I think it would create  
16 unfortunate precedent if a competitor of any of the  
17 nonregulated subsidiaries of this company, which we  
18 have several, could seek standing and be given standing  
19 to intervene before the Commission for competitive  
20 purposes to make sure that there isn't alleged  
21 cross-subsidization. Issues surrounding allocations,  
22 issues surrounding cross-subsidization are always  
23 matters that the staff and other intervenors, Public  
24 Counsel, address routinely, always have and I suspect  
25 always will to make sure there are proper cost

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1 allocations. That task is being performed by other  
2 parties.

3           We have among our unregulated subsidiaries a  
4 number of companies where the same sort of argument  
5 could be made by competitors. We have Avista  
6 Advantage. We have Avista Laboratories. We have  
7 Avista Fiber. There are many competitors in the fiber  
8 industry. We have Avista Development. We have Pentzer  
9 Corporation. I could go on, and there are a dozen or  
10 so subsidiaries, probably six of eight of which are  
11 very active, and to allow this sort of intervention by  
12 a competitor of a nonregulated subsidiary, I think,  
13 would create very unfortunate precedent for this  
14 Commission, so we strongly object.

15           JUDGE SCHAER: Would you explain to me what  
16 the corporate structure is regarding Avista Utilities,  
17 gas and electric companies, and the subsidiary that has  
18 the CLEC, please?

19           MR. MEYER: Sure. If you could visualize  
20 corporately -- in fact, there is, I believe, an exhibit  
21 attached to Mr. Matthews' testimony that provides that,  
22 and that might be the easiest thing to do.

23           JUDGE SCHAER: Is that his testimony in the  
24 electric proceeding or the gas proceeding?

25           MR. MEYER: His testimony was jointly filed

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1 in both dockets, and it had been marked Exhibit 2.

2 JUDGE SCHAER: I've got a copy right here.

3 You might want to show that to Mr. Finnigan or anyone  
4 else who is interested.

5 MR. MEYER: As you can see, the corporate  
6 structure is with Avista Corporation on top. Sometimes  
7 we use Avista Utilities and Avista Corporation  
8 interchangeably. In fact, the utility from a legal  
9 entity sense is Avista Corporation. It does business  
10 as Avista Utilities. Underneath that, we have an  
11 internal holding company called Avista Capital, Inc.,  
12 and underneath the internal holding company, we have a  
13 number of operating nonregulated subsidiaries,  
14 nonregulated, at least, in the sense that we are here  
15 for today. They are laid out across the page. Avista  
16 Communications is a provider of CLEC services; Avista  
17 Fiber, Avista Laboratories, Avista Energy. The page  
18 speaks for itself. That's the basic structure.  
19 (Indicating.)

20 JUDGE SCHAER: Is Avista Communications  
21 offering service in the area somewhat described by  
22 Mr. Finnigan in Spokane? It sounded like Spokane,  
23 Whitman, and Asotin Counties.

24 MR. MEYER: We are providing in certain small  
25 niche markets in the Spokane area and in Coeur d'Alene,

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1 and we're pursuing other small niche markets as a  
2 competitive local exchange carrier, and we have tariffs  
3 on file to that effect, and we're registered as such  
4 with the Commission.

5 JUDGE SCHAER: Is there anything else you  
6 want to add to your petition?

7 MR. MEYER: I think not.

8 JUDGE SCHAER: Any brief response,  
9 Mr. Finnigan?

10 MR. FINNIGAN: Just a couple of things real  
11 briefly. The issue of cost allocation, I agree, is one  
12 that is common in any rate case, so we're not asking  
13 this Commission to address a new or novel issue. We're  
14 asking that we be allowed to intervene to address what  
15 is a basic issue in a ratemaking proceeding.

16 The CLEC operations with Avista  
17 Communications, Inc., I'm sure that Avista has been  
18 granted statewide registration because that is the  
19 standard for a registration of a CLEC today. That  
20 means they can offer service throughout the state of  
21 Washington anywhere they so choose to offer that  
22 service, so we do have an interest in seeing that the  
23 energy rate bearers aren't subsidizing their  
24 telecommunications venture. I think that's a proper  
25 issue for the Commission to look at, and it's a proper

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1 issue for a party to intervene to seek to determine its  
2 position on that issue.

3 JUDGE SCHAER: Does any other party want to  
4 comment on this motion?

5 MR. FFITCH: Simon ffitch for Public Counsel.  
6 We have no objection to the petition by WITA, and the  
7 reason I wanted to comment particularly was the  
8 observations by Mr. Meyer that Public Counsel is in the  
9 position to address the issues. I realize that the  
10 comment was of a general nature, and it is true that we  
11 do look at cost allocation issues in these cases and  
12 are likely to do so in this case; however, I don't  
13 think that that is a reason why another party with  
14 particular interests or concerns should be kept out,  
15 and, in fact, I just want to say for the record that I  
16 don't view Public Counsel's role in this proceeding as  
17 a representative of the members of WITA and their  
18 interests in this case, so if the Bench is looking at  
19 the issue in terms of whether other parties in the case  
20 would be representing WITA's interest, I don't think  
21 that a role that Public Counsel could or really should  
22 play in terms of this particular cost allocation issue,  
23 and frankly, the cost allocation issues in this case  
24 are complex, and I think having another party in the  
25 case who has some resources to bring to bear would be

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1 helpful to the Bench and Commission.

2 JUDGE SCHAER: I'm going to take this  
3 petition to intervene under advisement at this point,  
4 Mr. Meyer.

5 MR. MEYER: Just a couple of quick  
6 observations. First of all, the comment with regard to  
7 allocation issues, what was really meant to convey the  
8 notion that those issues will be addressed, it's not as  
9 if the intervention is not granted that some other  
10 party won't, and we can debate about how active you  
11 will be or how active Staff will be, but more  
12 importantly, Mr. Finnigan hasn't demonstrated, as  
13 witnessed by the exchange I had with him, which client  
14 provides competitive local exchange service that is in  
15 competition with communications. He's unable to do  
16 that.

17 Even more importantly, this would provide the  
18 precedent -- and this is the most important point --  
19 for any competitor of any nonregulated subsidiary, of  
20 which we have many, to have a toehold for intervention,  
21 and essentially, it would become a debate with multiple  
22 intervenors whose business interests may be affected by  
23 some of our nonregulated subsidiaries. Very bad  
24 precedent in our view.

25 JUDGE SCHAER: Is there anything else on this



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1 matter before we move on?

2 MR. FINNIGAN: Very briefly, Your Honor. If  
3 it's important, the companies that are members of WITA  
4 that would be directly affected by the existing  
5 operations with Avista Communications would be GTE  
6 Northwest, Inc., Century Tel of Washington, and I'm not  
7 certain, but perhaps Pend Oreille Telephone Company.

8 JUDGE SCHAER: Do you have operations in Pend  
9 Oreille County, Mr. Meyer?

10 MR. MEYER: No.

11 JUDGE SCHAER: Does that company have  
12 operations outside of Pend Oreille County, Mr.  
13 Finnigan?

14 MR. FINNIGAN: I don't believe so in the  
15 state of Washington.

16 JUDGE SCHAER: So you would rely on GTE  
17 Northwest, Inc., and Century Tel?

18 MR. FINNIGAN: Yes.

19 JUDGE SCHAER: As I said previously, I'm  
20 going to take this motion for intervention under  
21 advisement, and the prehearing conference order will  
22 reflect your petition for intervention. Mr. Andre, are  
23 you with us, sir?

24 MR. ANDRE: Yes.

25 JUDGE SCHAER: I do not have a written

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1 petition for intervention from you; is that correct?

2 MR. ANDRE: I mailed it early last week,  
3 either Tuesday or Wednesday.

4 JUDGE SCHAER: Does anyone present have a  
5 copy of that petition in the hearing room? Why don't  
6 you just briefly restate for me what it says, sir.

7 MR. ANDRE: Spokane Neighborhood Action  
8 Programs is a community action agency providing  
9 services to low income in Spokane County. We have done  
10 so for 30 years. In '99, we served 8,900 households.  
11 We have previously intervened in the Washington Water  
12 Power merger proceeding with Sierra Pacific. We are  
13 filing to represent the interest of low income people  
14 in Spokane County. Poverty rates for Spokane County  
15 exceeds state, regional, and national levels. The  
16 interests of this large population are unique and  
17 substantial and warrant special representation.

18 As a long-term provider of a wide range of  
19 services for low income, SNAP has exceptional knowledge  
20 of the challenges our clients face. The rate and  
21 service charge increase sought by Avista will  
22 profoundly affect low-income people, and the increased  
23 energy burden will result in forced tradeoffs between  
24 basic necessities like food and heat and medicine, and  
25 Avista may see increased costs through larger

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1 uncollectibles of arrearages, collection costs, and  
2 also increased termination reconnection costs.

3 JUDGE SCHAER: Let me indicate, Mr. Andre,  
4 that I have just been handed a copy of your petition to  
5 intervene. Is there any objection to intervention by  
6 Spokane Neighborhood Action Programs? I hear none, and  
7 from what you have represented on the phone and from my  
8 brief review of your petition, I think there is  
9 sufficient basis for your intervention in this matter  
10 and that intervention is granted.

11 MR. ANDRE: Thank you.

12 JUDGE SCHAER: The next matter I would like  
13 to take up is the question of consolidation. This is a  
14 joint hearing at this time between Docket No. UE-991606  
15 on the electric side and Docket No. UG-991607 on the  
16 gas side, and I believe you had a petition to make,  
17 Mr. Cedarbaum?

18 MR. CEDARBAUM: Yes, Your Honor. I've  
19 discussed this with the parties I knew about before  
20 today whether or not we should consolidate the gas and  
21 electric cases, and I think there is general agreement  
22 that consolidation should occur, given the overlap  
23 between the two cases, both with respect to some of the  
24 factual issues and legal issues and with respect to  
25 witnesses that sponsor -- same witness sponsoring

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1 testimony and exhibits for both the gas and electric  
2 sides or for both sides combined, so it appears that  
3 there are common issues of fact and law, and for the  
4 convenience of the Commission and the parties,  
5 consolidation makes a lot of sense, so I would move to  
6 consolidate the cases, and I believe no one I have  
7 spoken to has objected to that procedure.

8 JUDGE SCHAER: Is there any objection to the  
9 motion to consolidate?

10 MR. MEYER: That's the way we envisioned it,  
11 Your Honor.

12 JUDGE SCHAER: Mr. Andre, did you have any  
13 concerns about consolidation?

14 MR. ANDRE: No.

15 JUDGE SCHAER: Then I am going to  
16 preliminarily grant consolidation under the current  
17 Commission rules. I believe that I will have to have  
18 that decision reviewed by the Commissioners and  
19 actually made by them, but in some form, a ruling on  
20 that issue will come out quite soon.

21 The next matter that I would bring before us  
22 is whether or not there is going to be a need for a  
23 protective order in this proceeding.

24 MR. MEYER: We would like one.

25 JUDGE SCHAER: Avista has moved for a

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1 protective order. Is there any party that objects to  
2 that? Hearing none, a protective order will be issued  
3 in this proceeding. I assume that you, Mr. ffitich, are  
4 going to ask that it include the provision that keep  
5 Mr. Lazar from going to jail, and that will be  
6 included, sad but true.

7 The next item to come before us is copies of  
8 prefiled evidence. At this point, I would like there  
9 to be an original plus 19 copies of everything that is  
10 filed, and I will check with the records center before  
11 the order issues, and if they need more copies than  
12 that, then I will include that number in the order. I  
13 will ask that everyone file everything that you file  
14 not only in hard copy but also in electronic format,  
15 either Word or Word Perfect, Excel or Lotus, but you  
16 can do that by e-mail to the Commission records center,  
17 or you can do that by disk attached with your filings.

18 MR. MEYER: What if there are things that  
19 don't lend themselves to that - diagrams, maps?

20 JUDGE SCHAER: If they are things like  
21 diagrams and maps that aren't the kind of thing that  
22 you have in a mapping system, then go ahead and just  
23 file paper copies of those, but I would like to have  
24 testimony, pleadings, anything that is easily handled  
25 in those formats, and we do have a GSI mapping system

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1 at the Commission so that if you have something that  
2 can be filed in that format, we can take that  
3 electronically as well.

4 MR. MEYER: If we have housekeeping issues in  
5 that regard, is there a staff person we can work with  
6 to assure we get the electronic filing made to your  
7 satisfaction?

8 JUDGE SCHAER: If there is a problem, I would  
9 suggest that you call the Commission records center.  
10 Their standard number is (360) 664-1234, and if they  
11 need assistance from our information services section,  
12 they will be able to obtain that assistance, but they  
13 would be the contact point for you.

14 The next topic that I would like to address  
15 briefly is the area of issues. Have the parties had  
16 any discussions among themselves about narrowing of  
17 issues or about what are appropriate issues in this  
18 proceeding?

19 MR. CEDARBAUM: No.

20 JUDGE SCHAER: I do not contemplate a scoping  
21 order from the Commission that would narrow issues, but  
22 I think there are a few questions that we would like  
23 you to be able to respond to at some point in the  
24 proceeding. The Commission is aware that Avista has  
25 conducted certain pilot programs and would be

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1 interested in knowing whether and, if so, how the  
2 information gained from the customer choice pilot  
3 programs has been used in the design of tariff services  
4 that are offered in these filings. Specifically, we  
5 would like to know if unbundled distribution and or  
6 other services necessary to provide a delivery-only  
7 electricity service have been proposed or examined by  
8 any party and whether there are any resource portfolio  
9 type services proposed or examined. Then if there is a  
10 point in the testimony where there is discussion of  
11 other tariff conditions that would relate to matters  
12 like distributed generation or net metering -- I know  
13 that your net-metering tariffs are not suspended and  
14 that's fine, but just kind of an update of what's  
15 happening in those issue areas may be useful to the  
16 Commission at some point in this proceeding.

17 I want to stress that by mentioning these few  
18 issues, the Commission does not intend to indicate that  
19 these are of more interest than the kinds of issues  
20 that are generally addressed in general rate filing  
21 proceedings, and we would expect to see that all of the  
22 other important and complex issues in the case are  
23 fully addressed by the parties in assisting the  
24 Commission in making its decision.

25 MR. CEDARBAUM: Were you done with those

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1 issues?

2 JUDGE SCHAER: I was, Mr. Cedarbaum.

3 MR. CEDARBAUM: My question was to process  
4 for how the Company will provide that information and  
5 when and in what form. The testimony has been  
6 prefiled. We'll set up a schedule today that will  
7 allow for cross-examination of the Company's direct  
8 case, and if that information is going to be provided  
9 from the Company, I would hope we could develop a  
10 process where it's presented to the Commission in a way  
11 that would be useful from a time perspective for the  
12 parties to be able to analyze and use, if necessary,  
13 during cross-examination, so I guess I'm raising the  
14 issue. I don't know that you had a particular process  
15 in mind or just wanted to discuss it.

16 JUDGE SCHAER: I didn't have a particular  
17 process in mind other than wanting to raise the issues  
18 early so that if these topics are not already covered  
19 in the testimony, and they may well be, that there  
20 could be an opportunity. I guess what I would like to  
21 do is perhaps give the Company an opportunity to either  
22 identify where these are discussed, or if they are not  
23 to seek permission to maybe file some supplemental  
24 testimony.

25 I would much rather see anything that comes



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1 in in this case come in early rather than late. I  
2 don't want people putting issues in their pockets until  
3 rebuttal. I want anything coming in from the Company  
4 before the other parties have to file and have to make  
5 their own presentations. I think that's just fairer to  
6 everybody.

7 MR. MEYER: That makes sense. The Company  
8 wouldn't object to filing some brief supplemental  
9 testimony that addresses these issues squarely.

10 JUDGE SCHAER: Would you like to have that  
11 opportunity?

12 MR. MEYER: I think it would be more  
13 convenient rather than to try and draw bits and pieces  
14 out of some rate design testimony, so I assume there  
15 would be no objection to us filing some brief  
16 supplemental testimony prior to, of course, the  
17 opportunity for you to cross-examine.

18 MR. CEDARBAUM: Again, I'm clear the  
19 Commission is interested in those topics and that  
20 procedure is fine, whether it's done that way or as a  
21 response to a Bench request that you can set out in  
22 your prehearing conference order. I don't think it  
23 matters. I just think it matters that we set a date  
24 certain for those materials to come in and set that  
25 today so that we can do that as part of the schedule

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1 establishment just so that we can build in sufficient  
2 time for us to get that information and analyze it.

3 JUDGE SCHAER: What would you prefer? Would  
4 you prefer to go from here and put together something,  
5 or would you prefer that I send out a written Bench  
6 request?

7 MR. MEYER: I would prefer that we prefile  
8 supplemental, but I want to make sure I've accurately  
9 captured your question so I just don't rely on my  
10 notes. Will your order issue soon on this prehearing  
11 conference that will set that forth?

12 JUDGE SCHAER: My hope is to either issue the  
13 order today, or if I need to do some more consultation  
14 on a couple of issues to have it out early next week.

15 MR. MEYER: If you simply reflect those items  
16 in that, that would give us the guidance we need, and  
17 then we can agree as part of the procedural schedule we  
18 will provide some supplemental on that.

19 JUDGE SCHAER: That's fine. That brings us  
20 to the schedule. I have had a schedule presented,  
21 actually two schedules presented, and I will need to  
22 check both of these schedules against my calendar and  
23 the Commissioners' calendars. I don't know if you  
24 checked my calendar when you were putting these  
25 together or not, Mr. Cedarbaum.

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1 MR. CEDARBAUM: No. That was my oversight.  
2 I checked Commissioner Hemstad and Commissioner Gillis.  
3 I didn't have access to Chairwoman Showalter's  
4 calendar, and I forgot to check yours.

5 JUDGE SCHAER: I noticed that it's about a  
6 three-week difference in the briefing date at the end.  
7 Would you like to address why you would like this to be  
8 on a quicker schedule than what Staff has laid out,  
9 Mr. Meyer?

10 MR. MEYER: Yes, I would.

11 JUDGE SCHAER: And I would call on you to  
12 respond, Mr. Cedarbaum, and anyone else. You are all  
13 affected by the schedule so you should all be looking  
14 at your calendars and thinking what might work better  
15 for you as well. Go ahead.

16 MR. MEYER: Before I really speak to that  
17 directly, just one quibble. If there is a final entry  
18 in whatever schedule is adopted for an October 1 date,  
19 we would prefer that it not be characterized as an  
20 order. That really is the end of the suspension  
21 periods. I don't want to create the suggestion that  
22 that is the actual date on which the parties should  
23 anticipate an order.

24 MR. CEDARBAUM: That wasn't my intent.  
25 That's just the drop-dead date for an order.

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1                   MR. MEYER: I didn't think you meant that in  
2 the sense of an October 1 order issue, per se. To the  
3 point though, we think this case can move along a  
4 little bit faster. We've proposed a schedule that  
5 would accelerate, really, the end date for the closing  
6 of the record which culminates with the filing of the  
7 briefs, and that will allow essentially three weeks of  
8 additional time and hopefully speed up the disposition  
9 of the case.

10                   An argument might be made, well, does this  
11 really matter during the summer months? The argument  
12 I've heard is that you are in a low load period. In  
13 fact, that's not true. Over the years, we've evolved  
14 into essentially a dual-peaking utility with  
15 substantial electric revenues derived during the summer  
16 season, so if one were in very simple terms to talk  
17 about a 24-million-dollar revenue requirement spread  
18 equally across the months, you can imagine for every  
19 month's delay, given the assumption that we maintain a  
20 pretty high peak in the summer as well, that's a  
21 two-million-dollar question, in very simple terms. So  
22 it's not insignificant. A month's delay in terms of  
23 the overall revenue requirement is not, to us,  
24 insignificant.

25                   Secondly, if you look from the point of time

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1 under Staff's schedule from when we actually file the  
2 case to the point of time at which Staff and  
3 Intervenors will file their case and for the first time  
4 take a position, that interval is nearly six months, by  
5 my reckoning. Six months from the date we made our  
6 case publicly available to the date they first have to  
7 declare themselves with testimony.

8 I understand that cases of this magnitude  
9 require time to work up, but that's too long an  
10 interval, so I think our proposal is a sensible  
11 proposal. We're suggesting the start date for the  
12 Company direct, cross be February. There may be an  
13 issue for one date for Commissioner Hemstad on the  
14 Friday of that week, Bob, that he was unavailable?

15 MR. CEDARBAUM: In checking his calendar, he  
16 was out of town on March 3rd.

17 MR. MEYER: But we can work around the  
18 unavailability, perhaps, of one commissioner on the  
19 Friday of a week-long process, I'm sure. So I hope  
20 that won't be viewed as an impediment to our schedule.  
21 For those reasons, we think that this case can move  
22 along faster and that we've proposed a realistic  
23 schedule. Thank you.

24 JUDGE SCHAER: I think I'd like to go around  
25 the table and let you sum up last, Mr. Cedarbaum,

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1 unless you would like to go next.

2 MR. CEDARBAUM: Whatever your preference is.

3 JUDGE SCHAER: Apparently, these two  
4 schedules have not been checked with all counsel. I'd  
5 like to know about any conflicts. Why don't you go  
6 ahead and tell me what you've done.

7 MR. CEDARBAUM: Again, whatever your  
8 preference is, but just on that point, I did circulate  
9 the staff schedule, and then I think I followed up,  
10 once I understood the Company's schedule, to Public  
11 Counsel, Mr. Finklea, and Mr. Brooks, and I heard from  
12 Mr. Finklea and the Public Counsel that they had no  
13 objection to the Staff's schedule. I haven't heard  
14 back from ICNU's counsel on that, so I guess the first  
15 reason the staff schedule should be accepted if  
16 Commissioners can adopt that schedule is we do have an  
17 agreement from some of the parties that have intervened  
18 or Public Counsel as a statutory party.

19 The second reason is that I sat down with  
20 staff, I think, on Monday to talk about the schedule,  
21 and I honestly pressed them about how quickly they  
22 could audit the Company, get ready for cross and  
23 prepare the staff direct case, and the response I got  
24 back was that given conflicts with other cases, the  
25 PacifiCorp case that's been filed as well, rule makings

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1 that are going on with the Commission, and all the  
2 other stuff that the Commission and staff does, that  
3 trying to get ready for a hearing any earlier than mid  
4 March was extremely difficult if not impossible, so I  
5 think there was an honest effort on my part and staff's  
6 part to get this thing going as soon as we could.

7           The third point I would like to make is that  
8 Mr. Meyer is right. This is a complex case. The  
9 Company has been out for electric rates for nine years.  
10 It's filed a case that includes a lot of new issues  
11 that will raise policy implications and factual  
12 arguments, including the equity kickers for management  
13 performance and on the Kettle Falls investment,  
14 including the proposed PCA, other cost-of-service  
15 issues that we just haven't examined in a long time,  
16 and it's going to take time to look at those issues.

17           Another point I think that needs to be made  
18 is that the suspension statute includes a 10-month  
19 allowance for the Commission to process these cases.  
20 There has been a legislative determination as to what  
21 is fair to the Company and all the parties, and 10  
22 months from the proposed effective date has been found  
23 to be fair, and using that entire time is fair to  
24 everyone. The schedule I've proposed will actually  
25 allow the Commission to shorten that time frame up. In

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1 fact, by consolidating the two cases, the gas case,  
2 which normally would not have to be decided until as  
3 late at November 1 will tag along with the electric  
4 case and get decided even sooner than otherwise  
5 necessary.

6 And finally, I think, Your Honor, that there  
7 is a three-week difference between these two schedules,  
8 and granted, companies usually come in and say they  
9 want to quicken things up and everyone else says slow  
10 it down, but I just don't think that given all the  
11 other circumstances involved in this case that we  
12 should be arguing about three weeks; that the Company  
13 should be willing to go along with the schedule I've  
14 proposed and just be done with it. So for those  
15 reasons, I would ask the Commission, if the calendar  
16 allows it, to adopt the staff schedule.

17 JUDGE SCHAER: Mr. Andre? Hello, sir? Have  
18 you seen a copy of either schedule?

19 MR. ANDRE: I think I have a copy of the  
20 staff schedule. It has cross company direct, March  
21 13th to 17th?

22 JUDGE SCHAER: Yes, that's correct.

23 MR. ANDRE: I have no objection to that  
24 schedule.

25 JUDGE SCHAER: The Company's schedule would



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1 have cross of Company direct February 28th through  
2 March 3rd; would have prefilings of parties including  
3 intervenors on April 10th. It would have prefilings of  
4 Company rebuttal on May 1st; would have cross of Staff,  
5 Public Counsel, and intervenors and rebuttal on May  
6 22nd through 26th, and would have briefs due on June  
7 23rd. Do you have conflicts with any of those dates?

8 MR. ANDRE: No.

9 JUDGE SCHAER: Do you have a preference  
10 between the schedules?

11 MR. ANDRE: No.

12 JUDGE SCHAER: Then, Mr. Finnigan, I think  
13 we'll start with you and go around the table this way  
14 this time. (Indicating.)

15 MR. FINNIGAN: I have no conflicts with  
16 either schedule. Obviously, I'm very sympathetic to  
17 the position of the Company, one, to get this thing  
18 resolved sooner rather than later. It's a financial  
19 issue to the Company that my members can well  
20 understand, and if the Company schedule could be  
21 accommodated, I think we ought to try to move as fast  
22 as possible.

23 JUDGE SCHAER: How about you, Mr. Brooks?

24 MR. BROOKS: I support the schedule set forth  
25 by Staff. We agree it's a complex case with several

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1 issues. As you indicated earlier, in addition to the  
2 general rate filing issue, the Commission is raising  
3 some other issues that it thinks are of special  
4 interest, policy issues, and in addition, building in  
5 another supplemental filing for the Company may be  
6 reason to just go with the somewhat longer schedule  
7 proposed by Staff.

8 JUDGE SCHAER: Mr. Finklea?

9 MR. FINKLEA: The Northwest Industrial Gas  
10 Users support Staff's schedule, and we do note as  
11 Mr. Cedarbaum mentioned that but for the consolidation  
12 because of the rate freeze that came out of the last  
13 proceeding, the gas rate changes couldn't be filed as  
14 tariffs until January, so we've already accelerated on  
15 the gas side approximately a month over what would be  
16 if the gas case was being filed separately. Seems to  
17 us that the staff schedule is a reasonable accomodation  
18 to everyone's interest.

19 JUDGE SCHAER: Mr. ffitch, please?

20 MR. FFITCH: Public Counsel generally  
21 supports the staff proposed schedule. Subsequent to  
22 talking with Mr. Cedarbaum, I did learn that the week  
23 of March 13th to 17th is not a good week for one of our  
24 consultants. Either the week prior or after would work  
25 for that particular individual. However, I think the

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1 larger point is that we have tried to talk to our  
2 consultants and people working on the case, and  
3 anything prior to the March 13th date is very  
4 difficult. People are not available; people are out of  
5 town, et cetera. The people are not available after  
6 February 15th up until the date proposed by Staff, so  
7 we would, in general, support Staff's proposed schedule  
8 as a practical matter because of our one witness's  
9 problem with the first hearing. We would actually  
10 prefer a slight slippage of that approximately of about  
11 a week in the Staff's scheduling to accommodate that  
12 but could probably live with Staff's proposed schedule.

13 The other observation I wanted to make was  
14 that the signing of the schedule can advantage or  
15 disadvantage parties, and as a practical matter, an  
16 accelerated schedule advantages parties with more  
17 resources. The legislature has allowed 10 months for  
18 this process to occur, and inevitably, if it is  
19 accelerated, that creates problems for parties that  
20 have less ability and less time and fewer people to  
21 look at the issues in the case.

22 JUDGE SCHAER: Tell me a little bit more  
23 about your consultant with the conflict. Are you  
24 saying that you would need a date for that consultant  
25 to present his or her testimony, or are you saying you

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1 need that person with you the entire hearing, or what  
2 am I hearing from you on that?

3 MR. FFITCH: This would be a person who  
4 probably needs to be here for one day during the week  
5 of March 13th and to assist with cross, and that person  
6 is not available that particular week. As I say, we  
7 can work around that if need be, but since we are  
8 stating our preferences at this point, it would assist  
9 us if we could begin later the following week, for  
10 example, or sometime later in the month in March, and  
11 then the subsequent dates would slip accordingly.

12 JUDGE SCHAER: Ms. Dixon?

13 MS. DIXON: I want to recognize that the  
14 Coalition is not interested in delaying the proceedings  
15 in such a way as to cause lost revenue to the Company.  
16 However the schedule the Company has proposed, at least  
17 on the front end, would make it very difficult for us  
18 to participate. The reason for that is I'm going to be  
19 the point person for the rate case, and my primary  
20 responsibility from January 10th through March 9th is  
21 the Washington legislature, and we have a lot that is  
22 going to be going on in the legislature this session,  
23 so actually even to participate in the hearings from  
24 February 28 through March 3rd would be very difficult  
25 because that's happening simultaneously with

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1 legislative hearings.

2 JUDGE SCHAER: What I'm going to need to do  
3 with the schedule is to consult my own calendar and the  
4 Commissioners' calendars and get back to you, so this  
5 again will be reflected in the prehearing conference  
6 order, but I will take your comments into account.

7 MR. MEYER: May I just make one observation?  
8 If we land on some third alternative or if the  
9 Commissions' preference is to land on some third  
10 alternative that we haven't discussed today, because we  
11 have squared at least these two alternatives for  
12 calendars our principal witnesses, but we haven't -- I  
13 can't anticipate any other dates that the Commission  
14 might come up with. Is there a way you can canvas  
15 counsel before that if you set aside a third set of  
16 dates to make sure there are no conflicts that would be  
17 impossible to meet?

18 JUDGE SCHAER: I think perhaps the most  
19 efficient way for me to do that would be for me to  
20 issue the order and for you to take the 10 days that  
21 you have to review what's in the order and get back,  
22 and if you do find a problem there, get back as soon as  
23 you can so we can do some checking on any alternatives  
24 that may be proposed, but given my schedule, I think  
25 that it would make more sense for me to get this order

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1 out either today or early next week and then let you  
2 deal with it. If there is an opportunity because this  
3 issue is decided before others are, would the parties  
4 think it appropriate for me to e-mail any such proposal  
5 to Mr. Cedarbaum with an understanding that he would  
6 then e-mail it to contact persons for all parties to  
7 check that with you?

8 MR. MEYER: I think that would help.

9 JUDGE SCHAER: Would you be able to do that,  
10 Mr. Cedarbaum?

11 MR. CEDARBAUM: Now that I have Mr. Meyers'  
12 e-mail I can do that.

13 JUDGE SCHAER: I will try to do that if I do  
14 find there is a problem. Also, if any of you have  
15 problems the week after March 13th to 17th that you  
16 know of now, which is the proposal made by Mr. ffitich,  
17 speak up.

18 MR. FINNIGAN: I need to note that I don't  
19 have a problem with the week after March. It's with  
20 his proposal that everything else slip a week. I do  
21 have a conflict the week of June 19th, the first three  
22 days of that week. I'm not available.

23 JUDGE SCHAER: Is that the WITA conference,  
24 Mr. Finnigan?

25 MR. FINNIGAN: Yes, it is.

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1 JUDGE SCHAER: So that's also a conflict for  
2 the Commissioners who are often speakers in that  
3 program. So what are those dates again, please?

4 MR. FINNIGAN: Monday, Tuesday, Wednesday,  
5 June 19 through 21.

6 MR. CEDARBAUM: For your information, Your  
7 Honor, if you were going to try to see if you could  
8 split the difference here, I did look at the week of  
9 March 6th and that's the NARUC winter meetings, so  
10 other Commissioners, I assume, will be here during that  
11 week.

12 JUDGE SCHAER: Thank you, Mr. Cedarbaum.

13 MR. MEYER: If I could echo that comment of  
14 Mr. Finnigan, if we are, in fact, looking at a third  
15 set of dates, which would be a slippage which we would  
16 have some problems with, but if that's what you are  
17 looking at, that may also present scheduling problems  
18 that I would have to check on, so all the more reason,  
19 I think, if we can go with this e-mail process.

20 JUDGE SCHAER: Certainly. At this point, the  
21 one thing I see is that it would probably be  
22 appropriate to look for at least one day the previous  
23 week or the subsequent week so that Mr. ffitch's  
24 consultant could be present for that day. Actually,  
25 Mr. ffitch, what we're talking about in that week is

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1 cross-examination of the Company witnesses. If we are  
2 not able to accommodate that one day, you may just have  
3 to spend intensive time with your consultant the week  
4 prior to the hearings.

5 MR. FFITCH: I understand, Your Honor.  
6 That's why I indicated we could work with that if we  
7 had to, but in terms of expressing a preference, I  
8 wanted to get that out on the table.

9 The other observation I have about slippage  
10 that we proposed was that looking again at the  
11 schedule, I think that it would not be necessary to  
12 slip the second hearing, which is June 12th and  
13 following days on the staff proposal. I don't know if  
14 others would agree with me, but I think we can probably  
15 live with keeping that the same and the following days  
16 the same.

17 JUDGE SCHAER: It actually would not probably  
18 be my inclination if we would slip one day or slip that  
19 week that we would slip any of the rest of the schedule  
20 at all. It looks to me like there would still be  
21 sufficient time to prepare and go forward, unless  
22 anyone wants to scream about that observation right  
23 now.

24 MR. CEDARBAUM: I think the schedule that's  
25 proposed on both sides has about -- the staff proposal



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1 has a five-week interval between the end of cross of  
2 the Company's direct and prefile of Staff, Public  
3 Counsel, and Intervenor. I would hope that we would  
4 not shorten that by very much, if any at all. It takes  
5 a lot of time to put these cases together. To shorten  
6 that up would make it difficult, so I would hope that  
7 if we are going to slip at the front end, we just go  
8 ahead and slip it all.

9 JUDGE SCHAER: But if we slipped one day into  
10 the next week, I'm not going to be inclined to do that.

11 MR. CEDARBAUM: I thought you meant slipping  
12 an entire week.

13 JUDGE SCHAER: I have not really heard any  
14 requests for that and would not contemplate asking the  
15 Commissioners to do that.

16 MR. CEDARBAUM: I'm sorry. I misunderstood.  
17 If it was just one day in the following week, that's  
18 fine.

19 JUDGE SCHAER: I think that would keep this,  
20 if that schedule is followed, on a more appropriate  
21 track.

22 So we've discussed scheduling, and at this  
23 point then, I think we should look briefly at  
24 discovery. Is anybody going to want to have the  
25 discovery rule invoked?

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1 MR. CEDARBAUM: Yes, but only for Staff.

2 JUDGE SCHAER: Mr. ffitich?

3 MR. CEDARBAUM: I'm sorry. This overlaps  
4 into the scheduling issue as well so maybe we can't  
5 resolve it today. I'll figure out how to resolve it if  
6 we can't, but I discussed with some of the other  
7 parties shortening up the turnaround time for data  
8 request responses after the Staff, Public Counsel, and  
9 Intervenors prefile their direct cases, shortening that  
10 turnaround time from the current 10-business-day time  
11 frame to five business days, and the reason why I  
12 proposed that was that the time lags in between various  
13 events after Staff refiles shorten up quite a bit, and  
14 it seems useful and fair that parties be allowed to ask  
15 discovery and get responses back before at a time when  
16 they can use them. So I would ask that we -- again,  
17 because we don't have a schedule to work with yet,  
18 specifically, I don't know if that's necessary, but I  
19 would offer up the idea and ask that that be taken into  
20 consideration in your scheduling order.

21 JUDGE SCHAER: Are you talking about business  
22 days or calendar days?

23 MR. CEDARBAUM: I guess I was thinking five  
24 business days. We had used seven calendar days in the  
25 past when we've had a lot of intervening holidays,

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1 things like that, but at this time of year we are  
2 talking about here, that doesn't seem to be as much of  
3 a problem.

4 JUDGE SCHAER: Are there any other parties  
5 that wish to comment on the suggestion; Mr. Finklea?

6 MR. FINKLEA: Just the observation that I can  
7 understand from the schedule that shortening the  
8 responses from the traditional 10 days could be  
9 necessary, but if there is seven business days,  
10 something other than cutting it in half might be less  
11 burdensome on Intervenors if there are data requests of  
12 Intervenors.

13 JUDGE SCHAER: Actually, my understanding of  
14 what Mr. Cedarbaum has proposed -- please correct me if  
15 I'm wrong -- is that the current schedule is 14  
16 calendar days, which is 10 business days, unless there  
17 are weird weekends, and you are talking about five  
18 business days rather than seven calendar days, so you  
19 may be losing a weekend.

20 MR. FINKLEA: What I would suggest is we  
21 could go with seven business days, which is something  
22 in between.

23 JUDGE SCHAER: Which is nine calendar days.

24 MR. CEDARBAUM: If that is perceived to be  
25 more fair for everyone around the table, that's fine.

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1 I just didn't want to be in a situation where we are  
2 not getting responses or providing responses to parties  
3 so they can't use them in their testimony or for cross.

4 MR. MEYER: I would prefer Mr. Finklea's  
5 approach. I think it's a sensible meeting of the  
6 positions, seven business days, and that, again, takes  
7 effect upon the prefiling of Staff and Intervenor  
8 testimonies. It's from that point forward that that  
9 new set of rules applies.

10 JUDGE SCHAER: Mr. Andre, did you have  
11 anything to say on that point, sir?

12 MR. ANDRE: No.

13 JUDGE SCHAER: Ms. Dixon?

14 MS. DIXON: I would like to support the seven  
15 business days as well. Five business days would make  
16 it very hard on us. Being one of those organizations  
17 that Mr. ffitich referred to as being low on resources,  
18 it would be difficult to turn things around that  
19 quickly.

20 JUDGE SCHAER: Mr. Brooks, did you have  
21 anything or Mr. Finnigan to add?

22 MR. FINNIGAN: I would support the  
23 seven-business-day proposition.

24 MR. BROOKS: I also support the seven  
25 business day.

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1 JUDGE SCHAER: Is seven sounding better and  
2 better to you, Mr. Cedarbaum?

3 MR. CEDARBAUM: That's fine.

4 JUDGE SCHAER: Then I'm going to rule that  
5 the Commission discovery rule should be made available  
6 in this proceeding, and that the discovery process as  
7 outlined in WAC 480-09-480 will be available to you.  
8 There will be one change to the time lines outlined in  
9 that rule which is that from the date of the filing of  
10 testimony by Commission staff, Public Counsel, and  
11 Intervenors until the end of the proceeding, responses  
12 to discovery requests will be due in seven business  
13 days rather than in 14 calendar days, and I am going to  
14 encourage all parties, however, to send stuff sooner if  
15 it's prepared sooner, to use the modern technological  
16 tools available to us, like e-mail attachments and  
17 other things to get things to people as quickly and  
18 accurately as possible, and if there are any discovery  
19 problems in this proceeding, I will be available to you  
20 to consider those on an expedited basis by telephone,  
21 but this group of counsel and intervenors, I don't  
22 really expect there will be those kinds of problems  
23 because I think you have all demonstrated a track  
24 record of working well and being timely in your work.  
25 MR. CEDARBAUM: I have one other fine-tuning

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1 of the discovery process; although, I haven't discussed  
2 this one specifically with other parties, so I think  
3 what I would like to do is talk to them once we go off  
4 the record today, and then I'm going to bring back to  
5 you hopefully what our agreement is, and that is to  
6 develop a discovery cutoff date prior to each hearing  
7 phase, and I hadn't thought yet of what's the  
8 appropriate cutoff time, but just the concept itself  
9 and the idea being that after that date, parties won't  
10 be asked data requests that they will have to be  
11 responding to at the same time that they are trying to  
12 prepare either for cross or to take the witness stand,  
13 so I just wanted to raise that to you. I'm not asking  
14 for anything specific now but that I would plan on  
15 talking to the parties about that, hopefully coming to  
16 an agreement on that and submitting that agreement to  
17 you.

18 JUDGE SCHAER: Looking at the clock, I think  
19 that it is time we take a morning recess, and if you  
20 could talk that over during the recess, I would prefer  
21 to have a date for each schedule or however you would  
22 like to have that considered, and then we can put that  
23 in the record of this hearing. After that recess to  
24 discuss scheduling for discovery, are there any other  
25 matters that will need to come before us this morning?

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1 MR. FFITCH: I had one belated thought on  
2 this scheduling, just to convey it to you. Sorry for  
3 being belated.

4 JUDGE SCHAER: I'll just make a note that you  
5 are going to do that right after the break; okay,  
6 Mr. ffitch?

7 MR. FFITCH: Okay.

8 JUDGE SCHAER: Because I think our court  
9 reporter deserves a break. Are there going to be any  
10 other matters brought up after the break that people  
11 are aware of at this time?

12 MR. MEYER: Were you going to do any  
13 premarking for the record of exhibits or just wait?

14 JUDGE SCHAER: Probably would be a good idea  
15 to discuss premarking. When you are having your  
16 conversation during the break, perhaps talk about  
17 whether you think it would be useful in this proceeding  
18 to assign number series to the parties so they can  
19 premark their exhibits before they are filed, or  
20 whether that's necessary in a proceeding of this  
21 length.

22 MR. MEYER: It doesn't apply to the stuff  
23 we've already filed, which have been already numbered,  
24 but it would apply to the number series.

25 JUDGE SCHAER: I'm going to bring that up as

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1 a subject after the break because I do want to find out  
2 if there are a duplicate of materials between the two  
3 filings and probably assigning and putting together an  
4 exhibit list that incorporates both filings and  
5 circulate it to the parties and the judge, so we'll be  
6 off the record. Please be back at five after 11:00 by  
7 the clock in this room.

8 (Recess.)

9 (Discussion off the record.)

10 JUDGE SCHAER: We're back on the record at  
11 this point. While we were off the record for our  
12 morning break, we held extensive discussions of what  
13 hearing dates were available to the Commissioners in  
14 this proceeding and worked with that information to  
15 build a schedule for the remainder of the proceeding.  
16 We had ended up with two alternative schedules, and I  
17 would like to indicate that the Company has very  
18 graciously agreed with that proposed by Staff and  
19 Public Counsel and to thank them for that accomodation.  
20 I would ask you, Mr. Cedarbaum, at this point to put  
21 that schedule into the record, please.

22 MR. CEDARBAUM: Thank you. The agreed  
23 schedule would provide for the Company to file the  
24 supplemental testimony on the issues that you had  
25 indicated the Commissioners were interested in on



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1 January 26th. We would then cross the Company's direct  
2 case on March 27th through the 31st. Staff, Public  
3 Counsel, and Intervenors would prefile their direct  
4 cases on May 5th. Company would file it's rebuttal  
5 case on June 2nd. Cross of all of that prefile  
6 testimony would occur on July 10th through the 14th.  
7 Briefs filed August 11th.

8 JUDGE SCHAER: I had written down August 14th  
9 earlier. Did I just write it down wrong?

10 MR. CEDARBAUM: I think you did. I just  
11 counted four weeks from the end of the hearings in  
12 July, which is August 11th.

13 JUDGE SCHAER: Is every party in agreement on  
14 this schedule, however reluctantly?

15 MR. FINKLEA: There is just one set of  
16 briefs?

17 JUDGE SCHAER: That is what the schedule  
18 contemplates, Mr. Finklea. Does anyone wish to have a  
19 different form of briefing?

20 MR. MEYER: No. Let's just do it with one.

21 JUDGE SCHAER: Then we will just have one  
22 round of briefing at the end of the proceeding. Over  
23 topics that we need to discuss, we had a conversation  
24 about whether we should premark exhibits today, and it  
25 was decided that we would not go through all of the

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1 exhibits today and identify them for the record, but  
2 that instead, the Company will with its January 26th  
3 filing include an exhibit list which goes through and  
4 numbers all of their exhibits, including the  
5 supplemental filing, and that at the outset of the  
6 cross hearings, that document will be entered into the  
7 record to identify for identification the exhibits  
8 offered by the Company.

9           Along the same line, we have agreed that the  
10 parties with their filings will include an exhibit list  
11 which lists by witness the testimony and all exhibits  
12 so that it may be easily marked with the numbers that  
13 are assigned at that point. We have decided, however,  
14 not to have a number series assigned to each party, and  
15 we will just continue to number exhibits consecutively  
16 as we go forward.

17           In terms of discovery, even with the new  
18 schedule, we are staying with the seven-business-day  
19 turnaround time, which will begin on May 5th of 2000 at  
20 the time that the Staff, Public Counsel, and  
21 Intervenors file their direct cases.

22           Is there anything else that we need to take  
23 up at this time? Oh yes; another matter that I've  
24 asked the parties to address is that in the week before  
25 each set of hearings, I've asked the parties to consult

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1 with each other and to agree to an order of witnesses.  
2 I've asked them in doing that to accommodate the needs  
3 of certain parties to perhaps have all of the gas or  
4 all of the electric only witnesses considered together,  
5 or if there are certain subject matters that the  
6 parties would view as appropriate to have witnesses  
7 from all parties present together, that could also be  
8 done.

9 I would like the parties to include with  
10 those lists estimates of how much testimony,  
11 cross-examination they will have for each witness and  
12 encourage them to use that in putting together a  
13 realistic schedule for the presentation of witnesses.  
14 We will revisit the estimates at the beginning of each  
15 witness's time on the hot seat for cross-examination  
16 and take revised estimates at that time, understanding  
17 that counsel, in all likelihood with more time to study  
18 the issues, will have been able to shorten their  
19 questions by more efficiency.

20 So with that said, is there anything else  
21 that needs to come before us this morning? Hearing  
22 nothing, then a prehearing conference order will issue.  
23 Parties will have 10 days after that order does issue  
24 to raise any objections to the order and to any of the  
25 things we've discussed this morning to the

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1 Commissioners. If there are changes that a party  
2 decides they would like and if the parties can approach  
3 each other and come up with agreed changes, please  
4 bring those before the Commission, and I'm certain they  
5 will be viewed more favorably than reargument of any of  
6 the things that we have discussed this morning. We are  
7 off the record.

8 (Prehearing conference concluded at 12:15 p.m.)

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