

Docket No. UE-170917 - Vol. I

Stanzak v. Avista Corporation

February 20, 2018



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Page 1

1 BEFORE THE WASHINGTON
 2 UTILITIES AND TRANSPORTATION COMMISSION
 3 _____
 4 DAVID STANZAK ON BEHALF OF THE)
 ESTATE OF DOREEN L. HODIN,)
 5 Complainant,) Docket No. UE-170917
 6 v.)
 7 AVISTA CORPORATION,)
 8 Respondent.)
 9)
 10 _____
 11 TELEPHONIC BRIEF ADJUDICATIVE PROCEEDING
 12 ADMINISTRATIVE LAW JUDGE MARGUERITE FRIEDLANDER
 13 _____
 14 9:30 a.m.
 15 February 20, 2018
 16 Washington Utilities and Transportation Commission
 17 1300 South Evergreen Park Drive Southwest
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 18
 19
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1 OLYMPIA, WASHINGTON; FEBRUARY 20, 2018
 2 9:30 a.m.
 3 PROCEEDINGS
 4
 5 JUDGE FRIEDLANDER: Good morning. My name
 6 is Marguerite Friedlander. I am the administrative
 7 law judge presiding over this matter. We are here
 8 before the Washington Utilities and Transportation
 9 Commission this morning for a telephonic hearing in
 10 Docket UE-170917, a complaint on behalf of the Estate
 11 of Doreen L. Hodin, and I hope I pronounced that
 12 correctly.
 13 MR. STANZAK (by phone): Correct.
 14 JUDGE FRIEDLANDER: Thank you. I'm going
 15 to refer to it as the Hodin Estate, and this is a
 16 complaint against Avista Corporation, doing business
 17 as Avista Utilities.
 18 We'll start by taking appearances from
 19 both parties. I'd like you to give your name, spell
 20 your last name, your mailing address, phone number and
 21 email, after which I'll explain how the proceeding is
 22 going to be run this morning.
 23 So we'll begin with you, Mr. Stanzak.
 24 MR. STANZAK: My name is David Stanzak,
 25 and I'm the court-appointed administrator for Doreen

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1 Hodin's estate. My last name spelling is
 2 S-T-A-N-Z-A-K. Phone number -- telephone number --
 3 JUDGE FRIEDLANDER: Mr. Stanzak --
 4 MR. STANZAK: -- is 509 --
 5 JUDGE FRIEDLANDER: Mr. Stanzak, this is
 6 Judge Friedlander. Can you please slow down? We have
 7 a court reporter who is transcribing all of the
 8 information today that is going to be stated, so
 9 please just speak clearly and slowly for the court
 10 reporter. Thank you. If you could start back with
 11 the spelling of your name.
 12 MR. STANZAK: Last name spelling is
 13 S-T-A-N-Z-A-K. That's Z, like zebra, A-K.
 14 JUDGE FRIEDLANDER: Thank you. And then
 15 please continue with the address.
 16 MR. STANZAK: The address is 11512 West
 17 Betz Road. That's Bravo Echo Tango Zebra. And that's
 18 in Cheney, Washington --
 19 JUDGE FRIEDLANDER: Okay. Can you --
 20 MR. STANZAK: -- 99004.
 21 JUDGE FRIEDLANDER: Okay. Hold on just a
 22 second. We're having some issues right now with
 23 hearing you, so can you maybe speak closer into the
 24 phone.
 25 MR. STANZAK: I'm as close to the

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6

1 microphone as I can get, and I can call you through
 2 another line if you'd like.
 3 JUDGE FRIEDLANDER: You know what? Let's
 4 try to just speak a little bit slower, and if that
 5 doesn't solve the problem, we'll have you call on that
 6 other line.
 7 MR. STANZAK: Okay. Where are we with the
 8 court reporter?
 9 JUDGE FRIEDLANDER: You need to repeat the
 10 address, please.
 11 MR. STANZAK: The address is 11512 West
 12 Betz Road, Cheney, Washington.
 13 JUDGE FRIEDLANDER: And you said that was
 14 where in Washington?
 15 MR. STANZAK: Cheney.
 16 JUDGE FRIEDLANDER: Okay. Cheney. Okay.
 17 Thank you. And then phone number and email address,
 18 please?
 19 MR. STANZAK: (509) 235-8157. My email is
 20 davestanzak@gmail.com.
 21 JUDGE FRIEDLANDER: Okay. Thank you.
 22 And appearing today on behalf of Avista?
 23 MR. MEYER (by phone): Thank you,
 24 your Honor. David Meyer, M-E-Y-E-R. I'm with Avista
 25 Corporation. Our address is East 1411 Mission Avenue,

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1 Spokane, Washington 99220. Our -- or my email address
 2 is david.meyer@avistacorp, A-V-I-S-T-A-C-O-R-P.com,
 3 and my phone number is (509) 495-4316.
 4 JUDGE FRIEDLANDER: Okay. Thank you.
 5 And is there anyone else on the conference
 6 bridge or in the hearing room who would like to put in
 7 an appearance today?
 8 Hearing nothing, Mr. Stanzak, because you
 9 are not a frequent appearance or don't put in frequent
 10 appearances before the Commission, I'd like to just go
 11 through the procedures that we're going to do today.
 12 So this is an evidentiary hearing to allow
 13 you to present your side of the complaint. I'm going
 14 to swear you in in just a moment, and then you can
 15 tell me what has brought this complaint about and
 16 offer any evidence that will support your case,
 17 although I do note that you didn't file any exhibits
 18 last Friday by the deadline.
 19 MR. STANZAK: I think the complaint speaks
 20 for itself pretty much. I do have some other
 21 testimony I'd like to give, but there's no real
 22 documentation that's necessary beyond the state law.
 23 JUDGE FRIEDLANDER: Okay. Thank you.
 24 And then Avista will have the opportunity
 25 to object to any testimony that you do provide, and

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1 I'll allow you to respond to their objections before I
 2 rule.
 3 When you have finished your statement,
 4 I'll allow Avista to ask you questions about it. And
 5 I may also ask you clarification questions if I need
 6 further guidance.
 7 After I've heard from you, I'll allow
 8 Avista to present its side, and you may object to
 9 Avista's testimony. Just as I did with you, I'll
 10 allow them to respond to the objection before I rule.
 11 When Avista has made its statement, I'll
 12 allow you to question the company's representative,
 13 and I may ask them brief clarification questions as
 14 well.
 15 When that's finished, I will adjourn the
 16 hearing and the Commission will enter an order within
 17 ten business days following this hearing.
 18 And I'll repeat that the hearing is
 19 telephonic, both parties are appearing via our
 20 conference bridge. We have a court reporter in
 21 Olympia with me recording the hearing and transcribing
 22 it, so I will ask everyone to try to speak very slowly
 23 and clearly and to try not to talk over each other.
 24 So are there any questions before we
 25 begin?

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DIRECT TESTIMONY BY MR. STANZAK 9

1 MR. STANZAK: None from me.
 2 JUDGE FRIEDLANDER: Okay. Thank you. All
 3 right.
 4 With that, Mr. Stanzak, if you would like
 5 to make your statement, you can do so. Oh, at this
 6 time, why don't we swear you in first. Please raise
 7 your right hand.
 8 MR. STANZAK: Okay.
 9
 10 DAVID STANZAK, witness herein, having been
 11 first duly sworn on oath,
 12 was examined and testified
 13 as follows:
 14
 15 JUDGE FRIEDLANDER: All right. Thank you.
 16 You may proceed.
 17 DIRECT TESTIMONY
 18 BY MR. STANZAK: Well, I think that
 19 probably the easiest way to proceed is to ask the
 20 Court (bridge line interruption) the complaint that I
 21 sent in to begin with. And that complaint pretty much
 22 specifies what the issue is.
 23 Avista has been refusing to return the
 24 power to homes that have been without power, gas and
 25 electric, for a period of 12 months or more. And it's

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DIRECT TESTIMONY BY MR. STANZAK 10

1 a pretty arbitrary number. There seems to be no real
 2 evidence, and certainly whether a home is empty or
 3 not, there is always a chance for a problem. Having
 4 the power out doesn't increase or decrease the risk of
 5 the hazard.
 6 In addition, they're only allowed to keep
 7 service off for folks if there is a reasonable hazard
 8 or --
 9 JUDGE FRIEDLANDER: I'm sorry,
 10 Mr. Stanzak --
 11 MR. STANZAK: Yes.
 12 JUDGE FRIEDLANDER: -- we're getting some
 13 interference or some additional noise when you're
 14 testifying. So if -- I don't know if it's papers
 15 moving or something else, but if I can have you just
 16 try and maybe limit the extraneous noise. Or Avista,
 17 maybe put something on mute so that we hear you much
 18 clearer.
 19 MR. MEYER: Avista will put ourselves on
 20 mute.
 21 JUDGE FRIEDLANDER: Thank you.
 22 MR. STANZAK: Okay. Well, I'm not sure
 23 where to continue at this point.
 24 JUDGE FRIEDLANDER: And I apologize for
 25 interrupting. I believe that you were talking about

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DIRECT TESTIMONY BY MR. STANZAK 11

1 the complaint and were going into the 12-month period.
 2 MR. STANZAK: Well, Avista has a policy
 3 that is not based on law but based on their belief
 4 that states that they won't turn power back on for any
 5 customer or any property that has been without
 6 services for 12 months or more, and it's a pretty
 7 arbitrary rule.
 8 In their answers, they state that they
 9 believe that that is a reasonable rule because they
 10 believe that there's the potential for hazard. And
 11 they have an obligation under several statutes to be
 12 reasonable in their investigation of what a hazard
 13 would be, including Section 480-100-128, which is very
 14 clear that they can only discontinue service after
 15 investigation.
 16 Now, Avista's arguing that they shouldn't
 17 have to do any inspections. Well, nobody is asking
 18 them to do an inspection. That's fine. But they do
 19 have to have a reasonable presumption that there's a
 20 hazard existing in all the statutes, and that's just
 21 very clear.
 22 So Avista -- I'm not arguing point to
 23 point here, but I certainly could. And I think at the
 24 time, it's a pretty simple argument that they have an
 25 arbitrary rule that affects thousands and thousands of

Page 12

DIRECT TESTIMONY BY MR. STANZAK 12

1 customers, and myself included in this case, and
 2 there's no reason for it.
 3 I don't see any problem for hazards. If
 4 they're noted, they should -- clearly there's plenty
 5 of statute that says we shouldn't allow the service on
 6 if there's hazards that, upon investigation, they see.
 7 But there's no hazards, and there's no
 8 reason to believe there's a hazard. It's pretty
 9 presumptive of them to conclude that they should turn
 10 off or not or withhold power from a customer and force
 11 them to get an independent inspection when the home's
 12 already been inspected prior to having the original
 13 power turned on.
 14 We can't build a home in this county or
 15 this state without having an inspection done already.
 16 So the redundancy there, it makes no sense whether or
 17 not -- any home can have an issue at any time. It
 18 doesn't mean that because it's empty that there is a
 19 hazard.
 20 So the hazard that they're saying should
 21 be in a home that's been vacant or been without
 22 services for a period of time, hell, that's any hazard
 23 that could occur within a week, a month, overnight.
 24 There's no guarantee that a hazard is going to happen
 25 in 12 months, and there's no evidence of hazard at the

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1 location that I'm calling the attention of the Court
 2 to, Ms. Doreen Hodin's estate or property.
 3 So there certainly wasn't any hazard
 4 there, but we went ahead and got the inspection
 5 anyway, and of course there was nothing we needed to
 6 do. The inspector found that it was just fine, so it
 7 was a wasted trip and a hundred bucks.
 8 And it's not about the money so much as it
 9 is about the whittling away of the rights of the
 10 citizens here, because it puts us through a minefield
 11 of extra steps that -- and delays that everyone has to
 12 go through because Avista just wanted to do their part
 13 to be reasonable [sic] about the investigation.
 14 If they think there's some hazard, they
 15 have a right to not turn the service on, but unless
 16 there's some reasonable belief that there's a hazard,
 17 they shouldn't withhold services from anyone.
 18 JUDGE FRIEDLANDER: Okay. Thank you.
 19 Mr. Meyer, did you have any questions for
 20 Mr. Stanzak?
 21 MR. MEYER: I just have a few.
 22 JUDGE FRIEDLANDER: Okay.
 23 CROSS-EXAMINATION
 24 BY MR. MEYER:
 25 Q. Good morning, Mr. Stanzak. I'm the attorney

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1 for Avista, and I just want to get a few things
 2 clarified here based on what you said already this
 3 morning.
 4 When -- first of all, when was the home
 5 vacated?
 6 **A. Well, I don't know when they picked up the**
 7 **body, but she was in the home living there until 2015.**
 8 **I don't know what --**
 9 Q. And when was, to the best of your knowledge,
 10 service, electric and gas, shut off?
 11 **A. I have no idea when it was shut off. I really**
 12 **don't.**
 13 Q. Is it, to the best of your recollection --
 14 and if you don't know, you just don't know and our
 15 witness will testify to this -- but could it have been
 16 in September of 2015?
 17 **A. I really don't know. I didn't get on the**
 18 **estate until after -- almost two years after she**
 19 **was (bridge line interruption).**
 20 JUDGE FRIEDLANDER: So Mr. Stanzak, we are
 21 having a lot of interference and echoing on the line.
 22 So I'm not sure -- it might be better to call in on a
 23 different line, but if you can adjust either the mic
 24 or your proximity to it, we're just getting a lot of
 25 interference.

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1 MR. STANZAK: I'm going to switch to a
 2 landline and call you right now.
 3 JUDGE FRIEDLANDER: All right. We'll take
 4 a brief recess, and please call back into the
 5 conference bridge line.
 6 MR. STANZAK: Okay. I'm calling now.
 7 Thank you.
 8 JUDGE FRIEDLANDER: All right. Thank you.
 9 (Brief pause in the proceedings.)
 10 JUDGE FRIEDLANDER: All right. So I
 11 believe we left off with Mr. Meyer cross-examining you
 12 on your statement.
 13 MR. STANZAK: Correct.
 14 JUDGE FRIEDLANDER: Okay.
 15 BY MR. MEYER:
 16 Q. All right.
 17 And again, through my questioning of you,
 18 Mr. Stanzak, I'm just trying to establish just a few
 19 basic facts and then we'll move into our own
 20 presentation.
 21 But when was service restored?
 22 **A. I honestly don't know that date, sir.**
 23 Q. Okay.
 24 And did you ultimately make the effort to ask
 25 for an inspection so that service could be restored?

Page 16

1 **A. Yes.**
 2 Q. And at some point service has been restored,
 3 correct?
 4 **A. That's correct.**
 5 Q. Both electric and gas service?
 6 **A. That's correct.**
 7 Q. Do you recall how long it took once your
 8 request was made for an inspection for the inspection
 9 to occur and service to be restored?
 10 **A. No, I don't. It was -- I would say,**
 11 **generally, it was less than a week. I don't recall**
 12 **the time being a problem, but there wasn't any urgency**
 13 **to the turn-on either.**
 14 Q. Okay.
 15 And do you recall how much you paid to have
 16 that inspection done?
 17 **A. It was just shy of a hundred dollars. I don't**
 18 **recall the exact amount.**
 19 Q. Okay.
 20 And to the best of your recollection, did
 21 Avista offer to reimburse you for your cost of the
 22 inspection?
 23 **A. I don't know if Avista did directly, but I**
 24 **certainly got word from the Commission that they were**
 25 **offering to do that.**

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1 Q. All right.

2 And did you take Avista up on that?

3 **A. No.**

4 Q. Okay.

5 MR. MEYER: So as we sit here today in

6 February of 2018, we know that service has been

7 restored last year and that all payments have been

8 made to get that certification.

9 And so at this point, your Honor, I won't

10 move to dismiss the complaint, although there's

11 perhaps an argument that this complaint is moot. But

12 I would like to have Avista explain its position

13 better, and then just simply let this proceed to a

14 decision.

15 JUDGE FRIEDLANDER: All right. Thank you.

16 MR. MEYER: With that, I have no further

17 cross-examination. Thank you, Mr. Stanzak.

18 MR. STANZAK: Sure. Thank you.

19 EXAMINATION

20 BY JUDGE FRIEDLANDER:

21 Q. I just have one question that I guess maybe

22 will lead to others, but Mr. Stanzak, what is the

23 relief that you are requesting in your complaint?

24 **A. Well, I don't know if I have actually**

25 **specified relief in the complaint, but there is**

Page 18

1 **certainly -- and I've implied that they need to**

2 **double-check or do some kind of an investigation to**

3 **support the evidence or gather some evidence that**

4 **there's actually a hazard for any homeowner or any**

5 **property, not just jump to the conclusion that**

6 **automatically forces someone to jump through**

7 **additional hoops bureaucratically.**

8 **There's -- it just seems very unreasonable to**

9 **do that when there's no evidence of tampering, there's**

10 **no evidence of a hazard, and they don't send -- I**

11 **think it's their way of trying to avoid sending**

12 **someone out, frankly, to inspect the property, to take**

13 **a cursory look and see if there's any reason not to**

14 **turn on the power. And in our case, there wasn't any**

15 **reason why they shouldn't turn on the power as**

16 **evidenced by the fact that the inspector came and went**

17 **and nothing was required of us.**

18 **The -- I think that, you know, this -- the**

19 **oligopoly that is operating as Avista is -- has a lot**

20 **of power to their rule book. And they, frankly --**

21 **they -- their employees are telling people it's the**

22 **law, that the law says that Avista has the power to**

23 **not turn on, and the law requires 12 months, and there**

24 **is no law.**

25 **Their people are misstating this. I heard**

Page 19

1 **this from one of Avista's employees more than once,**

2 **and my wife heard it, and then I called the people at**

3 **the inspection office, they said, oh, yes, Avista**

4 **likes us to do that kind of in a joking sort of a**

5 **manner.**

6 **It's clear that Avista is making their own**

7 **rules here. And while it might be based on some**

8 **regulation in some other state or country or I don't**

9 **know where, it doesn't really matter. This is**

10 **Washington state and we have our own set of rules.**

11 **And that's why I'm appealing to the Commission to set**

12 **the matter straight.**

13 **Either adopt the rules or go about having them**

14 **do an investigation as WAC 480-100-128 says they do**

15 **their own investigation, which is really what I think**

16 **the appropriate thing is.**

17 **If there's a reasonable belief there's a**

18 **hazard, then, by God, don't turn the power on. But if**

19 **they're just jumping to that conclusion because it's**

20 **been a week or a month or 10 months or 12 months or**

21 **15 months, then that's not a reasonable thing. They**

22 **shouldn't make tens of thousands of people jump**

23 **through hoops just because they don't want to do an**

24 **investigation.**

25 **They got people out there all the time.**

Page 20

1 **Anybody could run by and take a peek at the house and**

2 **see if the electrical wires are hanging out of the**

3 **wall, for God's sake. That's all the inspector does**

4 **anyway.**

5 **So anyway, I'm kind of passionate about it**

6 **because it's a -- it seems to be whittling away at**

7 **their -- at our rights, and more and more bureaucracy**

8 **and bureaucratic rules are coming up, and this is one**

9 **that got under my craw, so I'd like to see it fixed.**

10 **JUDGE FRIEDLANDER: Okay. Thank you.**

11 **At this time, I'm going to allow Avista to**

12 **make their statement. Who will be testifying or**

13 **making a statement on behalf of the company today,**

14 **Mr. Meyer?**

15 MR. MEYER: Yes, it will be Linda Gervais

16 and Shawn Bonfield.

17 JUDGE FRIEDLANDER: Okay.

18 MR. MEYER: We will start with Linda with

19 her statement and then Shawn can supplement as

20 necessary.

21 JUDGE FRIEDLANDER: Okay. Thank you.

22 And please have them both spell their last

23 names for the court reporter. If both would raise

24 their right hands and I'll swear them in.

25 MR. MEYER: They're raised.

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DIRECT EXAMINATION BY MR. MEYER / GERVAIS 21

1 JUDGE FRIEDLANDER: Okay. Thank you.

2

3 LINDA GERVAIS, witness herein, having been

4 first duly sworn on oath,

5 was examined and testified

6 as follows:

7

8 SHAWN BONFIELD, witness herein, having been

9 first duly sworn on oath,

10 was examined and testified

11 as follows:

12

13 JUDGE FRIEDLANDER: Thank you. You may

14 proceed.

15 DIRECT EXAMINATION

16 BY MR. MEYER:

17 Q. Would you first spell your name, Ms. Gervais,

18 and state by whom you're employed and what is your

19 title?

20 **A. Yes. Thank you. My name is Linda Gervais,**

21 **and that's G-E-R-V, as in Victor, A-I-S. I'm employed**

22 **by Avista Utilities and my position is the senior**

23 **regulatory policy manager.**

24 Q. Ms. Gervais, in that position, do you spend a

25 fair amount of time dealing with customer complaints

Page 22

DIRECT EXAMINATION BY MR. MEYER / BONFIELD 22

1 of all sorts?

2 **A. Yes, I do.**

3 Q. And are you essentially the liaison with

4 Commission staff and customers when it comes to

5 complaints of this sort?

6 **A. Yes, I am.**

7 Q. And is this the first complaint of this sort

8 that you're aware of in the many years that you've

9 performed in this area?

10 **A. Yes, it is.**

11 Q. So are you saying that no other customer has

12 raised this issue while you've been with the company?

13 **A. No, not in any of our jurisdictions.**

14 Q. And you've been with the company in this

15 capacity for how many years?

16 **A. Seventeen.**

17 Q. Seventeen years. Okay.

18 DIRECT EXAMINATION

19 BY MR. MEYER:

20 Q. And I'll ask some additional questions for

21 Ms. Gervais, but for the record, Mr. Bonfield, would

22 you explain or spell your name, give your title and

23 what your responsibilities are?

24 **A. I would. My name is Shawn Bonfield, first**

25 **name S-H-A-W-N, last name B, as in boy, O-N-F-I-E-L-D.**

Page 23

DIRECT EXAMINATION BY MR. MEYER / GERVAIS 23

1 My position is a senior regulatory quality analyst

2 with Avista Utilities.

3 Q. And much like Ms. Gervais, what duties do you

4 perform?

5 **A. In this capacity, I am the liaison between our**

6 **customer service department and our regulatory**

7 **department dealing with consumer and policy issues as**

8 **pertains to the WAC and the processes we have in**

9 **place.**

10 Q. Thank you.

11 DIRECT EXAMINATION (CONTINUED)

12 BY MR. MEYER:

13 Q. Turning back just for a few more foundational

14 questions before Ms. Gervais issues her or delivers

15 her statement, just to clarify certain facts, when,

16 Ms. Gervais, was the power to this residence turned

17 off?

18 **A. It was turned off on September 15th, 2015.**

19 Q. And according to company records, when was

20 service turned back on?

21 **A. Service was restored on October 23rd, 2017.**

22 Q. So approximately two years after service had

23 been shut off?

24 **A. That is correct.**

25 Q. All right.

Page 24

DIRECT EXAMINATION BY MR. MEYER / GERVAIS 24

1 Would you please proceed, Ms. Gervais?

2 **A. Yes. Thank you, your Honor, and thank you for**

3 **your comments, Mr. Stanzak, as well.**

4 **First of all, I just want to say that, you**

5 **know, our company policy has been designed and put in**

6 **place most importantly to keep our employees and our**

7 **customers safe.**

8 **In our experience, and in especially speaking**

9 **with our field workers and people that are out there**

10 **in the field, it has been their experience over time**

11 **that when power has been disconnected for a length of**

12 **time, and in particular a year or more, and in some of**

13 **Spokane's -- especially Spokane and some of our**

14 **outlying jurisdictions, a vacant home can sustain all**

15 **kinds of -- whether it's weather related or theft or**

16 **whatever, we just don't know. So the policy was there**

17 **because when we do restore power in certain cases,**

18 **there is a safety issue.**

19 **Our particular people that go out to restore**

20 **power do not have the credentials to go in and**

21 **inspect, and that's per the National Electric Code.**

22 **So they can certainly look around the exterior of the**

23 **house and -- but that doesn't tell them what's going**

24 **on inside the panels or whether or not there's been**

25 **copper wires stripped, et cetera.**

Page 25

DIRECT EXAMINATION BY MR. MEYER / GERVAIS 25

1 So not only has this been Avista's practice,
 2 and we feel that it's within the guidelines of the WAC
 3 as well as the RCW, but it's also municipal code in
 4 Spokane -- in the city of Spokane, which is our
 5 largest service area, as you well know, and also in
 6 our Idaho jurisdiction.
 7 So keeping in line with that practice, we feel
 8 that this is the best way to keep our employees and
 9 our customers the most safe.
 10 Q. Ms. Gervais, you mentioned the provisions of
 11 the administrative code. Was your reference there to
 12 WAC 480-100-123?
 13 **A. That's correct.**
 14 Q. And is it your understanding that that
 15 provision of the code allows a utility to refuse to
 16 provide new or additional service if, in the utility's
 17 reasonable judgment, the applicant's or customer's
 18 installation of wiring or electrical equipment is
 19 considered hazardous or such a nature that safe and
 20 satisfactory service cannot be provided?
 21 **A. That is correct.**
 22 Q. And do you believe that this policy reflects
 23 reasonable judgment -- this policy of requiring an
 24 electrical inspection before service is restored
 25 reflects the reasonable judgment of the company?

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DIRECT EXAMINATION BY MR. MEYER / GERVAIS 26

1 **A. Yes, I do.**
 2 Q. And is that reasonable judgment, or is that
 3 assumption also reflected in the City of Spokane's
 4 Municipal Code?
 5 **A. Yes, it is.**
 6 Q. And in that municipal code, is it --
 7 MR. STANZAK: I want to object here,
 8 your Honor. The City of Spokane Municipal Code is not
 9 at question here. This is a state matter and this is
 10 the city of Spokane Valley that we're housed in, not
 11 the city of Spokane. Any reference to the city of
 12 Spokane's code has nothing to do with the city of
 13 Spokane Valley or Idaho.
 14 JUDGE FRIEDLANDER: Mr. Meyer?
 15 MR. MEYER: Yes. The City of Spokane's
 16 Municipal Code is some evidence of how other
 17 authorities have viewed hazards associated with
 18 property that has remained vacant, so it's not
 19 dispositive. We don't claim it to be. But it is some
 20 evidence of whether Avista exercised its reasonable
 21 judgment in this instance.
 22 JUDGE FRIEDLANDER: Okay. Thank you.
 23 I am going to allow it, so the objection
 24 is overruled.
 25 MR. STANZAK: Very well. Thank you.

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DIRECT EXAMINATION BY MR. MEYER / GERVAIS 27

1 MR. MEYER: Thank you, your Honor.
 2 BY MR. MEYER:
 3 Q. So turning to the City of Spokane's Municipal
 4 Code, what do you understand that to provide?
 5 **A. So the city code provides -- it requires that**
 6 **for power that has been off for more than one year,**
 7 **and when a serving utility has -- or when someone has**
 8 **requested service be turned on, that we -- it requires**
 9 **an inspection.**
 10 Q. So if this -- if this matter had occurred
 11 within the city limits of Spokane, could Avista have
 12 restored service without getting an inspection?
 13 MR. STANZAK: Again, your Honor, I object
 14 to the "if" question. That's, like, asking, you
 15 know -- I mean, if it rains tomorrow, then will we
 16 have power? I -- it's just -- I don't know what you
 17 guys call it in legal terms, but it should have no
 18 bearing, "if."
 19 JUDGE FRIEDLANDER: Mr. Meyer?
 20 MR. MEYER: Yes. It's just to -- it's the
 21 same response to the previous objection. It is just
 22 some evidence of reasonable practice.
 23 JUDGE FRIEDLANDER: And, again, I'm going
 24 to allow it. I believe that, as Mr. Meyer stated
 25 before, this is just for illustrative purposes. It's

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DIRECT EXAMINATION BY MR. MEYER / BONFIELD 28

1 not to indicate that the municipal code is at issue in
 2 this case. So the objection is overruled.
 3 **A. So the answer is yes, if a customer called**
 4 **right now whether -- in the city of Spokane and**
 5 **requested power and we know that it had been vacant**
 6 **for that period of time, we would require an**
 7 **inspection.**
 8 BY MR. MEYER:
 9 Q. And from a broader company perspective, given
 10 that we serve in multiple areas, is there benefit for
 11 the company to have a consistently administered policy
 12 throughout its service territory?
 13 **A. Yes, there is, for all customers, yes.**
 14 Q. Okay. Go ahead with your statement.
 15 Do you have anything else to add to that?
 16 **A. I really do not. I think we're --**
 17 MR. MEYER: Okay.
 18 DIRECT EXAMINATION (CONTINUED)
 19 BY MR. MEYER:
 20 Q. Mr. Bonfield, anything else that you would
 21 like to add?
 22 **A. If I may, I would just elaborate on what**
 23 **points that Ms. Gervais mentioned and it pertains to**
 24 **the certifications required by the National Electric**
 25 **Code for who may do an inspection of downstream**

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CROSS-EXAMINATION BY MR. STANZAK / BONFIELD 29

1 electrical wiring from the service point.
 2 Avista's employees are only certified to
 3 inspect up to the service point itself. Anything
 4 beyond that point requires a certified inspector per
 5 the National Electric Code to complete that
 6 inspection. So for Avista -- even if we were to look
 7 inside of a home that was vacant, we aren't certified
 8 to call that an inspection.
 9 MR. MEYER: Thank you. Your Honor, I
 10 think those are the statements and testimony of
 11 Avista.
 12 JUDGE FRIEDLANDER: Okay.
 13 MR. MEYER: If there's anything else that
 14 you would like information on --
 15 JUDGE FRIEDLANDER: Okay. Well, I'm going
 16 to allow Mr. Stanzak to question the witnesses and
 17 then I do have some clarifying questions.
 18 So Mr. Stanzak, do you have any questions
 19 for Ms. Gervais or Mr. Bonfield?
 20 CROSS-EXAMINATION
 21 BY MR. STANZAK:
 22 Q. Yeah. I think, in general, can you give me
 23 some data on how many homes have been affected by
 24 rulings in the county of Spokane, say, in the last --
 25 just the last month?

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CROSS-EXAMINATION BY MR. STANZAK / GERVAIS 30

1 **A. Mr. Stanzak, we do not have that information**
 2 **available in terms of number of homes that have**
 3 **been -- if you're asking about the number that have**
 4 **been required to be inspected, I do not have that**
 5 **information today.**
 6 Q. Do you have any information about the number
 7 of homes that have been deemed hazardous, then, in the
 8 last year, let's say?
 9 **A. I do not have that information.**
 10 **CROSS-EXAMINATION**
 11 BY MR. STANZAK:
 12 Q. So you have no empirical evidence whatsoever,
 13 then, about how many homes are affected by this or
 14 what hazards may have -- may or may not have existed
 15 in these homes that you've required people to get
 16 inspections for?
 17 **A. We could certainly find -- we do keep track of**
 18 **that, but in our capacity and in this -- in front of**
 19 **us right now, we don't have that information, but we**
 20 **definitely do keep track of that.**
 21 Q. Okay. And yet you don't have that
 22 information.
 23 Now, can you offer a guess as to what it
 24 would be?
 25 MR. MEYER: We won't -- I won't have our

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CROSS-EXAMINATION BY MR. STANZAK / GERVAIS 31

1 witnesses speculate. If -- if your Honor would -- is
 2 in need of this additional information to make the
 3 decision, we will be happy to provide it upon request.
 4 JUDGE FRIEDLANDER: And I don't believe
 5 that I need it for the decision in this case.
 6 So are there any other questions,
 7 Mr. Stanzak?
 8 MR. STANZAK: Yes. I'd like to know who
 9 observed the hazard that allowed Avista, in accordance
 10 with WAC 480-100-123, to refuse service. If what you
 11 say is true, Linda and Shawn, then you both know that
 12 the rules -- what that WAC code says, and specifically
 13 I'd like to read it to remind you.
 14 In the utility's reasonable judgment, the
 15 applicant's and customer's installation of --
 16 JUDGE FRIEDLANDER: Okay. Mr. Stanzak,
 17 you're moving way too fast for our court reporter.
 18 MR. STANZAK: Oh, I'm so sorry.
 19 JUDGE FRIEDLANDER: Yeah. Could you
 20 please go back to -- if you could even just read the
 21 citation, I think we all remember what the WAC
 22 provision states.
 23 MR. STANZAK: Okay. Well, I'd like to
 24 read at least part of it, if you don't mind,
 25 your Honor. It says -- in section 2B, it says [as

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CROSS-EXAMINATION BY MR. STANZAK / GERVAIS 32

1 read], ...before electrical equipment is considered
 2 hazardous or of such a nature that safe and
 3 satisfactory service cannot be provided, period.
 4 So I'd like to know of you folks, Linda or
 5 Shawn, or anyone else that might be listening, who is
 6 it that made the observation that this service being
 7 turned on would -- or should be [sic] turned on
 8 because of the hazardous nature of the home? There's
 9 no observation that you have quoted here, and to my
 10 knowledge you sent no one out. So can you tell me if
 11 you sent someone out and I didn't know about it?
 12 MR. MEYER: Your Honor, I'll object.
 13 Yeah, Mr. Stanzak is asking the very question that
 14 presupposes that there is an obligation to send
 15 someone out and actually enter the dwelling, someone
 16 who, as Mr. Bonfield has said, is not qualified in any
 17 event to do the inspection.
 18 And so the question is objectionable
 19 because it presupposes a duty on the part of Avista to
 20 actually enter the premise and perform that
 21 inspection.
 22 MR. STANZAK: Your Honor, may I rebuttal
 23 to that?
 24 JUDGE FRIEDLANDER: Yes, go ahead.
 25 MR. STANZAK: WAC 480-100-128, which is

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CROSS-EXAMINATION BY MR. STANZAK / GERVAIS 33

1 another section of the code that allows for Avista to
 2 deny service, suggests that only after an
 3 investigation can service be denied.
 4 JUDGE FRIEDLANDER: And --
 5 MR. STANZAK: They make a distinction
 6 between investigation and inspection.
 7 JUDGE FRIEDLANDER: And Mr. Stanzak, I
 8 believe that the provision that you're referring to,
 9 WAC 480-100-128, is for disconnection of service, not
 10 for failure to resume or restore service, so there's a
 11 difference here.
 12 MR. STANZAK: While that's true,
 13 your Honor, it does imply that the legislature has an
 14 idea that there's a difference between investigation
 15 for denying services and -- the difference between
 16 that and an inspection.
 17 JUDGE FRIEDLANDER: Okay. And I'm going
 18 to sustain Avista's objection to the line of
 19 questioning. I think if we can -- if you can continue
 20 your questioning of the witnesses in a different line,
 21 that would be helpful. So I'm going to sustain the
 22 objection. I think we need to move forward.
 23 MR. STANZAK: Okay. Then my last line of
 24 questioning was about empirical evidence. There
 25 doesn't seem to be any to substantiate these rules, so

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1 I have no further questions, your Honor.
 2 JUDGE FRIEDLANDER: Thank you. I do have
 3 a couple of questions for Avista's witnesses.
 4 Mr. Bonfield, you were mentioning at the
 5 end of your statement that Avista employees are only
 6 certified to inspect -- and I think you said outside
 7 of the residence; is that correct?
 8 MR. BONFIELD: That's correct, your Honor.
 9 We can inspect our infrastructure or utility poles and
 10 lines up to the service point itself on the electric
 11 side, which is up to essentially the meter on the
 12 outside of the home.
 13 JUDGE FRIEDLANDER: Okay.
 14 And so it's -- so Avista employees are not
 15 certified to inspect inside the residence, whether or
 16 not service has been off for two days, twelve months,
 17 two years or anything like that?
 18 MR. BONFIELD: You're correct. Any
 19 electrical wiring or circuitry requiring inspection
 20 beyond the meter, including the actual meter can
 21 itself, must be inspected by a certified inspector per
 22 the National Electric Code.
 23 JUDGE FRIEDLANDER: Okay. Thank you.
 24 And realizing that Avista has not offered
 25 the Spokane Municipal Code for its legal basis here,

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1 only as an illustrative example of a provision
 2 regarding the 12 months' vacancy, can you give me the
 3 citation to that Municipal Code?
 4 MR. BONFIELD: I can, your Honor. It's
 5 City of Spokane Municipal Code Title 17F, Construction
 6 Standards, Chapter 17F.050, Electrical Code, Section
 7 17F.050, Provision 150, Disconnection of Service.
 8 JUDGE FRIEDLANDER: Okay. Thank you.
 9 So you said 17F as in Frank?
 10 MR. BONFIELD: Correct.
 11 JUDGE FRIEDLANDER: Okay. Okay.
 12 And that's really all the clarification
 13 questions that I had.
 14 Mr. Stanzak, you had no further questions,
 15 then, for the company?
 16 MR. STANZAK: No, I don't believe I do,
 17 your Honor.
 18 JUDGE FRIEDLANDER: All right.
 19 Is there anything else that we need to
 20 address today before we adjourn or end the hearing?
 21 MR. STANZAK: Just a closing statement
 22 perhaps.
 23 JUDGE FRIEDLANDER: All right.
 24 If you would like to make a closing
 25 statement, that's fine.

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1 MR. STANZAK: I'll be very brief,
 2 your Honor.
 3 JUDGE FRIEDLANDER: Okay.
 4 MR. STANZAK: Having the power out doesn't
 5 increase or decrease the risk of a hazard. Avista has
 6 no idea whether there's a hazard there or not anywhere
 7 unless they say they have some evidence of that.
 8 And the law clearly states that unless
 9 they have evidence of a hazard, reasonable evidence of
 10 a hazard, that they don't have the right to deny
 11 service. And they shouldn't have denied service to us
 12 or any other customer unless there's some reasonable
 13 reason to do it. And just having the power off is not
 14 reasonable, not at all. And that's it. Thank you.
 15 JUDGE FRIEDLANDER: Okay. Thank you.
 16 Does Avista wish to give a closing
 17 statement?
 18 MR. MEYER: Just -- just very, very
 19 briefly.
 20 Avista is permitted, as it should be, to
 21 exercise its reasonable judgment in matters such as
 22 this. And based on 125 years of experience and based
 23 on experts who are in the field every day and based on
 24 concerns of our experts who are quite uncomfortable
 25 with sending anyone into a house that has been --

1 that's been vacant for a year or two, given vandalism
2 that might occur, there are genuine safety issues.

3 And the company does not want to expose
4 its employees to any risk of danger, and that -- you
5 know, a safe and reliable service to customers, yes,
6 but not at the expense of the safety of our own
7 employees. That's first and foremost. Thank you.

8 JUDGE FRIEDLANDER: Okay. Thank you.

9 I believe that that concludes our hearing
10 today. I expect to have a decision entered within 10
11 business days. So if there is nothing further, this
12 hearing is adjourned. Thank you.

13 MR. STANZAK: Thank you for your
14 consideration, your Honor.

15 JUDGE FRIEDLANDER: Thank you.

16 MR. MEYER: Thank you.

17 JUDGE FRIEDLANDER: Thank you.

18 (Hearing concluded at 10:14 a.m.)

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1 CERTIFICATE

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3 STATE OF WASHINGTON)

4)
COUNTY OF KING)

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7 I, ANITA W. SELF, a Certified Shorthand
8 Reporter in and for the State of Washington, do hereby
9 certify that the foregoing transcript is true and
10 accurate to the best of my knowledge, skill and
11 ability.

12 IN WITNESS WHEREOF, I have hereunto set my hand
13 and seal this 6th day of March, 2018.

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ANITA W. SELF, RPR, CCR #3032

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