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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3 THE WASHINGTON UTILITIES)
4 AND TRANSPORTATION COMMISSION,)
5 Complainant,)
6 vs.) DOCKET NO. UE-991606
7 AVISTA CORPORATION,)
8 Respondent.)
9) VOLUME II
10) Pages 53 - 72

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9 THE WASHINGTON UTILITIES)
10 AND TRANSPORTATION COMMISSION,)
11 Complainant,)
12 vs.) DOCKET NO. UG-991607
13 AVISTA CORPORATION,)
14 Respondent.)
15) VOLUME II
16) Pages 53 - 72
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15 A prehearing conference in the above matter
16 was held on March 22, 2000, at 1:40 p.m., at 1300 South
17 Evergreen Park Drive Southwest, Olympia, Washington,
18 before Administrative Law Judge MARJORIE R. SCHAER.

19 The parties were present as follows:

20 THE WASHINGTON UTILITIES AND TRANSPORTATION
21 COMMISSION, by GREGORY J. TRAUTMAN and MARY M. TENNYSON,
22 Assistant Attorney General, 1400 South Evergreen Park
23 Drive Southwest, Post Office Box 40128, Olympia,
24 Washington, 98504.

23 AVISTA CORPORATION, by DAVID J. MEYER, General
24 Counsel, E1411 Mission Avenue, Spokane, Washington,
25 99220.

25 Joan E. Kinn, CCR, RPR
Court Reporter

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

10 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,
11 by S. BRADLEY VAN CLEVE, Attorney at Law, Duncan,
12 Weinberg, Genzer and Pembroke, 1300 Southwest Fifth
13 Avenue, Suite 2915, Portland, Oregon, 97201.

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1 JUDGE SCHAER: We're here this afternoon for
2 a prehearing conference of two consolidated dockets.

3 The first is Washington Utilities and
4 Transportation Commission versus Avista Utilities,
5 Docket Number UE-991606. This is a filing by the
6 electric arm of this company for an annual increase in
7 rates of \$26.3 Million or about a 10.4% increase in
8 electric rates.

9 The second proceeding is Washington Utilities
10 and Transportation Commission versus Avista Utilities in
11 Docket Number UG-991607, which is a general rate filing
12 by the gas arm of this company seeking an annual
13 increase of approximately \$4.9 Million or a 6.5%
14 increase.

15 We are in the Commission's hearing room, 206,
16 in Commission Headquarters Building in Olympia,
17 Washington. I'm Marjorie Schaer. To my right is Karen
18 Calle, and we are the administrative law judges assigned
19 by the Commission to this proceeding. I also want to
20 introduce Jennifer Watsek, who is working with us to
21 organize the materials for this hearing.

22 I would like to start this afternoon by
23 taking appearances from all of the parties starting with
24 the company, please, Mr. Meyer.

25 MR. MEYER: Yes, thank you, Your Honor. My

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1 name is David Meyer appearing on behalf of the
2 applicant, Avista Corporation, and my address and
3 relevant information has been previously provided at a
4 prehearing conference.

5 JUDGE SCHAER: Thank you. And for the
6 Commission Staff, Mr. Trautman?

7 MR. TRAUTMAN: Greg Trautman, Assistant
8 Attorney General, for Commission Staff. My address
9 is --

10 JUDGE SCHAER: I believe that your address
11 and phone numbers were provided at the prehearing. And
12 if they are the same, then you don't need to provide
13 them again now.

14 MR. TRAUTMAN: I don't know if mine was.

15 JUDGE SCHAER: Okay.

16 MR. TRAUTMAN: MR. Cedarbaum appeared at the
17 prehearing.

18 JUDGE SCHAER: Oh, okay, then perhaps you and
19 Ms. Tennyson should provide all of that information. Go
20 ahead, please.

21 MR. TRAUTMAN: My address is 1400 South
22 Evergreen Park Drive Southwest, Post Office Box 40128,
23 Olympia, Washington, 98504. My telephone number is
24 (360) 664-1187. And do you need fax and E-mail?

25 JUDGE SCHAER: Yes, please.

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1 MR. TRAUTMAN: My fax number is (360)
2 586-5522, and my E-mail address is greg@wutc.wa.gov.

3 MS. TENNYSON: My name is Mary M. Tennyson,
4 T-E-N-N-Y-S-O-N. I'm Senior Assistant Attorney General
5 representing Commission Staff. My address and fax
6 number are the same as Mr. Trautman's, and my telephone
7 number is (360) 664-1220, and my E-mail is
8 mtennyso@wutc.wa.gov.

9 MR. FFITCH: Your Honor, Simon ffitich,
10 Assistant Attorney General for Public Counsel. My
11 information is on file with the Commission.

12 I have one question which I neglected to
13 bring up when we were off the record, and that's whether
14 there were any parties who wanted to appear by
15 conference bridge today. I wasn't sure if the bridge
16 was on. For example, there's the SNAP folks, and I
17 hadn't spoken with them, but I didn't know if there was
18 anyone who was on or wanted to be on the bridge.

19 JUDGE SCHAER: Thank you, Mr. ffitich. We
20 will check to see if the bridge needs to be turned on
21 and if anyone is there. I did speak with Mr. Andre this
22 morning. He informed me that he would not be coming and
23 has sent some information with Avista regarding which of
24 their data responses to him he will wish to have as
25 cross examination exhibits today. He apparently had

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1 just returned to the office after an extended ligamous,
2 and so we are allowing him to mail those exhibits to
3 everyone by tomorrow or Friday, but they will be placed
4 in the exhibit list today so everyone knows where to put
5 them.

6 MR. FFITCH: Thank you, Your Honor.

7 JUDGE SCHAER: Thank you for bringing that to
8 our attention.

9 Ms. Dixon.

10 MS. DIXON: Danielle Dixon appearing on
11 behalf of the Northwest Energy Coalition, and all of my
12 information should already be in the record.

13 JUDGE SCHAER: Thank you.

14 Mr. Finklea?

15 MR. FINKLEA: Edward Finklea appearing on
16 behalf of the Northwest Industrial Gas Users, and I did
17 appear at the prehearing conference, and my information
18 is in the record.

19 JUDGE SCHAER: Thank you.

20 Mr. Van Cleve?

21 MR. VAN CLEVE: Brad Van Cleve on behalf of
22 Industrial Customers Northwest Utilities, and I believe
23 Mr. Brooks appeared at the prehearing conference for
24 ICNU, and the information he gave is the same for me.

25 JUDGE SCHAER: Thank you.

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1 This is a prehearing conference that was
2 scheduled by letter on March 15, 2000. As set out in
3 that notice, the purpose of this conference is to number
4 for identification all cross-examination exhibits and to
5 attend to any other procedural matters that may require
6 attention. According to the notice, topics for this
7 conference were to include order of witnesses and of
8 cross examination, existence of objections to evidence
9 and argument on such objections if appropriate, the
10 existence of dispositive motions and response to such
11 motions as appropriate.

12 The parties were asked to file and identify
13 objections and serve dispositive motions no later than
14 1:00 p.m. on Monday, March 20th, 2000. To date, the
15 Commission has not received any objections or
16 dispositive motions. So let me ask at this point, are
17 any of the parties planning to make such objections or
18 file such motions?

19 Okay, I would like the record to reflect that
20 the parties have indicated that no one is planning at
21 this stage in this proceeding to do either of those
22 things.

23 Also in that notice, Avista was asked to
24 provide to the parties and to the Bench a list showing
25 its witnesses in the order they will be presented in the

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1 party's case no later than 1:00 p.m. on Tuesday, March
2 21, 2000. To date, the Commission has not received a
3 witness list from Avista showing an order of witnesses.

4 Was one filed, Mr. Meyer?

5 MR. MEYER: It was not.

6 JUDGE SCHAER: Okay. I have distributed
7 before the hearing took place a list put together by the
8 Commission advisory staff, which lists all of the Avista
9 witnesses and the order of their testimony and provides
10 a column for each party to list its estimate of time
11 needed to cross examine each witness.

12 And do all counsel have a copy of this matrix
13 in front of them?

14 MR. TRAUTMAN: Yes, Your Honor.

15 MS. TENNYSON: Yes, Your Honor.

16 MR. FINKLEA: Yes, Your Honor.

17 MR. FFITCH: Yes, Your Honor.

18 MR. MEYER: Yes, Your Honor.

19 MS. DIXON: Yes, Your Honor.

20 MR. VAN CLEVE: Yes, Your Honor.

21 JUDGE SCHAER: Okay, I have received from the
22 Commission Staff a document which identifies their time
23 estimates for each of these witnesses, and we will
24 include that information in this matrix. I would ask
25 that all other counsel or parties represented by

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1 members, Ms. Dixon, take a moment now and fill this in
2 and leave it with me before you leave today so that we
3 may have that information.

4 Yes, Ms. Dixon?

5 MS. DIXON: I turned in a typed estimate to
6 Jennifer.

7 JUDGE SCHAER: Okay, thank you, so we have
8 that from you as well.

9 And, Mr. Finklea, did you bring something
10 filled in?

11 MR. FINKLEA: I sent in an estimate last week
12 pursuant to your notice, and we have cross examination
13 for one of the witnesses.

14 JUDGE SCHAER: Okay, would you just go ahead
15 and fill that in twice then.

16 MR. FINKLEA: Yes.

17 JUDGE SCHAER: It may be redundant, but then
18 I will know that we have it.

19 MR. FFITCH: May I approach the Bench?

20 JUDGE SCHAER: Yes, you may, Mr. ffitich.

21 MR. FFITCH: We have completed our estimates.

22 JUDGE SCHAER: Thank you.

23 And, Mr. Van Cleve, I see you busily writing
24 away, are you putting yours together right now?

25 MR. VAN CLEVE: Yes, Your Honor. Would you

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1 like it right now?

2 JUDGE SCHAER: Yes, please, if you would like
3 to approach the Bench and provide it to Judge Calle,
4 please.

5 MR. MEYER: Your Honor, because the time
6 estimates may have a bearing on the order of witnesses,
7 rather than wait until tomorrow and receive something
8 via E-mail by way of the composite estimates, could we
9 very quickly work through this and just put in the time
10 estimates based on the information, much of which I have
11 not seen but has been provided just now.

12 JUDGE SCHAER: That would be fine with me if
13 the parties are willing to do that. There are two
14 things I want to do on this matrix besides filling in
15 the time estimates. One of those is making sure that
16 this is the right order, and as indicated by Mr. Meyer,
17 he would like the time estimates before he puts that
18 together, but I would like you to then number these
19 people in order so that we can rearrange the matrix on
20 the computer and have this in order so that we can
21 provide it Monday morning.

22 MR. MEYER: Two other --

23 JUDGE SCHAER: The other thing I would like
24 to do, and then we can get to your two things, I would
25 like to look at the order across the top in which

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1 parties wish to question the witnesses. I assume that
2 staff is planning to go first.

3 MS. TENNYSON: Yes.

4 JUDGE SCHAER: Mr. ffitch, sometimes public
5 counsel wants to go after staff, and sometimes they want
6 to do clean up. At least Mr. Adams used to like to do
7 that. Do you have a preference as to where you
8 question?

9 MR. FFITCH: Mr. who?

10 JUDGE SCHAER: The gentleman who just retired
11 from your office and is sitting having a drink somewhere
12 laughing at us.

13 MR. FFITCH: I don't have a strong
14 preference, I guess, going after staff, other than going
15 after staff, that's fine.

16 JUDGE SCHAER: Okay, well, then --

17 MR. FFITCH: We could go after the other
18 interveners, I suppose.

19 JUDGE SCHAER: Just tell me what you prefer,
20 and that's where I will put you.

21 MR. FFITCH: I will go after staff, thank
22 you.

23 JUDGE SCHAER: Okay. And then the next
24 person I have listed is your client, Mr. Van Cleve.
25 Would you like to be the next questioner next week after

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1 public counsel and staff?

2 MR. VAN CLEVE: That would be fine, Your
3 Honor.

4 JUDGE SCHAER: Okay. And then we have SNAP,
5 and then we have you, Ms. Dixon, and then we have you,
6 Mr. Finklea. Is that order satisfactory to everybody?

7 MR. FINKLEA: That's satisfactory to me.

8 JUDGE SCHAER: So you don't confuse us next
9 week when you come in, would you try to sit in this
10 order so I can just follow you around the room, and the
11 Commissioners can remember who you are, thank you.

12 Okay, Mr. Meyer, go ahead, you had a couple
13 of things.

14 MR. MEYER: Oh, one was although we have not
15 predistributed yesterday an exhibit list, I have some to
16 pass around now, but that's duplicative of what you have
17 prepared on your own, which is a listing of blanks for,
18 you know, cross-examination exhibits. So if you would
19 like to receive this prepared by us, I can distribute
20 it, but.

21 JUDGE SCHAER: I think that you had already
22 distributed a list like that earlier in the case. And
23 you and I talked off the record, and I will explain to
24 all parties on the record now, we are going to be using
25 a somewhat different numbering system than we had talked

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1 about at the prehearing, which is one of the reasons
2 that we are having this conference. I have distributed
3 before the hearing and will now show you an exhibit list
4 my staff has prepared. Does everybody have a copy of
5 this?

6 What we have determined that we would like to
7 do in this matter is to have all of the exhibits
8 associated with the witness together in one place, so
9 that we would start our numbering with your first
10 witness, if that were to be Mr. Matthews, his testimony
11 would be T-1. His next exhibit would be Exhibit 2. But
12 we would then fill in this chart with the identified
13 exhibits from the other parties and numbered for
14 identification for next week. We would then leave a gap
15 for that last minute exhibit that somebody is going to
16 think of at about 3:00 in the morning sometime next week
17 and need to bring in. We would also leave a gap for
18 rebuttal testimony and rebuttal cross exhibits for this
19 witness and then start numbering again with whoever was
20 determined in order was going to be your next witness.

21 And so that is really the goal that I have
22 for us to accomplish today is to get the
23 cross-examination matrix filled in and to get this
24 exhibit list filled in with the information that the
25 parties have and then to get all of those exhibits

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1 distributed so that we can have all of those filed and
2 ready to use Monday morning when the hearing starts.

3 MR. MEYER: Just a point of clarification,
4 this is something we can probably talk about in a
5 dialogue off the record, but because there's some
6 discussion about taking a few of our witnesses out of
7 order to accommodate some express desires of staff and
8 interveners, if we go ahead and mark the exhibits in the
9 order just as you have suggested together with
10 cross-examination exhibits in the order presented in our
11 prefiled books, would it create a problem then to do
12 that even though we take witnesses out of order? We're
13 fine with that, but we may be taking witness number six
14 after witness number one to accommodate some scheduling
15 issues.

16 JUDGE SCHAER: I think we can deal with that.

17 MR. MEYER: Even though -- okay, so let's
18 just not worry about the witness order.

19 JUDGE SCHAER: In terms of putting together
20 the exhibit list?

21 MR. MEYER: Exactly.

22 JUDGE SCHAER: And then we will worry about
23 it in the cross-examination matrix to the extent that we
24 can today. And if it has to move, it has to move. I
25 think those kinds of things happen.

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1 MR. MEYER: I just wanted to clarify that one
2 thing.

3 JUDGE SCHAER: Okay.

4 MR. MEYER: Thank you.

5 JUDGE SCHAER: So what I'm going to suggest
6 at this point is I'm going to point out while we're on
7 the record that the notice required the parties to
8 provide copies of their cross-examination exhibits to
9 other parties and the Commission and that you were asked
10 to provide the exhibits in the order you intend to use
11 them in a packet by witness and punched for insertion in
12 three ring binders, so I hope that all of you have done
13 those things.

14 MR. FFITCH: Yes, Your Honor. May I just
15 make a statement for the record regarding that?

16 JUDGE SCHAER: Go ahead, Mr. ffitich.

17 MR. FFITCH: Your Honor, we have made our
18 best efforts to identify the cross-examination exhibits
19 that public counsel will use. However, public counsel
20 reserves the right to seek admission of additional
21 exhibits that may come to our attention as a result of
22 either late received discovery, discovery is ongoing, or
23 matters that come up during the course of the hearing
24 that might require the submission of additional
25 exhibits. Obviously that will be subject to objection

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1 and the right of objection and ruling by the Bench, but
2 I just wanted to make that statement for the record.

3 JUDGE SCHAER: I think that's entirely
4 appropriate, Mr. ffitch.

5 MS. TENNYSON: Your Honor, counsel for staff
6 also has a similar statement. We have, as you will see
7 from the huge amount of paper we are providing, we have
8 made our best efforts to pull out all of the exhibits.
9 In particular though, there are a couple of areas I
10 wanted to address.

11 There were quite a few of the responses to
12 data requests that were directed to Dr. Avera were not
13 provided in a timely fashion. They were due in
14 February. We received some of them today. Obviously
15 those we're not in a position to have examined to
16 determine whether or not we're going to be copying and
17 including them as cross-examination exhibits. I suspect
18 that we will, but we did receive them this morning about
19 10:30, so definitely we have not included those.

20 In addition, I have spoken with Mr. Falkner,
21 who has been handling responses to data requests for the
22 company. A large number of the data request responses
23 we received relating to Dr. Avera's testimony were to
24 the effect that it's included in Dr. Avera's work
25 papers. We were provided with copies of Dr. Avera's

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1 work papers. I punched them and put them in this binder
2 by myself. There's 720 pages. The color divider pages
3 are ones I added for myself that are not indexed, and
4 none of the references in the data responses gave a page
5 reference. There are page numbers like AV-1 through 720
6 numbered on the pages, but we did not receive a
7 reference to what page we might find some two-page
8 document on.

9 And I have therefore asked the company to
10 supplement their responses, which might result in us
11 seeking to add some additional exhibits to the record
12 for Dr. Avera. We had Dr. Avera as one of the witnesses
13 where we discussed with Mr. Meyer some scheduling
14 considerations, and we're looking at his testimony being
15 offered on Thursday or Friday depending on how soon we
16 finish with the other witnesses. So that shouldn't
17 create a substantial problem. We will work to get those
18 additional exhibits ready as soon as possible.

19 JUDGE SCHAER: Thank you, Ms. Tennyson. Is
20 there any brief response, or are you fine with
21 proceeding in the way that staff has described?

22 MR. MEYER: Mm-hm.

23 JUDGE SCHAER: I think it's reasonable during
24 a hearing that, as I say, you have some flexibility for
25 things that maybe come up in another party's questioning

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1 and you say, hey, they talked about that two years ago
2 in X, I wanted to use this piece of paper to discuss
3 that with them or just that things like this happen
4 where we're trying to do something this big this fast,
5 and you need to have a little extra time to supplement.

6 So thank you for letting me know that
7 particularly it's Dr. Avera. We will give extra, extra
8 space after what we have for him to perhaps fill in some
9 of these things, and I will ask parties then to try to
10 be able the morning that a witness is going to be on the
11 stand to provide those documents to the other parties
12 and to the Bench.

13 MS. TENNYSON: Oh, absolutely.

14 JUDGE SCHAEER: Before we begin the hearing
15 session for each day. Is there anyone who sees a
16 problem with proceeding in that manner?

17 What I'm going to suggest that we do right
18 now then is go off the record and look at what has been
19 passed out for each witness by the parties, and take the
20 exhibits in the order that we just agreed the parties
21 would be questioning and try to get some numbers for
22 identification put on all of these documents so everyone
23 knows where they go.

24 And then after that, we will probably go back
25 on the record just for me to put all of those

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1 identifications in so that we don't have to do it next
2 week. But I know that Avista may need to be excused at
3 some point to get a plane, and if there is going to be
4 -- I don't see any real need for a lot of people to be
5 here to listen to that. I do see a need to have that
6 information in the transcript if we should need it
7 later.

8 So is there anything further before we go off
9 the record?

10 MR. MEYER: When were we planning on doing
11 the time estimates?

12 JUDGE SCHAER: I think when we go off the
13 record, we will do that perhaps first.

14 MR. MEYER: Okay.

15 JUDGE SCHAER: And then we can move into the
16 exhibit numbering second.

17 We're off the record.

18 (Discussion off the record.)

19 JUDGE SCHAER: Back on the record after a
20 recess during which we discussed order of witness and
21 set out an approximate schedule for which witnesses will
22 be on which days next week, and we marked for
23 identification documents. Parties have agreed at this
24 point that the exhibit list that identifies the
25 documents will be made a part of the record, and those

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1 identifications will not be read into the record at this
2 time.

3 Is there anything further that we need to
4 discuss today?

5 Hearing nothing, we will reconvene in this
6 room on Monday, March 27, at 9:30 in the morning to
7 begin the presentation of cross examination of Avista's
8 direct case.

9 This hearing is adjourned.

10 (Hearing adjourned at 3:25 p.m.)

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