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1       BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2                               COMMISSION

3   In the Matter of the Petition )  
4   of Avista Utilities for        ) DOCKET NO. UG-021584  
5   Extension of the Natural Gas   ) Volume I  
6   Benchmark Mechanism.           ) Pages 1 - 26  
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7               A prehearing conference in the above matter  
8   was held on February 27, 2003, at 9:37 a.m., at 1300  
9   South Evergreen Park Drive Southwest, Olympia,  
10   Washington, before Administrative Law Judge MARJORIE R.  
11   SCHAER.

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13               The parties were present as follows:

14               THE WASHINGTON UTILITIES AND TRANSPORTATION  
15   COMMISSION, by DONALD T. TROTTER, Senior Assistant  
16   Attorney General, 1400 South Evergreen Park Drive  
17   Southwest, Post Office Box 40128, Olympia, Washington  
18   98504.

19               AVISTA CORPORATION, by DAVID J. MEYER, Senior  
20   Vice President and General Counsel, East 1411 Mission  
21   Avenue, Post Office Box 3727, Spokane, Washington  
22   99220.

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20               PUBLIC COUNSEL, by ROBERT W. CROMWELL, JR.,  
21   Assistant Attorney General, 900 Fourth Avenue, Suite  
22   2000, Seattle, Washington 98164,

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25   Kathryn T. Wilson, CCR  
    Court Reporter

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

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3 JUDGE SCHAER: Let's be on the record. We  
4 are here this morning for a prehearing conference in  
5 Docket No. UG-021584. This is a petition by Avista  
6 Utilities for an order approving the extension of the  
7 company's natural gas benchmark incentive mechanism and  
8 approving proposed modifications to the mechanism.

9 We are in the Commission's hearing room 108,  
10 Commission headquarters building in Olympia,  
11 Washington. Today is February 27th, 2003. I'm  
12 Marjorie Schaer, and I'm the administrative law judge  
13 assigned by the Commission to this proceeding. We'll  
14 start by taking appearances from all the parties, so  
15 this is your first appearance. Please state for the  
16 record your name, your client's name, your address,  
17 telephone number, fax number, and your e-mail address,  
18 if you have one, and we'll start with you, please,  
19 Mr. Meyer.

20 MR. MEYER: I think I can remember all that.  
21 David Meyer for Avista, and the address is East 1411,  
22 Mission Avenue, 99220; phone number, (509) 495-4316;  
23 fax number, (509) 495-4361, and the e-mail is  
24 dmeyer@avistacorps.com.

25 JUDGE SCHAER: Then for Public Counsel?

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1               MR. CROMWELL: Robert Cromwell on behalf of  
2 Public Counsel. I'm here today to enter the appearance  
3 of Mr. ffitch, who will be lead attorney on this matter  
4 but was unable to appear due to a conflict of  
5 scheduling, so I would prefer to put in his information  
6 for clarity. Simon J. ffitch, 900 Fourth Avenue, Suite  
7 2000, Seattle, Washington, 98164-1012. His phone  
8 number is (206) 389-2055. His fax number is (206)  
9 389-2058, and his e-mail address is simonf@atg.wa.gov.

10              JUDGE SCHAER: For Commission staff?

11              MR. TROTTER: For the Commission, my name is  
12 Donald T. Trotter, assistant attorney general. My  
13 address is 1400 South Evergreen Park Drive Southwest,  
14 P.O. Box 40128, Olympia, Washington, 98504-0128. My  
15 phone number is (360) 664-1189; fax, (360) 586-5522.  
16 My e-mail address is dtrotter@wutc.wa.gov.

17              JUDGE SCHAER: At this point, we would be  
18 looking to see if there is anyone who wants to  
19 intervene, and since I recognize everyone in the room  
20 as either being with the Commission or with Avista, let  
21 me just quickly ask. I have not seen any written  
22 petitions for intervention. Do the parties have any  
23 knowledge of any intervenors?

24              MR. CROMWELL: Your Honor, I've had no  
25 communication with NWIGU, who would probably be the

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1 most expected intervenor, Ed Finklea or someone else  
2 there, but I have not heard from them. I don't know if  
3 Mr. Ffitch has had any communication with them.

4 JUDGE SCHAER: Anyone else?

5 MR. TROTTER: I've had no contact, Your  
6 Honor.

7 JUDGE SCHAER: I will indicate there are no  
8 intervenors in this proceeding. Are there any  
9 preliminary matters to come before the Commission at  
10 this time?

11 MR. MEYER: Not by way of preliminary, but  
12 among the things to be discussed would be the entry of  
13 a protective order, standard form.

14 JUDGE SCHAER: Issues are next and then the  
15 protective order. I would like at this point,  
16 Mr. Meyer, if you could just outline some of the issues  
17 you see in your petition and let the other parties  
18 indicate if there are additional issues that need to be  
19 framed so I have a capsule of what this case is going  
20 to be about, and if there are any of those issues that  
21 you think I might be able to resolve, you could  
22 indicate that and let us know.

23 MR. MEYER: I would be happy to do that. As  
24 you know, this benchmark mechanism has been in place  
25 for several years. I believe it's three years -- since

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1     September of '99? Thank you -- and it has been  
2     modified over time to take account of Staff and  
3     Intervenor concerns, and as we've expressed before,  
4     even in the course of setting this matter for hearing,  
5     we've noted that we've refined it. We think we've  
6     improved it, but Staff has raised certain concerns  
7     about how this mechanism, even as we believe it has  
8     been refined, how that squares with the Commission's  
9     policy on incentive mechanisms and whether it's  
10    structured to meet those policy concerns.

11                 Perhaps Staff and Public Counsel should speak  
12    more precisely to their concerns beyond the incentive  
13    policy statement. I know they've also expressed  
14    concerns about the auditability of transactions, and I  
15    should just leave it at that. I won't presume to speak  
16    for all of their concerns.

17                 The matter has been set for hearing. The  
18    Commission's prior order recognized that through this  
19    process, the benchmark would remain in place until  
20    essentially the end of January of '04 while these  
21    hearings would take place, unless it were sooner to  
22    termination.

23                 JUDGE SCHAER: Just to ask a couple of quick  
24    questions. Your petition indicates you are seeking an  
25    extension and asking the Commission to approve the

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1 proposed modifications. Can you briefly describe what  
2 those proposed modifications might be?

3 MR. MEYER: I can't at this point. I can't  
4 be very precise about that. I'll ask Liz, who is a  
5 little more familiar to speak to some of this, Liz  
6 Andrews.

7 MS. ANDREWS: I'm Liz Andrews with Avista.  
8 Our last petition filing, the only changes we had  
9 proposed to make were to remove some tables from the  
10 tariffs at the request of Staff, and we plan to provide  
11 additional auditability for the current mechanism by  
12 tagging volumes that will make it easier for Staff to  
13 audit. We are currently reviewing the mechanism to see  
14 what other changes we could make that will bring us  
15 closer to Staff's concerns.

16 JUDGE SCHAER: Are any of the portions of  
17 your proposal in the petition to limit any of the  
18 changes that have taken place since September of 1999  
19 at the request of Staff or any other party? Are you  
20 taking anything out that's been put in in the last  
21 three years?

22 MR. MEYER: No. I think the purport of the  
23 question is it has not been structurally modified in  
24 such a way as to essentially redo the proposal. More  
25 in the nature of what I will call "refinements" along

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1 the way.

2 JUDGE SCHAER: Mr. Trotter, I ask you the  
3 same question. What issues does Staff see in this  
4 proposal?

5 MR. TROTTER: In general, the issues Staff  
6 sees at this moment in time are whether and to what  
7 extent the so-called incentive mechanism is an  
8 incentive mechanism and how it jives with the  
9 Commission's policy statement in Docket Nos. UG-900778  
10 and UG-970001. There is a certain affiliated interest  
11 issues that are raised because many of the activities  
12 under the tariff are performed by an affiliate, Avista  
13 Energy.

14 This tariff mechanism started out as a pilot  
15 or experiment and never has been reviewed on its merits  
16 at a hearing, so this is our opportunity to engage in  
17 that process and fully develop what this mechanism is,  
18 how it actually works, and how it should work. Of  
19 course, the core issue, I think, is whether the tariff  
20 ought to be maintained at all. What would be the  
21 implications if it was eliminated entirely and just  
22 have Avista use a PGA like other natural gas public  
23 service companies in the State of Washington.

24 The issue of auditability in determining  
25 whether the affiliate is performing or a determination

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1 of what is the lower of cost or market in dealing with  
2 an affiliate transaction is at issue as well, but I  
3 think I've given you the broad overview of the issues  
4 we are interested in.

5 JUDGE SCHAER: Thank you. Public Counsel?

6 MR. CROMWELL: I don't have anything to add  
7 to Mr. Meyer's or Mr. Trotter's statements.

8 JUDGE SCHAER: I believe Mr. Meyer mentioned  
9 a moment ago that you do see a need for a protective  
10 order in this matter.

11 MR. MEYER: That is correct.

12 JUDGE SCHAER: Does anyone have any concerns  
13 about the entry of a protective order; Mr. Trotter?

14 MR. TROTTER: I do not, Your Honor.

15 MR. CROMWELL: No.

16 JUDGE SCHAER: Then I would expect that we  
17 will issue a protective order in somewhat standard  
18 format that I think you are all familiar with from the  
19 Commission. Is any party going to seek to trigger the  
20 discovery methods provided in WAC 480-09-480?

21 MR. TROTTER: Your Honor, the notice of  
22 hearing already invoked that rule, and we are sensitive  
23 to the fact that the company is preparing its direct  
24 case, so if we do data requests, we don't anticipate  
25 them to be extensive prior to the time we actually see



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1 their direct testimony, which has not been filed.

2 In terms of depositions, the rule requires  
3 those to be taken pursuant to a schedule established by  
4 you. At this point, it's premature for us to say  
5 whether we will need such a schedule, so if we do --  
6 speaking for Staff here, and other parties can speak  
7 for themselves on this point, but if we feel we do need  
8 them, we will work with the parties and come back to  
9 you for a scheduling order if it's necessary.

10 JUDGE SCHAER: Thank you, Mr. Trotter. Is  
11 there a suspension date in this matter?

12 MR. MEYER: Not that I'm aware of, other than  
13 the fact that the tariff was continued by the  
14 Commission's order until January, was it 29th of '04,  
15 so that's the end date, if you will, for the tariff,  
16 and our concern is that we do have a determination in  
17 this proceeding approximately two months prior to the  
18 end of that.

19 I say "approximately" two months prior to end  
20 of January of '04 so that if we are directed to unwind  
21 this mechanism and do things differently, then we will  
22 have time to do that efficiently in the best interest  
23 of our customers.

24 JUDGE SCHAER: Mr. Trotter?

25 MR. TROTTER: The effective date of the

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1 tariff was March 31st, 2003. If the suspension statute  
2 applied, the Commission would have ten months from that  
3 date, which I believe would be the end of January 2004.

4 It's unclear whether that suspension period  
5 applied. The company's filing said this filing does  
6 not change a rate, and the suspension period arises  
7 from tariffs that change a rate. I think that's  
8 probably a moot question here, perhaps, because we are  
9 sensitive to the company's concern about having some  
10 time to put into effect the Commission order, and we  
11 are committed to trying to resolve this before January  
12 29th of 2004, in any event.

13 If there is a concern as things play out that  
14 the company does have a problem, that the order isn't  
15 out, and we hope it will be, then we will not oppose a  
16 reasonable company request to extend the effective date  
17 of the current tariff for a short period of time. I  
18 think we can work through those issues, but to answer  
19 your question directly, it's not clear whether the  
20 suspension statute applies, but if it did, we would  
21 still have until the end of January 2004.

22 JUDGE SCHAER: It wasn't clear to me either,  
23 and that's why I asked the question. If other things  
24 got held up, I didn't want to wake up February 1st,  
25 2004 and discover that this tariff had gone into effect

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1 without anyone intending it to do so. I don't know if  
2 you are willing to waive that on the record, Mr. Meyer,  
3 and go ahead with planning the schedule as we have been  
4 doing?

5 MR. MEYER: So there is no mystery about it,  
6 we understand from the Commission's orders setting this  
7 matter for hearing that they do want this to go to  
8 hearing, obviously, unless it's settled or otherwise  
9 resolved with the approval of Commission and if the  
10 tariff was to terminate on or before January, and those  
11 are the directions, and we understand that, and so we  
12 don't have a problem with that.

13 JUDGE SCHAEER: I just don't like ambiguity.  
14 Then after we have put together a schedule, I think we  
15 may briefly want to discuss if the time line in the  
16 discovery rule needs to be modified in any part of this  
17 schedule, so when you have your scheduling discussions,  
18 I would like you to include that topic, see where we  
19 come out.

20 At this point, I would like the parties to  
21 work together to see if they can come up with a  
22 proposed schedule that would meet the needs expressed  
23 for getting the matter resolved, and would you prefer  
24 to do that on the record or off the record?

25 MR. MEYER: I think off the record. It

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1 shouldn't take too long because we've had discussions.

2 MR. TROTTER: Your Honor, I would like to say  
3 on the record that because this is not a -- for  
4 whatever reason, the company did not file its direct  
5 case and has not filed it yet, nor has it been required  
6 to by any rule of the Commission, and no requirement of  
7 them filing today was made because we understood they  
8 would not have been ready, so we've been trying to  
9 accommodate. I have heard from Mr. Meyer that the  
10 company projects a filing date of April 21st, which is  
11 almost two months from now.

12 Our ability to work a schedule depends on  
13 what their direct case is, and since we do have some  
14 staff that may be called in and assigned to this case  
15 depending on issues that they raise in their testimony  
16 and exhibits, so our ability to work a schedule will  
17 depend on what staff is going to be assigned.

18 Now, we know Mr. Parvinen and one or two  
19 others will be assigned. There may be one or two other  
20 key staff people that will need to be brought in, so I  
21 can't today -- I can anticipate those people coming in  
22 and set a schedule accordingly, perhaps, but certainly,  
23 the most expeditious thing is to set a schedule once  
24 their direct case is filed.

25 So one option for you to consider is to set a

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1 filing date for their direct case and then hold a  
2 prehearing conference shortly thereafter to determine  
3 the schedule, but we will certainly work within  
4 whatever parameters you direct us to work within, but  
5 that's the burden that we face here in terms of putting  
6 together a schedule. It's even conceivable we may need  
7 to hire a consultant. That sort of problem is  
8 presented when we don't have the direct case.

9 JUDGE SCHAEER: Do you have anything you wish  
10 to say, Mr. Cromwell?

11 MR. CROMWELL: Yes. I think I concur with  
12 Mr. Trotter's analysis in terms of it's difficult to  
13 set a schedule in a vacuum without knowing the scope of  
14 the issues that the company wishes to present. I'm  
15 under the additional disability of not being the  
16 attorney who will be working this case, and I do not  
17 have Mr. ffitch's calendar for the rest of the year, so  
18 I suppose I should make it clear that I cannot agree to  
19 a schedule today. I'm happy to take back proposed  
20 dates and make the commitment that Mr. ffitch would get  
21 in contact with Mr. Trotter and Mr. Meyer or directly  
22 with you if there is a tentative schedule, which I  
23 think we are pretty close on. Whether that works with  
24 his schedule, I have no knowledge of Mr. ffitch's  
25 availability this year.

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1 JUDGE SCHAER: Go ahead, Mr. Meyer.

2 MR. MEYER: Just in light of the comments,  
3 and I still would like an opportunity to caucus a bit,  
4 to save you the suspense, these are the dates I had  
5 proposed and just a brief explanation of why. As I had  
6 alluded to earlier, I suppose one could work backwards  
7 from a decision date from this commission, around the  
8 end of November. I say around the end of November  
9 because I realize there are some real scheduling  
10 conflicts with the commissioners' availability mid to  
11 end of November, but essentially our objective, and I  
12 think Staff concurs in it, that there ought to be some  
13 reasonable period of time within which to make  
14 adjustments if we have to prior to the end of January.

15 Having said all that, let's back up to the  
16 front end of the proposed schedule as I see it. April  
17 21 would be the date for the company filing, and if you  
18 are wondering why it should take that long, what we are  
19 doing now is thinking through what changes, if any,  
20 what further changes, if any, and I want to stress "if  
21 any" because we are still in the formative process of  
22 are there adjustments, further adjustments or  
23 refinements to the mechanism that would address some of  
24 the more recent staff concerns that really triggered  
25 this hearing, and we are in the process of working

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1 through that, and I think it will be time well spent if  
2 we do that on the front end internally. It may serve  
3 to minimize issues. Again, I don't want to overpromise  
4 on what we would come up with, but we are actively at  
5 work on that, and so to do that job and do it right and  
6 have it before you in a prefiled company direct, April  
7 21 is the date that we would need.

8           Following that, mindful of Staff's reasonable  
9 concerns that they don't know what they are going to be  
10 responding to if they haven't seen the case, I've tried  
11 to allow for a substantial interval of approximately  
12 three months. So July 18th would be the proposed date  
13 for Staff and Intervenor filing, about three months  
14 after they see our case, followed by company rebuttal  
15 to be filed on August 18th.

16           Then I had proposed hearings, thinking three  
17 days would suffice, September 3rd through the 5th, and  
18 I understand the next opportunity on the commissioners'  
19 calendar might be the week of September 22nd, and we  
20 can work with either of those September dates;  
21 although, that September 22nd date, it will tend to  
22 compress briefing and decision making to still allow  
23 for a decision by around the end of November.

24           JUDGE SCHAER: So what date were you saying  
25 for the briefs?

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1                   MR. MEYER: You know, we hadn't arrived at a  
2     date in our discussions, but that would depend on -- we  
3     are sort of letting that date float for awhile until we  
4     determine what was a reasonable end date for a  
5     Commission decision and what was a reasonable hearing  
6     date, and then somewhere in the middle we would land.  
7     I'm thinking usually anywhere from four to five weeks  
8     after the close of the record is the typical time, but  
9     if we are being compressed because of the end of  
10    November, I'm prepared to shorten that briefing  
11    schedule up somewhat.

12                   I don't have a specific date to give you.  
13    That sort of depends on when the hearing date is. But  
14    those were my thoughts, and I have shared that with the  
15    parties, and we might talk a little more off the record  
16    about this, but that was my thinking. I thought you  
17    ought to know early on.

18                   MR. CROMWELL: That does not sound  
19    unreasonable to me, but then again, that's in the  
20    abstract since I'm not talking about my own calendar.

21                   JUDGE SCHAEER: Let me make a couple of  
22    comments that perhaps will guide your discussions.  
23    Looking at the commissioner calendar, the week of  
24    August 4th looks really good for hearings, which would  
25    move things up a month, and that would mean that filing



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1     dates would have to be within the three periods  
2     collapse a month, and I'm wondering if that isn't  
3     possible to do.

4             I don't know your strategies for going  
5     forward, but it may be that the company is going to  
6     need to present a case and then continue to talk to  
7     Staff before they file or after they file to see if  
8     they can resolve some issues, but when you bring in  
9     something along this time line, I'm concerned that we  
10    have enough time at the end.

11            I'm also concerned that we don't have -- the  
12    other really good week we have is July 21st, which I  
13    don't think is doable, but I would like you to at least  
14    make that part of your conversation to see if you could  
15    use those dates instead of a month later, and if you  
16    decide you would like the other time instead, I would  
17    have to check with the commissioner calendars and see  
18    if we can do that.

19            MR. TROTTER: My understanding, Your Honor,  
20    the company informed me that I believe it was August  
21    1st through 15th were blackout dates for them in terms  
22    of the availability of their own staff. Perhaps  
23    Mr. Meyer can comment on that.

24            MR. MEYER: Yes. We have at least one of our  
25    witnesses unavailable during that period of August 4th,

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1 a key witness, and I think there are other reasons that  
2 militate in favor of still a September hearing, because  
3 my view is that we ought to build some breathing room  
4 into this schedule between dates so rather than rush,  
5 necessarily, to hearing on the issues that we have  
6 time. Staff has time and Public Counsel has time to do  
7 their work, their discovery, their case formulation.  
8 We have time to work with them during these intervals  
9 to see if we can settle out certain issues along the  
10 way, and in the end, we will get a better product; if  
11 not a settlement, at least a better litigation product  
12 to present to the Commission with this more extended  
13 schedule, and if a decision date slips into the first  
14 week of December, that's understandable. It's not our  
15 preference, but given the constraints you've talked  
16 about.

17 JUDGE SCHAEER: You indicated you would like  
18 to have further discussions off the record, so it's  
19 five after ten and I'm going to call our morning recess  
20 so that the court reporter knows when she doesn't have  
21 to be here, and let's take a recess until 10:20, and if  
22 you need more time at that point or need a recess for a  
23 few minutes, you can let me know. I will be in my  
24 office right across the hall, and if there is any point  
25 that you think would be helpful to include me in the

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1 discussions, I will gladly come back, but otherwise, I  
2 think the parties need to discuss this.

3 As I've expressed to you informally, the  
4 commissioners are pretty much not available in the time  
5 period from November 11th until the end of November,  
6 through the 28th, so with that time excluded, I think  
7 that looking at what we need to do with something like  
8 that, we need to have at least 60 days. So when you  
9 are setting a briefing date, either, as I say, move it  
10 back or move your requested order date forward, if you  
11 can, so that we can all do our jobs as well as  
12 possible. Any questions before we go off the record?  
13 We are off the record.

14 (Discussion off the record.)

15 JUDGE SCHAER: Let's be back on the record  
16 after our morning recess. At this point, do the  
17 parties have anything they wish to report; Mr. Trotter?

18 MR. TROTTER: Yes, Your Honor. I did have  
19 discussions with the parties off the record. In terms  
20 of meeting a hearing schedule for hearings, the week of  
21 August 4th, three days during that week, the only  
22 schedule that works is if the company files their  
23 direct case before April 21st, and the company could  
24 not commit to that, but we did put forth a schedule  
25 that would make that hearing work, but that is one

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1 issue, and then the other is they do have one witness  
2 who is not available that week, and I do understand  
3 it's a witness from Avista Energy that will obviously  
4 be an important witness.

5           With those two problems, we then took a look  
6 at the schedule that Mr. Meyer had proposed, and in  
7 that regard, that would be filing of Avista direct on  
8 the 21st of April; Staff and Public Counsel direct on  
9 July 18th, and company rebuttal on August 18th.  
10 Because we do not know staff assignments until we get  
11 their direct case, we would prefer a September 22nd  
12 week for hearing as opposed to September 3rd, and we  
13 believe that staff and other witness availability will  
14 be achieved if we can do that with a brief due October  
15 15th and then an order sometime in early December, not  
16 setting a date for that but recognizing the conditions  
17 the commissioners and yourself are operating under.

18           JUDGE SCHAER: So the brief date again was...

19           MR. TROTTER: October 15th. Now, with  
20 respect to the company's need for two months to  
21 potentially have a need to unwind certain transactions  
22 and so forth, we would have some flexibility in terms  
23 of not objecting to a reasonable request to extend the  
24 termination date if that's the situation we are in at  
25 that time. Whenever the order was issued, the company

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1     would make a motion for whatever time it felt  
2     necessary. Mr. Meyer felt very confident it would be  
3     not be in excess of two months from an order, and we  
4     would certainly be reasonable in responding to that.

5             We are not crystal clear on exactly what is  
6     required for the company to do in that two-month period  
7     should this tariff be rejected, for example, but the  
8     company would make a good-faith showing of what is  
9     required at that time, and if additional time was  
10    needed, I can say the staff would respond to a  
11    reasonable request.

12            JUDGE SCHAEER: Do the other parties agree  
13    this would be a reasonable schedule to enter into at  
14    this point?

15            MR. MEYER: Yes. That reflects our  
16    discussions, and again I should note that if the order  
17    were even to slip into mid December, that would only  
18    add -- and if all we needed were the two months, that  
19    would only necessitate just a few additional weeks  
20    beyond the schedule of January of '04 termination of  
21    this.

22            Again, that assumes, of course, that the  
23    benchmark no longer continues, so you have to make an  
24    assumption on that, and it also assumes that if it were  
25    allowed to continue that there was substantial

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1 modifications to it that we would need that full two  
2 months just to readjust, and so both of those things  
3 are a bit abstract now as we try to plan ahead, but I  
4 appreciate Staff's willingness to accommodate a  
5 reasonable request to allow sufficient transition time,  
6 and so that is appreciated. So yes, this is the  
7 schedule we would feel comfortable with.

8 JUDGE SCHAER: Do you think Simon will like  
9 this schedule, Mr. Cromwell?

10 MR. CROMWELL: I have no basis on which to  
11 speculate. In the abstract, it seems like a reasonable  
12 time frame. I simply don't know what his schedule is  
13 for the fall.

14 JUDGE SCHAER: It looks very reasonable to me  
15 also. I actually had highlighted that week thinking  
16 that that might solve some problems in terms of getting  
17 people where they needed to be. Mr. Trotter, will you  
18 still want to reserve the ability to come in on April  
19 21st and say, "Boy, we sure got surprised by this. We  
20 need more time"?

21 MR. TROTTER: I don't anticipate that right  
22 now. I think this is sufficient time if we need a  
23 consultant. The particular staff people that I was  
24 concerned about, this schedule will accommodate, so I  
25 don't anticipate a problem at this time. If one arises

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1     though, I will certainly tee it up at the earliest  
2     possible moment.

3                 JUDGE SCHAER: I think it's reasonable to go  
4     forward with this plan. I would indicate that  
5     somewhere around January 15th is where I would expect  
6     an order.

7                 MR. MEYER: January or December?

8                 JUDGE SCHAER: December; I'm sorry. But  
9     somewhere around that time would, I think, be a  
10    reasonable time for us to work towards this looking at  
11    the other commitments. Is there anything else that we  
12    need to go through at this time?

13                I will draw your attention, although it  
14    appears you were doing this anyway, that the Commission  
15    does encourage discussions towards settlement, and  
16    parties in formal adjudications want to consider  
17    alternative methods to bring resolution can contact Bob  
18    Wallis, who is the director of my division, and if you  
19    need someone to mediate portions of what you are doing  
20    or anything else we can do to make this go more  
21    smoothly, please do call Mr. Wallis.

22                MR. TROTTER: One item, and this doesn't just  
23    apply to the company's filing on April 21st but to all  
24    filing direct cases and rebuttal cases. I would  
25    request that your prehearing conference order require

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1 the parties to file complete work papers, and just cite  
2 to the rule on general rate case work papers I think is  
3 probably sufficient. That rule does not specifically  
4 apply, but I will ask that you make it a requirement,  
5 and I would ask also ask that that include if a witness  
6 relies on a particular document, a publication or  
7 report or study, if the work paper rule is not  
8 sufficient to cover that that be provided on the filing  
9 date for the testimony. That will reduce discovery.  
10 It will reduce the need for depositions, and I think it  
11 would just make sense, and certainly all parties are in  
12 the same boat on this, so we are willing to meet that  
13 commitment and just ask other parties to meet the same  
14 commitment and ask that you require it in your  
15 prehearing order.

16 JUDGE SCHAER: Mr. Meyer, do you have any  
17 concerns about that?

18 MR. MEYER: It seems to make sense.

19 MR. CROMWELL: It's fine, Your Honor.

20 JUDGE SCHAER: The only limitation I would  
21 indicate is if somebody refers to a page in a book  
22 that's copyright material, it may be sufficient to tell  
23 them this is the book and this is where you can get it.  
24 We still have a state library at this time that is  
25 accessible to all.



1           I'm going to check with the commissioners and  
2   their staff to make sure that we can have this hearing  
3   time because the Commission always has control of its  
4   own schedule, and then I will be entering a prehearing  
5   conference order. That order will have an appendix  
6   attached to it that indicates how filings should be  
7   made. I think with the parties that are in the room,  
8   you probably are familiar with the numbering rules and  
9   if you need to three-hole punch things and all the  
10 details that make the hearings run more smoothly.

11           In looking at the hearing schedule, I will  
12 probably the week before that set a prehearing  
13 conference where cross-exhibits can be distributed and  
14 the parties can bring in their estimates of time for  
15 witnesses and we can plan a witness order.

16           At this point, all of these dates are filing  
17 dates, which would mean I would expect that you would  
18 have your hardcover copies here. I will check with the  
19 records center to see how many people are on the  
20 distribution list and will include in the prehearing  
21 order information on how many copies you need to file,  
22 and then that order will govern our proceedings from  
23 here forward unless there is an objection filed within  
24 ten days. Are there any other matters to come before  
25 the Commission? Hearing none, then this matter is

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1 adjourned.

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3 (Prehearing conference adjourned at 10:34 a.m.)

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