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1                   NORTHWEST INDUSTRIAL GAS USERS, by EDWARD A.  
2 FINKLEA, Attorney at Law, Cable, Huston, Benedict,  
3 Haagensen & Lloyd, 1001 Southwest Fifth Avenue, Suite  
4 2000, Portland, Oregon 97204; telephone, (503)  
5 224-3092.

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7                   THE ENERGY PROJECT/THE OPPORTUNITY COUNCIL,  
8 by CHUCK EBERDT (via bridge), Manager, 1701 Ellis  
9 Street, Bellingham, Washington 98225; telephone, (360)  
10 255-2169.

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12                   CIVIC COMMUNITY UTILITY ALLIANCE, by JOHN  
13 O'ROURKE (via bridge), Director, 212 West Second  
14 Avenue, Suite 100, Spokane, Washington 99201;  
15 telephone, (509) 744-3370, Extension 247.

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

2 JUDGE WALLIS: This is a prehearing  
3 conference in the matter of the WUTC versus Avista  
4 Corporation, d/b/a Avista Utilities. It is Docket No.  
5 UG-041515. This is a prehearing conference that's  
6 being held in Olympia, Washington, on September 23rd,  
7 2004, before Administrative Law Judge C. Robert Wallis.

8 The purpose of today's session is to get us  
9 all organized with regard to the filing that Avista  
10 Corporation has made for an increase in its rates and  
11 charges for providing natural gas to customers within  
12 the State of Washington.

13 I would like to ask for appearances at this  
14 time beginning with the Company and would ask that the  
15 lead counsel, if there are more than one, make the  
16 appearance on behalf of all and that all of the  
17 relevant contact information be provided. Mr. Meyer?

18 MR. MEYER: Thank you. David Meyer appearing  
19 on behalf of Avista. The address is East 1411 Mission  
20 Avenue, Spokane, Washington, 99220. Phone number,  
21 (509) 495-4316. Fax number, (509) 495-4361. E-mail is  
22 dmyer@avistacorp.com.

23 JUDGE WALLIS: On behalf of Commission staff?

24 MR. TRAUTMAN: Thank you. Gregory J.  
25 Trautman, assistant attorney general, for Commission

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1 staff. My address is 1400 South Evergreen Park Drive  
2 Southwest, Post Office Box 40128, Olympia, Washington,  
3 98504. Telephone number is area code (360) 664-1187.  
4 Fax number is area code (360) 586-5522, and my e-mail  
5 address is gtrautma@wutc.wa.gov.

6 JUDGE WALLIS: Public Counsel?

7 MR. CROMWELL: Robert W. Cromwell, assistant  
8 attorney general appearing on behalf of the public  
9 counsel section of the attorney general's office. My  
10 address is 900 Fourth Avenue, Suite 2000, Seattle,  
11 Washington, 98164-1012. My telephone number is (206)  
12 464-6595. My fax number is (206) 389-2058, and my  
13 e-mail address is robertcl@atg.wa.gov.

14 JUDGE WALLIS: Thank you. For petitioners  
15 for intervention in the hearing room.

16 MR. FINKLEA: My name is Ed Finklea. I'm  
17 here today on behalf of the Northwest Industrial Gas  
18 Users. We did yesterday file a notice of appearance as  
19 well as a petition to intervene. I'm with the law firm  
20 Cable, Huston, Benedict, Haagensen and Lloyd. Our  
21 address is 1001 Southwest Fifth Avenue, Suite 2000,  
22 Portland, Oregon, 97204. Our phone number is  
23 (503) 224-3092, and our fax is (503) 224-3176. Also in  
24 our notice of appearance was my associate Chad Stokes,  
25 and my e-mail address is efinklea@chbh.com, and

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1 Mr. Stokes is cstokes@chbh.com.

2 JUDGE WALLIS: Let me verify that there are  
3 no others in the hearing room that wish to intervene as  
4 parties in this docket? Let the record show there is  
5 no response. Let's turn now to the bridge line, and  
6 let me ask if there is anyone on the bridge line at  
7 this time.

8 MR. EBERDT: This is Chuck Eberdt from the  
9 Energy Project.

10 JUDGE WALLIS: Mr. Eberdt, could you give us  
11 your name and contact information, please?

12 MR. EBERDT: Sure. It's Charles Eberdt, and  
13 I'll spell the last name, E-b-e-r-d-t. The address  
14 would be The Energy Project/The Opportunity Council,  
15 1701 Ellis Street, Bellingham, Washington, 98225.  
16 Phone number is (360) 255-2169. The fax number is  
17 (360) 671-2753. My e-mail is  
18 chuck eberdt@opportunitycouncil.org.

19 JUDGE WALLIS: Thank you. Are there any  
20 others on the bridge line appearing in a representative  
21 capacity for potential intervenors?

22 MR. O'ROURKE: This is John O'Rourke. I'm  
23 the director of the Civic Community Utility Alliance.  
24 We are asking to be listed as an interested party at  
25 this point, but we would like to reserve the right to

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1 file a petition to intervene in the near future. Would  
2 you like my contact information?

3 JUDGE WALLIS: Please provide it,  
4 Mr. O'Rourke.

5 MR. O'ROURKE: Our address is 212 West Second  
6 Avenue, Suite 100, Spokane, Washington, 99201; phone  
7 number, (509) 744-3370, Extension 247; fax, (509)  
8 744-3374; e-mail, orourke@snapwa.org.

9 JUDGE WALLIS: Thank you very much. Let me  
10 ask if there is anyone else on the bridge line desiring  
11 to appear in a representative capacity in this docket?  
12 Let the record show there is no response. Let's take  
13 up the interventions. Mr. Eberdt, have you filed a  
14 petition to intervene?

15 MR. EBERDT: I was planning on filing that  
16 orally, sir.

17 JUDGE WALLIS: Very well. Mr. Meyer, do you  
18 have objections to either of the petitioners in this  
19 docket?

20 MR. MEYER: I must confess I'm not familiar  
21 with the Energy Project and their interest in this  
22 proceeding, and I haven't seen anything in writing, so  
23 perhaps I could have some explanation.

24 MR. EBERDT: Judge, may I go ahead? The  
25 Energy Project advocates across the state for community

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1 action agencies who provide programs that help make  
2 energy services affordable for low-income households,  
3 so I work with all the agencies in the state who do  
4 that kind of work. There are four agencies located in  
5 Avista service territory who do that, and I believe  
6 there is a fifth that is in Idaho who serves some of  
7 their Washington service territory as well.

8           The Energy Project is currently providing  
9 this kind of a role in both the PacifiCorp and the PSE  
10 rate cases that are ongoing right now for other  
11 agencies, and we've done this in the past as well,  
12 although not with Avista.

13           The parties I represent have a particular  
14 interest in the proceeding because of the proposed rate  
15 increase and perhaps other matters that could result  
16 from the proceeding that could have a significant  
17 impact on the low-income households and the areas that  
18 they serve, and because they are particularly  
19 interested in maintaining effective energy assistance  
20 and energy-efficient programs that mitigate any impacts  
21 that might occur.

22           MR. MEYER: I don't believe I will have an  
23 objection, but it might be helpful if I could have just  
24 for my notes the four agencies in our service area that  
25 you represent.

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1           MR. EBERDT: Northwest Rural Resources; The  
2 North Columbia Community Action Council; The Community  
3 Action Center of Whitman County; and Spokane  
4 Neighborhood Action Councils, or Spokane Interaction  
5 Program are all four programs that work with your area.

6           I don't work with the agency -- I'm having  
7 trouble thinking of their name right now, but there is  
8 one in Lewiston that is across the border a little bit.

9           MR. MEYER: Is there overlap with what you do  
10 and what SNAP does? You mentioned the Spokane  
11 Neighborhood Action Agency.

12           MR. EBERDT: In the past, SNAP has always  
13 taken the lead on Avista issues and was an intervenor  
14 in the past. They are currently not an intervenor in  
15 this case. They may become so. I don't know.

16           In the past, I worked with SNAP and actually  
17 helped finance some of their intervention. The person  
18 who always took the lead at SNAP has left the agency  
19 and left a little bit of a vacuum there. I'm not sure  
20 whether the executive director, Larry Stuckert, would  
21 want us to be representing their interests or would  
22 want to do it separately.

23           MR. MEYER: Again, to the extent that there  
24 is overlap and interests in representation, what would  
25 your position be should SNAP decide ultimately to



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1 intervene? Would you coordinate, consolidate, share a  
2 representative?

3 MR. EBERDT: We would certainly try to do any  
4 of those things that were effective. We really don't  
5 want to duplicate efforts in that sense.

6 MR. MEYER: I don't have an objection at this  
7 point.

8 JUDGE WALLIS: Very well. The Energy  
9 Project's petition is granted. Mr. Meyer, do you have  
10 any objection to Mr. Finklea's client?

11 MR. MEYER: No.

12 JUDGE WALLIS: That petition is granted, and  
13 Mr. O'Rourke, what I would say at this time is that if  
14 you choose not to proceed right now with intervention  
15 that of course you are right. I cannot promise you  
16 that if you did at a later time choose to petition to  
17 intervene that it would be granted or that it would be  
18 granted without condition. We would take that up at  
19 the time that it is presented. Is that satisfactory to  
20 you?

21 MR. O'ROURKE: Yes, Your Honor, I understand.

22 JUDGE WALLIS: With that done, I have an  
23 assignment for all of you, and that is you described  
24 your contact information faster than I could write it  
25 down, and if you could within the next 24 hours send

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1 that information to me, I will use the information that  
2 you provide in the prehearing order that will summarize  
3 the results of this conference. My e-mail address is  
4 bwallis@wutc.wa.gov.

5 MR. FINKLEA: Your Honor, for this purpose,  
6 is my notice of appearance sufficient, and if I just  
7 provide you with a copy of that, would that provide you  
8 with the information?

9 JUDGE WALLIS: By electronic mail, fine. The  
10 reason I'm asking is that if you send me a message,  
11 then I can have your e-mail address and click on it.

12 MR. FINKLEA: We will do that.

13 MR. MEYER: Just further housekeeping on the  
14 same point, since you are collecting information for  
15 essentially a service list, can we add a second  
16 nonlawyer or someone who might be in charge of  
17 processing discovery?

18 JUDGE WALLIS: Yes. Thank you for mentioning  
19 that. If each of you would identify a single person in  
20 the organization of your client that would take service  
21 for the client, that would be very helpful to us.

22 MR. MEYER: For instance, if there are  
23 discovery requests that should roll in in this case,  
24 typically, we could just do this on our own just by  
25 contacting other parties, but typically, if we have two

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1 names that are served with it, it helps routing within  
2 our organization, and maybe that's true elsewhere. Is  
3 that something you would like us to just work out on  
4 the side?

5 JUDGE WALLIS: My preference would be that  
6 the Commission have one name for purposes of service of  
7 orders, and as long as you designate that person in  
8 your message to me, that's fine, and I merely will not  
9 put it in the order. However, if you want others to  
10 have it, just send a copy of your message to them and  
11 that would kill two birds with one stone.

12 MR. MEYER: Thank you.

13 JUDGE WALLIS: Let me ask at this point if  
14 the parties anticipate the use of discovery in this  
15 docket?

16 MR. CROMWELL: Yes.

17 MR. TRAUTMAN: We may.

18 JUDGE WALLIS: Is it your desire that we  
19 designate this as a proceeding appropriate for the  
20 invocation of the discovery rule?

21 MR. CROMWELL: Yes.

22 MR. TRAUTMAN: Yes.

23 JUDGE WALLIS: What about a protective order?  
24 Do you see the need for a protective order?

25 MR. MEYER: Yes, please.

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1           JUDGE WALLIS: We will see that such an order  
2 is entered. Let me ask if there are at this time or if  
3 the parties anticipate any preliminary motions? Let  
4 the record show there is no response. Are there any  
5 other issues than the hearing schedule that the parties  
6 would like to address at the present time?

7           MR. TRAUTMAN: Your Honor, in addition to  
8 scheduling out the hearings, if that's done  
9 provisionally, we wanted to convey to the Bench that  
10 Staff has reviewed the Company's filings, and we have  
11 had discussions with the Company and also with Public  
12 Counsel and Northwest Industrial Gas Users, and we have  
13 made a proposal to the Company for resolving the issues  
14 in the filing. The Company is reviewing that, and it  
15 is contingent on a staff audit of the Company, which we  
16 anticipate will be completed by October 1st, and  
17 following which we would share the results of that  
18 audit with all the other parties.

19           We would like to have a few additional dates  
20 put into the calendar. We would propose having a  
21 settlement conference among the parties on or about  
22 October the 5th, and then we would anticipate filing  
23 the proposed settlement with the Commission about a  
24 week later, thereabouts, and then we would ask the  
25 Commission to reserve a day or half a day on the

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1 calendar somewhere -- we were thinking probably no  
2 later than the week of October the 18th -- to present  
3 the proposed settlement to the Commission. We would  
4 like to have that in place by November 1st, and that's  
5 when the PGA also takes effect.

6 JUDGE WALLIS: Thank you for sharing that,  
7 Mr. Trautman. Mr. Cromwell, do you have any comments  
8 related to Mr. Trautman's proposal? Do you want a  
9 hearing over there in Eastern Washington?

10 MR. CROMWELL: Assuming that this matter goes  
11 forward as a rate case traditionally would be, yes, I  
12 would anticipate requesting a public hearing.

13 JUDGE WALLIS: If there is a settlement?

14 MR. CROMWELL: Without prejudging what the  
15 content of a settlement is that I have not seen, I can  
16 say that our office is concerned about process,  
17 content, and the appearance of fairness of proceedings  
18 that come before the Commission and will evaluate  
19 whatever proposal is brought forward in that fashion.

20 JUDGE WALLIS: Very well. So I take it you  
21 are not asking us at this time to pencil anything in on  
22 the calendar in the event of a potential settlement?

23 MR. CROMWELL: I think if a settlement is  
24 brought before the Commission in October, it would be  
25 reasonable to set a public hearing in Avista service

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1 territory for the Commission to consider public comment  
2 on the settlement.

3           If a settlement is presented but ultimately  
4 rejected and the case returns to a more traditional, if  
5 you will, and thorough review of the Company's filings,  
6 then I would anticipate that a public hearing could  
7 occur following the cross-examination hearings that  
8 would be scheduled before the Commission.

9           JUDGE WALLIS: Mr. Eberdt?

10           MR. EBERDT: We would prefer to see a public  
11 hearing in either case.

12           JUDGE WALLIS: Very well. Mr. Meyer?

13           MR. MEYER: The only other date that might be  
14 wise to just, at least provisionally, put into our own  
15 calendars would be a follow-on prehearing sometime  
16 after the settlement conference on October 5th, and I  
17 was thinking of October 11th to just update you as to  
18 the progress that's been made in that settlement, a  
19 discussion, and perhaps at that point, discuss whatever  
20 further process we need to have or whether at that  
21 point we should set a provisional hearing schedule.  
22 Perhaps doing it that way rather than trying to set  
23 today a provisional hearing schedule in the event this  
24 matter goes to litigation would be a more effective use  
25 of time.

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1           JUDGE WALLIS: Do the parties have any  
2 concerns or objections in that regard?

3           MR. CROMWELL: I would have a question for  
4 the Company. In the event that a settlement is  
5 presented to the Commission, is the Company willing to  
6 commit to waiving the suspension period in the event  
7 that settlement is not accepted, either by the  
8 Commission or in the event the Commission proposes some  
9 modification to it and is thereafter rejected by one or  
10 more of the settling parties, or would we then be in  
11 the situation of attempting to complete a general rate  
12 case after losing essentially two months?

13           MR. MEYER: I think it is premature for us to  
14 answer that because we don't know how quickly the  
15 settlement process will go and what impact, if any,  
16 that will have on the subsequent setting of a  
17 litigation schedule in the event we don't get to  
18 settlement.

19           It may be that we don't have to face that  
20 issue in any event because a litigation schedule would  
21 still finish the matter up in plenty of time, so at  
22 this time, I'm not going to take a position on that.

23           JUDGE WALLIS: Very well. What about the  
24 discovery process? Will that proceed in any event, and  
25 do any time frames need to be established for that?

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1           MR. MEYER: Just for the Company's part, I  
2 would encourage all parties -- the case was filed on  
3 August 20th, and of course, we've been open to  
4 discovery but certainly would encourage parties to  
5 undertake all their discovery as quickly as possible,  
6 and we will cooperate to get a quick response back.

7           JUDGE WALLIS: Very well. Is there any  
8 objection to Mr. Meyer's suggestion that we look to a  
9 follow-up prehearing conference during the week of  
10 October 11th?

11           MR. TRAUTMAN: No, Your Honor.

12           MR. FINKLEA: I have no objection to that.  
13 That seems like an efficient way to proceed.

14           JUDGE WALLIS: Mr. Finklea, I haven't asked  
15 you if you had any comments on the settlement concept  
16 as it's been presented.

17           MR. FINKLEA: It will certainly require a lot  
18 of effort up front. We are open to going to a meeting  
19 the week of the 4th, if the 5th is the day that works  
20 for most people, and seeing if we can resolve  
21 differences.

22           I think it is good to have a prehearing  
23 conference scheduled for shortly after that so if it  
24 doesn't settle that we address Mr. Cromwell's concern  
25 that the schedule may not be six weeks to two months



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1 into a suspension period before we even set a schedule,  
2 but we are prepared to come on the 5th of October or  
3 whatever day we can plan on and see if we can resolve  
4 our differences.

5 JUDGE WALLIS: Thank you very much.  
6 Excellent. Any other comments? All right. I take it  
7 it is the parties' consensus that we will note that  
8 parties are or soon will be engaged in settlement  
9 discussions, that a conference will be established for  
10 the parties to discuss a potential settlement on  
11 October 5th, and that the Commission pencil in a date  
12 for its potential presentation to the Commission during  
13 the week of October 18th. We will also establish a  
14 prehearing conference to be held. Would the parties  
15 prefer it to be on October 11th?

16 MR. TRAUTMAN: That's a Monday? Yes, I  
17 would.

18 MR. MEYER: Preferably in the afternoon for  
19 travel problems.

20 JUDGE WALLIS: Very well. So we will set a  
21 conference for the afternoon of the 11th to discuss the  
22 status at that point and will make whatever other  
23 arrangements are necessary at that point.

24 We will also pencil in a time for a public  
25 session -- it is the parties' preference to have that

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1 in Spokane -- at a time available to the commissioners  
2 and timed so that if the parties desire, the tariffs  
3 might be in place on November 1. There are some  
4 contingencies in making arrangements of that sort. We  
5 will do our best to do that.

6           Again, we are doing this so that that date is  
7 available to us if necessary, and it does not commit  
8 the Commission to either going through with it or any  
9 particular results in the review of any possible  
10 settlement just so that we have a time in place  
11 available as needed.

12           Are those arrangements acceptable to the  
13 parties? Let the record show that there is no  
14 statement of discontent. Is there anything further to  
15 come before the Commission at this time? Let the  
16 record show that there is not. Thank you all for  
17 appearing today, and this matter is concluded.

18           (Prehearing concluded at 2:00 p.m.)

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